

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
NINETY-FOURTH CONGRESS
OF THE UNITED STATES OF AMERICA

1976

AND

PROCLAMATIONS

VOLUME 90

IN TWO PARTS

PART 1

PUBLIC LAWS 94-206 THROUGH 94-454



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ENACTED DURING THE

SECOND SESSION OF THE NINETY-FOURTH CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Monday, January 19, 1976, and adjourned sine die on Friday, October 1, 1976. GERALD R. FORD, President; NELSON A. ROCKEFELLER, Vice President; CARL ALBERT, Speaker of the House of Representatives.

Public Law 94-206
94th Congress

An Act

Making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

Jan. 28, 1976
[H.R. 8069]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

MANPOWER ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$66,632,000, together with not to exceed \$29,866,000 which may be

Departments of
Labor and
Health,
Education, and
Welfare
Appropriation
Act, 1976.
Department of
Labor
Appropriation
Act, 1976.

expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which \$5,270,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-2003.

For "Program administration" for the period July 1, 1976, through September 30, 1976, \$16,748,000, together with not to exceed \$7,377,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which \$1,318,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-2003.

COMPREHENSIVE MANPOWER ASSISTANCE

29 USC 801 note. For expenses necessary to carry into effect the Comprehensive Employment and Training Act of 1973, as amended, and sections 326 and 328 of the Trade Expansion Act of 1962 (19 U.S.C. 1951 and 1961) and sections 236, 237, and 238 of the Trade Act of 1974, 19 USC 2296, \$2,388,400,000, plus reimbursements, to remain available until 2297, 2298. September 30, 1977: *Provided*, That this appropriation shall be available for the purchase and hire of passenger motor vehicles, and for construction, alteration, and repair of buildings and other facilities and for the purchase of real property for training centers as authorized by the Comprehensive Employment and Training Act of 1973, as amended.

For "Comprehensive manpower assistance" for the period July 1, 1976, through September 30, 1976, \$597,500,000, plus reimbursements, to remain available until September 30, 1977: *Provided*, That this appropriation shall be available for the purchase and hire of passenger motor vehicles, and for construction, alteration and repair of buildings and other facilities and for the purchase of real property for training centers as authorized by the Comprehensive Employment and Training Act of 1973, as amended.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and allowances to unemployed Federal employees and ex-servicemen, as authorized by title 5, chapter 85 of the United States Code, of trade adjustment benefit payments and allowances, as provided by law (19 U.S.C. 1941-1944 and 1952; part I, subchapter B, chapter 2, title II, of the Trade Act of 1974), and of unemployment assistance as authorized by title II of the Emergency Jobs and Unemployment Assistance Act of 1974, \$410,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to June 15 of the current year: *Provided*, That, in addition, there shall be transferred from the Postal Service Fund to this appropriation such sums as the Secretary of Labor determines to be the cost of benefits for ex-Postal Service employees: *Provided further*, That amounts received during the current fiscal year from the Postal Service or recovered from the States pursuant to 5 U.S.C. 8505(d) shall be available for such payments during the year.

5 USC 8501 *et seq.*

19 USC 2291.

26 USC 3304 *note*.

For payments during the period July 1, 1976, through September 30, 1976, of benefits and allowances to unemployed Federal employees and ex-servicemen, as authorized by title 5, Chapter 85 of the United States Code, and of trade adjustment benefit payments and allowances, as provided by law (19 U.S.C. 1941-1944 and 1952; part I, subchapter B, chapter 2, title II, of the Trade Act of 1974), \$95,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current period: *Provided*, That, in addition, there shall be transferred from the Postal Service Fund to this appropriation such sums as the Secretary of Labor determines to be the cost of benefits for ex-Postal Service employees: *Provided further*, That amounts received during the current period from the Postal Service or recovered from the States pursuant to 5 U.S.C. 8505(d) shall be available for such payments during the period.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For grants for activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49n, 39 U.S.C. 3202 (a) (1) (E)); Veterans' Employment and Readjustment Act of 1972, as amended (38 U.S.C. 2001-2013); title III of the Social Security Act, as amended (42 U.S.C. 501-503); sections 312 (c) and (g) of the Comprehensive Employment and Training Act of 1973, as amended; and necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, 19 U.S.C. 1941-1944, 1952, and chapter 2, title II, of the Trade Act of 1974, including upon the request of any State, the payment of rental for space made available to such State in lieu of grants for such purpose, \$81,300,000, together with not to exceed \$1,051,300,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which \$76,000,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant was based, which cannot be provided for by normal budgetary adjustments: *Provided*, That any portion of the

29 USC 882.

19 USC 2271 *et seq.*

funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

For grants for the period July 1, 1976, through September 30, 1976, for activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49n, 39 U.S.C. 3202(a)(1)(E)); Veterans' Employment and Readjustment Act of 1972, as amended (38 U.S.C. 2001-2013); title III of the Social Security Act, as amended (42 U.S.C. 501-503); sections 312 (e) and (g) of the Comprehensive Employment and Training Act of 1973, as amended; and necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, 19 U.S.C. 1941-1944, 1952, and chapter 2, title II, of the Trade Act of 1974, including upon the request of any State, the payment of rental for space made available to such State in lieu of grants for such purpose, \$20,300,000, together with not to exceed \$262,850,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which \$15,000,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant was based, which cannot be provided for by normal budgetary adjustments: *Provided*, That any portion of the funds granted to a State in the current period and not obligated by the State in that period shall be returned to the Treasury and credited to the account from which derived.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Labor-Management Services Administration, \$41,232,000.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$10,047,000.

PENSION BENEFIT GUARANTY CORPORATION

The Pension Benefit Guaranty Corporation is hereby authorized to make such expenditures within limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year, and the program for the period July 1, 1976, through September 30, 1976, for such corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$82,410,000, together with \$225,000 which may be expended from the Special Fund in accordance with Sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$20,602,000, together with \$56,000 which may be expended from the Special Fund in accordance with Sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act.

33 USC 939,
944.

SPECIAL BENEFITS

For the payments of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, and title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and fifty per centum of the additional compensation and benefits required by section 10(h) of the Longshoremen's and Harbor Workers' Compensation Act, as amended, \$201,000,000, together with such amount as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to June 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through June 30, 1976.

30 USC 901.
5 USC 8101 *et*
seq.
60 Stat. 696.
57 Stat. 513.

33 USC 910.

Whenever the Secretary of Labor finds it will promote the achievement of the above activities, qualified persons may be appointed to conduct hearings thereunder without meeting the requirements for hearing examiners appointed under 5 U.S.C. 3105: *Provided*, That no person shall hold a hearing in any case with which he has been concerned previously in the administration of such activities.

For "Special benefits" for the period July 1, 1976, through September 30, 1976, \$70,000,000.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$116,221,000, of which not to exceed \$9,000,000 shall be available for reimbursement to States under section 7(c)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656(c)(1)) for the furnishing of consultation services to employers under section 21(c) of such Act (29 U.S.C. 670(c)).

None of the funds appropriated in this Act shall be used to require recordkeeping and reporting under the Occupational Safety and Health Act of 1970 from employers of ten or fewer employees, and such exclusion shall be governed by the current rules and regulations in CFR, Title 29, Chapter XVII, Part 1904.15.

29 USC 651 note.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$29,000,000, of which not to exceed \$1,250,000 shall be available for reimbursement to States under section 7(c)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656(c)(1)) for the furnishing of consultation services to employers under section 21(c) of such Act (29 U.S.C. 670(c)).

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$64,846,000, of which \$7,095,000 shall be for expenses of revising the Consumer Price Index, including salaries of temporary personnel assigned to this project without regard to competitive civil service requirements.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$16,210,000, of which \$1,774,000 shall be for expenses of revising the Consumer Price Index, including salaries of temporary personnel assigned to this project without regard to competitive civil service requirements.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for departmental management and \$1,328,000 for the President's Committee on Employment of the Handicapped, \$32,297,000, together with not to exceed \$881,000, to be derived from the Employment Security Administration account, Unemployment Trust Fund.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$7,781,000, together with an amount not to exceed \$221,000 to be derived from the Employment Security Administration account, Unemployment Trust Fund.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, \$70,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such agency for payments in the foregoing currencies.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. Funds appropriated by this Act for the payment of special unemployment assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 shall not be used for making such payments of assistance or waiting period credit, beginning after the date of enactment of this Act, to any individual who performs services in an instructional, research, or principal administrative capacity for an educational institution or agency with respect to any week commencing during the period between two successive academic years (or, when the contract provides instead for a similar period

between two regular but not successive terms, during such similar period) if—

(1) such individual performed services in any such capacity for any educational institution or agency for the first of such academic years or terms; and

(2) such individual has a contract to perform services in any such capacity for any educational institution or agency for the latter of such academic years or terms.

This title may be cited as the “Department of Labor Appropriation Act, 1976”. Citation of title.

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

For carrying out, except as otherwise provided, titles III, V, XI, XII, and XIII of the Public Health Service Act, the Act of August 8, 1946 (5 U.S.C. 7901), section 1 of the Act of July 19, 1963 (42 U.S.C. 253a), section 108 of Public Law 93-353, and titles V and XI of the Social Security Act, \$557,693,000, of which \$1,200,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with leprosy: *Provided*, That any amounts received by the Secretary in connection with loans and loan guarantees under title XIII and any other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets, shall be available to the Secretary without fiscal year limitation for direct loans and loan guarantees, as authorized by said title XIII, in addition to funds specifically appropriated for that purpose: *Provided further*, That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses, hereafter incurred, by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health, Education, and Welfare, and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That when the Health Services Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That in addition, \$26,671,000 may be transferred to this appropriation as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein.

42 USC 241,
219, 300b, 300d,
300e.
42 USC 253b and
note.
42 USC 701,
1301.

42 USC 401.

For “Health services” for the period July 1, 1976, through September 30, 1976, \$135,126,000: *Provided*, That not to exceed \$7,021,000 may be transferred and expended as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided further*, That any amounts received by the Secretary in connection with loans and loan guarantees under title XIII and any other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets, shall be available to the Secretary

42 USC 300e.

without fiscal year limitation for direct loans and loan guarantees, as authorized by said title XIII, in addition to funds specifically appropriated for that purpose: *Provided further*, That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses, hereafter incurred, by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health, Education, and Welfare, and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That when the Health Services Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That \$300,000 shall be available for payment to the State of Hawaii for care and treatment of persons afflicted with leprosy.

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

42 USC 241.
30 USC 801 note.
29 USC 651 note.

To carry out, to the extent not otherwise provided, title III of the Public Health Service Act, the Federal Coal Mine Health and Safety Act of 1969, and the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft; \$108,971,000: *Provided*, That training of employees of Federal, State, and local governments and of private agencies, shall be made subject to reimbursement or advances to this appropriation for the full cost of such training.

For "Preventive health services" for the period July 1, 1976, through September 30, 1976, including insurance of official motor vehicles in foreign countries, and purchase, hire, maintenance, and operation of aircraft; \$28,032,000: *Provided*, That training of employees of Federal, State, and local governments and of private agencies, shall be made subject to reimbursement or advances to this appropriation for the full cost of such training.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

42 USC 281.

For carrying out, to the extent not otherwise provided, title IV, part A, of the Public Health Service Act with respect to cancer, \$743,564,000 including \$25,000,000 for construction and renovation which shall remain available until expended.

For the "National Cancer Institute" for the period July 1, 1976, through September 30, 1976, \$149,700,000.

NATIONAL HEART AND LUNG INSTITUTE

42 USC 241.

For expenses, not otherwise provided for, necessary to carry out title III of the Public Health Service Act, \$349,059,000.

For the "National Heart and Lung Institute" for the period July 1, 1976, through September 30, 1976, \$58,015,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For expenses, not otherwise provided for, to carry out title IV, part C, of the Public Health Service Act, \$45,794,000. 42 USC 288.

For the "National Institute of Dental Research" for the period July 1, 1976, through September 30, 1976, \$7,674,000.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

For expenses necessary to carry out title IV, part D, of the Public Health Service Act with respect to arthritis, rheumatism, metabolic diseases, and digestive diseases, \$175,172,000. 42 USC 289.

For the "National Institute of Arthritis, Metabolism and Digestive Diseases" for the period July 1, 1976, through September 30, 1976, \$43,052,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For expenses necessary to carry out, to the extent not otherwise provided, title IV, part D, of the Public Health Service Act with respect to neurology and stroke, \$136,546,000.

For the "National Institute of Neurological and Communicative Disorders and Stroke" for the period July 1, 1976, through September 30, 1976, \$32,964,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For expenses, not otherwise provided for, to carry out title IV, part D, of the Public Health Service Act with respect to allergy and infectious diseases, \$118,918,000.

For the "National Institute of Allergy and Infectious Diseases" for the period July 1, 1976, through September 30, 1976, \$26,974,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For expenses, not otherwise provided for, necessary to carry out title IV, part E, of the Public Health Service Act with respect to general medical sciences, \$146,461,000. 42 USC 289d.

For "National Institute of General Medical Sciences" for the period July 1, 1976, through September 30, 1976, \$32,961,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

To carry out, except as otherwise provided, title IV, part E and title X of the Public Health Service Act with respect to child health and human development, \$126,889,000. 42 USC 300.

For "National Institute of Child Health and Human Development" for the period July 1, 1976, through September 30, 1976, \$23,566,000.

NATIONAL INSTITUTE ON AGING

To carry out, except as otherwise provided, title IV, part H of the Public Health Service Act with respect to aging, \$17,526,000. 42 USC 289k-2.

For the "National Institute on Aging" for the period July 1, 1976, through September 30, 1976, \$3,943,000.

NATIONAL EYE INSTITUTE

42 USC 289i. For expenses necessary to carry out title IV, part F of the Public Health Service Act, with respect to eye diseases and visual disorders, \$45,565,000.

For the "National Eye Institute" for the period July 1, 1976, through September 30, 1976, \$9,103,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

42 USC 241, 243. To carry out, except as otherwise provided, sections 301 and 311 of the Public Health Service Act with respect to environmental health sciences, \$35,915,000.

For the "National Institute of Environmental Health Sciences" for the period July 1, 1976, through September 30, 1976, \$7,540,000.

RESEARCH RESOURCES

To carry out, except as otherwise provided, section 301 of the Public Health Service Act with respect to research resources and general research support grants, \$129,931,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants programs any amount for indirect expenses in connection with such grants.

For "Research resources" for the period July 1, 1976, through September 30, 1976, \$20,195,000.

JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN THE HEALTH SCIENCES

For the John E. Fogarty International Center for Advanced Study in the Health Sciences, \$5,705,000, of which not to exceed \$860,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

For "John E. Fogarty International Center for Advanced Study in the Health Sciences" for the period July 1, 1976, through September 30, 1976, \$1,135,000.

NATIONAL LIBRARY OF MEDICINE

42 USC 289l, 290a. To carry out, to the extent not otherwise provided for, section 301 with respect to health information communications and parts I and J of title III of the Public Health Service Act, \$29,065,000.

For the "National Library of Medicine" for the period July 1, 1976, through September 30, 1976, \$6,572,000.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, where not otherwise provided, \$54,000,000, to remain available until expended.

For "Buildings and facilities" for the period July 1, 1976, through September 30, 1976, \$750,000, to remain available until expended.

OFFICE OF THE DIRECTOR

For expenses necessary for the Office of the Director, National Institutes of Health, \$17,896,000.

Funds advanced to the National Institutes of Health management fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 328 of the Public Health Service Act and for the purchase of not to exceed thirteen passenger motor vehicles for replacement only.

42 USC 254a.

For "Office of the Director" for the period July 1, 1976, through September 30, 1976, \$4,474,000.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health and, except as otherwise provided, the Community Mental Health Centers Act (42 U.S.C. 2681, et seq.), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, and the Narcotic Addict Rehabilitation Act of 1966, \$579,554,000.

42 USC 4551
note.

For "Alcohol, drug abuse, and mental health" for the period July 1, 1976, through September 30, 1976, \$84,104,000.

42 USC 3401
note.

SAINT ELIZABETHS HOSPITAL

For expenses necessary for the maintenance and operation of the hospital, including clothing for patients, and cooperation with organizations or individuals in the scientific research into the nature, causes, prevention, and treatment of mental illness, \$48,064,000, or such amounts as may be necessary to provide a total appropriation equal to the difference between the amount of the reimbursements received during the current fiscal year on account of patient care provided by the hospital during such year and \$75,186,000.

For expenses necessary for the maintenance and operation of the hospital, including clothing for patients, and cooperation with organizations or individuals in the scientific research into the nature, causes, prevention, and treatment of mental illness, \$15,500,000, or such amounts as may be necessary to provide a total appropriation equal to the difference between the amount of the reimbursements received during the period of July 1, 1976, through September 30, 1976, on account of patient care provided by the hospital during that period and \$20,500,000.

BUILDINGS AND FACILITIES

For construction, alterations, extension, and equipment of buildings and facilities on the grounds of Saint Elizabeths Hospital, \$5,400,000, to remain available until expended.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

For carrying out, to the extent not otherwise provided, section 422, titles III, VII, VIII, XV, and XVI of the Public Health Service Act, section 1122 of the Social Security Act, section 222 of the Social Security Amendments of 1972, and the District of Columbia Medical and Dental Manpower Act of 1970, as amended, \$347,428,000, of which \$7,575,000 shall remain available until expended for carrying out section 305(b)(3) of the Public Health Service Act, and \$3,000,000 shall be available for loan guarantees and interest subsidies under part B

42 USC 288a,
241, 292, 296,
300k-1, 300c.
42 USC
1320a-1.
86 Stat. 1390.
D.C. Code
31-921 note.
42 USC 242c.

42 USC 292, 296. of title VII and part A of title VIII and shall remain available until expended and not to exceed \$100,000,000 for title XVI shall remain available through September 30, 1978: *Provided*, That, in addition, \$42,000 may be transferred to this appropriation, as authorized by section 201(g) of the Social Security Act from any one or all of the trust funds referred to therein: *Provided further*, That not to exceed \$74,260,000 shall be available and expended for medical facilities construction authorized under title XVI of the Public Health Service Act.

42 USC 401. For "Health resources" for the period July 1, 1976, through September 30, 1976, \$78,255,000: *Provided*, That in addition, \$11,000 may be transferred to this appropriation, as authorized by section 201(g) of the Social Security Act from any one or all of the trust funds referred to therein.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

42 USC 300q-2. To carry out section 1622 of the Public Health Service Act, \$10,000,000 shall be available without fiscal year limitation for the payment of interest subsidies.

For the "Medical facilities guarantee and loan fund," for the period July 1, 1976, through September 30, 1976, \$7,000,000 to remain available until expended.

PAYMENT OF SALES INSUFFICIENCIES AND INTEREST LOSSES

81 Stat. 390. For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interest or participations in the Health Professions Education Fund assets or Nurse Training Fund assets, authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, \$164,000, and for payment of amounts pursuant to section 744(b) or 827(b) of the Public Health Service Act to schools which borrow any sums from the Health Professions Education Fund or Nurse Training Fund, \$3,836,000: *Provided*, That the amounts appropriated herein shall remain available until expended.

12 USC 1717.

42 USC 294d, 297f.

HEALTH EDUCATION LOANS

31 USC 849. The Secretary is hereby authorized to make such expenditures, within the limits of funds available in the Health Professions Education Fund and the Nurse Training Fund, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year and for the period July 1, 1976, through September 30, 1976.

ASSISTANT SECRETARY FOR HEALTH

ASSISTANT SECRETARY FOR HEALTH

For expenses necessary for the Office of the Assistant Secretary for Health, \$20,842,000.

For "Assistant Secretary for Health", for the period July 1, 1976, through September 30, 1976, \$5,210,000.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retired pay of commissioned officers, as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan; Survivor Benefit Plan and payments for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C., ch. 55), such amount as may be required during the current fiscal year.

10 USC 1071 *et seq.*

For "Retirement pay and medical benefits for commissioned officers," such amount as may be required during the period of July 1, 1976, through September 30, 1976.

SOCIAL AND REHABILITATION SERVICE

PUBLIC ASSISTANCE

For carrying out, except as otherwise provided, titles I, IV, VI, X, XI, XIV, XVI, XIX, and XX of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) \$15,003,950,000, of which \$52,500,000 shall be for child welfare services under part B of title IV.

42 USC 301,
601, 801, 1201,
1301, 1351,
1381, 1396,
1397.
24 USC 321 *et seq.*
42 USC 620.

For making, after March 31 of the current fiscal year, payments to States under titles I, IV, VI, X, XIV, XVI, XIX, and XX, respectively, of the Social Security Act, for the last three months of the current fiscal year (except with respect to activities included in the appropriation for "Work incentives"); and for making, after April 30 of the current fiscal year, payments for the period July 1, 1976, through September 30, 1976, such sums as may be necessary, the obligations incurred and the expenditures made thereunder for payments under each of such titles to be charged to the subsequent appropriations therefor for the current or succeeding fiscal year or the period July 1, 1976, through September 30, 1976, or fiscal year 1977.

In the administration of titles I, IV (other than part C thereof), VI, X, XIV, XVI, XIX, and XX, respectively, of the Social Security Act, payments to a State under any such titles for any quarter in the period beginning April 1 of the prior year, and ending June 30 of the current year may be made with respect to a State plan approved under such title prior to or during such period, but no such payment shall be made with respect to any plan for any quarter prior to the quarter in which a plan was submitted which was subsequently approved.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in the prior fiscal year subsequent to March 31 of that year.

For "Public assistance" for the period July 1, 1976, through September 30, 1976, \$3,965,000,000, of which \$12,500,000 shall be for child welfare services under part B of title IV of the Social Security Act.

For making, after June 30, 1976, payments to States under titles I, IV, VI, X, XIV, XVI, XIX, and XX, respectively, of the Social Security Act, for the first quarter of fiscal year 1977 (except with respect to activities included in the appropriation for "Work incentives") and for the period July 1, 1976, through September 30, 1976, such sums as may be necessary, the obligations incurred and the expenditures made thereunder for payments under each of such titles to be charged to the subsequent appropriations therefor for the transitional period or fiscal year 1977.

In the administration of titles I, IV (other than part C thereof), VI, X, XIV, XVI, XIX, and XX, respectively, of the Social Security

Act, payments to a State under any such titles for any quarter in the period beginning April 1 of fiscal year 1976 and ending September 30, 1976, may be made with respect to a State plan approved under such title prior to or during such period, but no such payment shall be made with respect to any plan for any quarter prior to the quarter in which a plan was submitted which was subsequently approved.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in fiscal year 1976 subsequent to March 31 of that year

WORK INCENTIVES

- 42 USC 630. For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such program, and for related child care and supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, \$330,000,000, which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled, pursuant to section 403(d) of such Act, for these purposes.
- 42 USC 602.
- 42 USC 631.
- 42 USC 603.

For "Work incentives" for the period July 1, 1976, through September 30, 1976, \$80,000,000, which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled.

SALARIES AND EXPENSES

For expenses, not otherwise provided, necessary for the Social and Rehabilitation Service, \$60,378,000.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$15,219,000.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST AND OTHER FUNDS

- 42 USC 417, 428, 429, 1395w. For payment to the Federal Old-Age and Survivors Insurance, the Federal Disability Insurance, the Federal Hospital Insurance, and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g), 228(g), 229(b), and 1844 of the Social Security Act, and sections 103(c) and 111(d) of the Social Security Amendments of 1965, \$4,112,747,000 and to the Federal Buildings Fund an additional amount not to exceed \$10,616,000 for payment of the Standard Level User Charge pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949.
- 42 USC 426a, 1395i-1. For "Payments to the Social Security Trust and Other Funds" for the period July 1, 1976, through September 30, 1976, \$880,940,000, including \$2,940,000 for the Federal Buildings Fund for payment of the Standard Level User Charge.
- 40 USC 490.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

- 30 USC 901. For carrying out title IV of the Federal Coal Mine Health and Safety Act of 1969, including the payment of travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examination, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and

to proceedings before administrative law judges, \$999,778,000: *Provided*, That such amounts as may be agreed upon by the Department of Health, Education, and Welfare and the Postal Service shall be used for payment, in such manner as said parties may jointly determine, of postage for the transmission of official mail matter by States in connection with the administration of said Act.

Benefit payments after April 30: For making, after April 30 of the current fiscal year, payments to entitled beneficiaries under title IV of the Federal Coal Mine Health and Safety Act of 1969, for the last two months of the current fiscal year, such sums as may be necessary, the obligations and expenditures therefor to be charged to the appropriation for the succeeding fiscal year.

30 USC 901.

Whenever the Commissioner of Social Security finds it will promote the achievement of the provisions of title IV of the Federal Coal Mine Health and Safety Act of 1969, qualified persons may be appointed to conduct hearings thereunder without meeting the requirements for administrative law judges appointed under 5 U.S.C. 3105 but such appointments shall terminate not later than December 31, 1976: *Provided*, That no person shall hold a hearing in any case with which he has been concerned previously in the administration of such title.

Hearings.

For "Special benefits for disabled coal miners" for the period July 1, 1976, through September 30, 1976, \$234,600,000, including the payment of travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income program under title XVI of the Social Security Act, section 401 of Public Law 92-603, and section 212 of Public Law 93-66, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$5,518,523,000: *Provided*, That for carrying out these activities for the last two months of the current fiscal year, such sums as may be necessary shall be available, the obligations and expenditures therefor to be charged to the appropriation for the succeeding fiscal period or fiscal year 1977.

42 USC 1381.
42 USC 1382e
note.
87 Stat. 155,
957.
42 USC 401.

For "Supplemental security income program" for the period July 1, 1976, through September 30, 1976, \$1,503,541,000: *Provided*, That for the last two months of the fiscal period, such sums as may be necessary shall be available, the obligations and expenditures therefor to be charged to the appropriation for the succeeding fiscal year.

LIMITATION ON SALARIES AND EXPENSES

For necessary expenses, not more than \$2,373,133,612 may be expended as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That such amounts as are required shall be available to pay travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands to

42 USC 421 note.

reconsideration interviews and to proceedings before administrative law judges under titles II, XVI, and XVIII of the Social Security Act: *Provided further*, That \$25,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of title II of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That such amounts as may be agreed upon by the Department of Health, Education, and Welfare and the United States Postal Service shall be used for payment, in such manner as said organizations may jointly determine, of postage for the transmission of official mail matter in connection with the administration of the social security program by States participating in the program: *Provided further*, That such amounts as may be required may be expended for administration within the United States of the social insurance program of the United Kingdom, under terms of an agreement wherein similar services will be provided by the United Kingdom in that country for administration of the social insurance program of the United States: *Provided further*, That all of the permanent positions authorized for this appropriation shall be full-time permanent positions without limitation as to the duration of the positions.

For "Limitation on salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$629,900,403 may be expended as authorized by section 201(g) (1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That such amounts as are required shall be available to pay travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands to reconsideration interviews and to proceedings before administrative law judges under titles II, XVI, and XVIII of the Social Security Act: *Provided further*, That \$25,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of title II of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That such amounts as may be agreed upon by the Department of Health, Education, and Welfare and the United States Postal Service shall be used for payment, in such manner as said organizations may jointly determine, of postage for the transmission of official mail matter in connection with the administration of the social security program by States participating in the program: *Provided further*, That such amounts as may be required may be expended for administration within the United States of the social insurance program of the United Kingdom, under terms of an agreement wherein similar services will be provided by the United Kingdom in that country for administration of the social insurance program of the United States: *Provided further*, That all of the permanent

42 USC 401,
1381, 1395.

42 USC 421.

42 USC 401.
42 USC 421 note.

positions authorized for this appropriation shall be full-time permanent positions without limitation as to the duration of the positions.

LIMITATION ON CONSTRUCTION

For acquisition of sites, construction and equipment of facilities and for payments of principal, interest, taxes, and any other obligations under contracts entered into pursuant to the Public Buildings Purchase Contract Act of 1954 and the Public Buildings Amendments of 1972, \$6,300,000, to be expended as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein, and to remain available until expended.

40 USC 356 note.
40 USC 603 note.
42 USC 401.

For "Limitation on construction" for the period July 1, 1976, through September 30, 1976, \$3,633,000, to be expended as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein, and to remain available until expended.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT

HUMAN DEVELOPMENT

For carrying out, except as otherwise provided, section 426 of the Social Security Act, the Act of April 9, 1912 (42 U.S.C. 191), title VII of the Older Americans Act of 1965, the Child Abuse Prevention and Treatment Act, the Juvenile Justice and Delinquency Prevention Act of 1974, the Community Services Act of 1974, sections 106, 107, and 306 of the Comprehensive Employment and Training Act of 1973, the Rehabilitation Act of 1973, the International Health Research Act of 1960, and section 303(a)(2) of the Public Health Service Act, \$1,516,858,318, of which \$720,000,000 shall be for activities under section 110(a) of the Rehabilitation Act of 1973, \$309,318 shall be for section 110(b) of such Act, and for carrying out sections 301 and 304(b)(3) of such Act, \$1,500,000, to remain available until expended: *Provided*, That there may be transferred to this appropriation from the appropriation under the heading "Alcohol, drug abuse, and mental health" an amount not to exceed the sum of the allotment adjustment made by the Secretary pursuant to section 202(c) of the Community Mental Health Centers Act; together with not to exceed \$600,000 to be transferred from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund as provided by section 201(g)(1) of the Social Security Act: *Provided further*, That the level of operations for the nutrition services for the elderly program shall be \$187,500,000 per annum.

42 USC 626.
42 USC 3011.
42 USC 5101
note.
42 USC 5601
note.
42 USC 2701
note.
29 USC 816,
817, 875.
29 USC 701 note.
22 USC 2101
note.
42 USC 242a.
29 USC 730.
29 USC 771,
774.
42 USC 2682.

For "Human development" for the period July 1, 1976, through September 30, 1976, \$371,505,000, of which \$180,000,000 shall be for activities under section 110 of the Rehabilitation Act of 1973: *Provided*, That there be transferred to this appropriation from the appropriation under the heading "Alcohol, drug abuse, and mental health" an amount not to exceed the sum of the allotment adjustment made by the Secretary pursuant to section 202(c) of the Community Mental Health Centers Act; together with not to exceed \$150,000 to be transferred from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as provided in section 201(g)(1) of the Social Security Act.

DEPARTMENTAL MANAGEMENT

OFFICE FOR CIVIL RIGHTS

42 USC 401. For expenses necessary for the Office for Civil Rights \$24,686,000, together with not to exceed \$1,351,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

For "Office for Civil Rights" for the period July 1, 1976, through September 30, 1976, \$6,379,000: *Provided*, That in addition, not to exceed \$352,000 may be transferred and expended as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein.

GENERAL DEPARTMENTAL MANAGEMENT

For expenses, not otherwise provided, necessary for departmental management, including hire of six medium sedans, \$85,519,000 together with not to exceed \$12,751,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

For "General departmental management" for the period July 1, 1976, through September 30, 1976, \$22,160,000, including hire of six medium sedans: *Provided*, That in addition not to exceed \$3,284,000 may be transferred and expended as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein.

POLICY RESEARCH

42 USC 2825. For carrying out, to the extent not otherwise provided, research studies under section 232 of the Community Services Act of 1974 and section 1110 of the Social Security Act, \$24,950,000.

42 USC 1310.

For "Policy research" for the period July 1, 1976, through September 30, 1976, \$6,575,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title to the Social and Rehabilitation Service for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any States which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

42 USC 3508.

SEC. 202. The Secretary is authorized to make such transfers of motor vehicles, between bureaus and officers, without transfer of funds, as may be required in carrying out the operations of the Department.

SEC. 203. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of such project.

SEC. 204. None of the funds contained in this Act shall be used for any activity the purpose of which is to require any recipient of any project grant for research, training, or demonstration made by any officer or employee of the Department of Health, Education, and Wel-

fare to pay to the United States any portion of any interest or other income earned on payments of such grant made before July 1, 1964; nor shall any of the funds contained in this Act be used for any activity the purpose of which is to require payment to the United States of any portion of any interest or other income earned on payments made before July 1, 1964, to the American Printing House for the Blind.

SEC. 205. None of the funds contained in this title shall be available for additional permanent positions in the Washington area if the total authorized positions in the Washington area is allowed to exceed the proportion existing at the close of fiscal year 1966.

SEC. 206. Appropriations in this Act for the Health Services Administration, the National Institutes of Health, the Center for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Health Resources Administration and the Office of the Secretary shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand eight hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; rental or lease of living quarters (for periods not exceeding 5 years), and provision of heat, fuel, and light, and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed \$9,500 in the current fiscal year and \$2,375 in the period July 1, 1976, through September 30, 1976, for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

42 USC 208.

5 USC 5332 note.

SEC. 207. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

42 USC 2000c.

42 USC 2000c. SEC. 208. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

42 USC 2000d. SEC. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964.

TITLE III—RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

42 USC 4951 note. For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973 (Public Law 93-113), \$103,266,000.

For expenses necessary for Action to carry out the Domestic Volunteer Service Act of 1973 (Public Law 93-113) for the period July 1, 1976, through September 30, 1976, \$21,083,000.

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

89 Stat. 178. For expenses of the Community Services Administration, \$494,652,000: *Provided*, That the appropriation for "Community service program" contained in title I, chapter VI of Public Law 94-32 (Second Supplemental Appropriations Act, 1975) is amended by striking out "September 30, 1975" and inserting in lieu thereof "June 30, 1976".

For "Community services program" for the period July 1, 1976, through September 30, 1976, \$129,746,000.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

88 Stat. 395. For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President; hire of passenger motor vehicles; and rental of conference rooms in the District of Columbia; and expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health

care industry negotiation disputes, and for convening factfinding boards of inquiry appointed by the Director in the health care industry, \$17,904,000.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$4,476,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), \$468,000.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$117,000.

20 USC 1501
note.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$67,766,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, non profit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$16,941,000.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary for carrying out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$3,405,000.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$850,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, \$5,638,000.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$1,418,000.

RAILROAD RETIREMENT BOARD

PAYMENTS TO RAILROAD RETIREMENT TRUST FUNDS

45 USC 231n. For payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, \$250,000,000.

REGIONAL RAIL TRANSPORTATION PROTECTIVE ACCOUNT

45 USC 779. For payment of benefits under section 509 of the Regional Rail Reorganization Act of 1973, including not to exceed \$100,000 for payment to the Railroad Retirement Board for administrative expenses, \$37,600,000.

For "Regional rail transportation protective account" for the period July 1, 1976, through September 30, 1976, including not to exceed \$30,000 for payment to the Railroad Retirement Board for administrative expenses, \$10,030,000.

LIMITATION ON SALARIES AND EXPENSES

For expenses necessary for the Railroad Retirement Board, \$28,703,000, to be derived from the railroad retirement accounts: *Provided*, That \$500,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the foregoing limitation has been achieved.

For "Limitation on salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$7,175,000 to be derived from the railroad retirement accounts.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, \$15,665,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners of the Home and the Surgeon General of the Army.

For "Operation and maintenance" for the period July 1, 1976, through September 30, 1976, \$3,905,000.

TITLE IV—GENERAL PROVISIONS

Experts and
consultants.

5 USC 5332 note.

Uniform
allowances.

Meetings.

SEC. 401. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 402. Appropriations contained in this Act available for salaries and expenses shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 403. Appropriations contained in this Act available for salaries and expenses shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 404. No part of any appropriation contained in this Act shall be used to finance any Civil Service Interagency Board of Examiners.

SEC. 405. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

Funds to campus
disrupters,
prohibition.

SEC. 406. The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

Transfer of funds.

SEC. 407. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein, except as provided in section 204 of Public Law 93-554.

Fiscal year
limitation.

SEC. 408. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

88 Stat. 1784.
Funds restriction.

SEC. 409. No part of any appropriation contained in this Act shall be available for paying to the Administrator of the General Services Administration in excess of 90 percent of the standard level user charge established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, for space and services.

40 USC 492.

SEC. 410. The Secretary of Labor and the Secretary of Health, Education, and Welfare are each authorized to make available not to exceed \$7,500 in the current fiscal year and \$1,875 in the period July 1, 1976, through September 30, 1976, from funds available for salaries and expenses under titles I and II, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$2,500 in the current fiscal year and \$625 in the period July 1, 1976, through September 30, 1976, from funds available for "Salaries and expenses, Federal Mediation and Conciliation Service".

Ante, pp. 3, 9.

SEC. 411. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or his parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Regulations.

Short title.

This Act may be cited as the “Departments of Labor and Health, Education, and Welfare Appropriation Act, 1976”.

CARL ALBERT

Speaker of the House of Representatives.

JAMES O. EASTLAND

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

January 27, 1976.

The House of Representatives having proceeded to reconsider the bill (H.R. 8069) entitled “An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes”, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDMUND L. HENSHAW, JR.

Clerk.

I certify that this Act originated in the House of Representatives.

EDMUND L. HENSHAW, JR.

Clerk.

IN THE SENATE OF THE UNITED STATES,

January 28, 1976.

The Senate having proceeded to reconsider the bill (H.R. 8069) entitled “An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes”, returned by the President of the United States with his objections to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO
Secretary.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-311 (Comm. on Appropriations) and No. 94-689 (Comm. of Conference).

SENATE REPORT No. 94-366 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 121 (1975):

June 25, considered and passed House.

Sept. 17, 18, 19, 22-26, considered and passed Senate, amended.

Dec. 4, House agreed to conference report.

Dec. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 11, No. 51:

Dec. 19, Presidential veto message.

CONGRESSIONAL RECORD, Vol. 122 (1976):

Jan. 27, House overrode veto.

Jan. 28, Senate overrode veto.

Public Law 94-207
94th Congress

An Act

Feb. 4, 1976

[H.R. 11510]

Starling and
blackbird control,
Ky.-Tenn.

To provide for starling and blackbird control in Kentucky and Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds that in Kentucky and Tennessee large concentrations of starlings, grackles, blackbirds, and other birds found in "blackbird roosts" pose a hazard to human health and safety, livestock and agriculture, that the roosts are reestablished each winter, that dispersal techniques have been unsuccessful, that control is most effective when birds are concentrated in winter roosts, and that an emergency does exist which requires immediate action with insufficient time to comply with the National Environmental Policy Act.

SEC. 2. (a) Upon certification by the Governor of Kentucky and/or Tennessee to the Secretary of the Interior that "blackbird roosts" are a significant hazard to human health, safety or property in his state, the Secretary of the Interior shall provide for roosts determined through normal survey practices of the Department of the Interior to contain in excess of 500,000 birds to be treated with chemicals registered for bird control purposes, unless the Secretary determines that treatment of a particular roost would pose a hazard to human health, safety or property.

42 USC 4321
note.

7 USC 136 note.

(b) The provisions of the National Environmental Policy Act of 1969 (83 Stat. 852), the Federal Environmental Pesticide Control Act (86 Stat. 975), or any other provision of law shall not apply to any such blackbird control activities undertaken, on or before April 15, 1976, by the States of Kentucky or Tennessee or the Federal Government within the States of Kentucky or Tennessee.

Approved February 4, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Jan. 27, considered and passed House and Senate, in lieu of S. 2873.

Public Law 94-208
94th Congress

Joint Resolution

To provide for the presentation by the United States to Israel of a statue of Abraham Lincoln to be donated by Leon and Ruth Gildesgame, of Mount Kisco, New York.

Feb. 4, 1976

[H.J. Res 406]

Whereas President Abraham Lincoln symbolizes for millions of Americans the cherished dreams of freedom, human dignity, and hope for mankind;

Whereas the people of the State of Israel share with the American people those dreams which Abraham Lincoln symbolizes; and

Whereas Leon and Ruth Gildesgame, of Mount Kisco, New York, are the owners of an award-winning statue of Abraham Lincoln which they have expressed an interest in donating to the United States in order that it may be given as a gift from the people of the United States to the people of Israel: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President (1) shall accept, on behalf of the United States, a statue of Abraham Lincoln from Leon and Ruth Gildesgame, of Mount Kisco, New York, and (2) shall present such statue to the people of Israel on behalf of the people of the United States.

Abraham
Lincoln, statute.
Presentation to
Israel.

Approved February 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-717 (Comm. on International Relations).

SENATE REPORT No. 94-588 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 17, considered and passed House.

Vol. 122 (1976): Jan. 19, considered and passed Senate.

Public Law 94-209
94th Congress

An Act

Feb. 5, 1976

[S. 1657]

To amend the National Portrait Gallery Act to redefine "portraiture".

20 USC 75a.
"Portraiture."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(e) of the National Portrait Gallery Act (Public Law 87-443) is amended as follows: "The term 'portraiture' includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter."

Approved February 5, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-715 (Comm. on House Administration).

SENATE REPORT No. 94-299 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 25, considered and passed Senate.

Vol. 122 (1976): Jan. 19, considered and passed House, in lieu of H.R. 6397.

Public Law 94-210

94th Congress

An Act

To improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes.

Feb. 5, 1976
[S. 2718]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the “Railroad Revitalization and Regulatory Reform Act of 1976”:

Railroad
Revitalization
and Regulatory
Reform Act of
1976.
45 USC 801 note.

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- Sec. 509. Authorizations.
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- Sec. 607. Miscellaneous amendments to title II.
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TITLE VII—NORTHEAST CORRIDOR PROJECT IMPLEMENTATION

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- Sec. 801. Extension of service.
- Sec. 802. Discontinuance or abandonment.
- Sec. 803. Local rail service assistance.
- Sec. 804. Termination and continuation of rail services.
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- Sec. 806. Repeal.
- Sec. 807. Rail passenger service.
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- Sec. 901. Comprehensive study of rail system.
- Sec. 902. Study of aid to rail transportation.
- Sec. 903. Study of conglomerates.
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TITLE I—GENERAL PROVISIONS

DECLARATION OF POLICY

SEC. 101. (a) PURPOSE.—It is the purpose of the Congress in this Act to provide the means to rehabilitate and maintain the physical facilities, improve the operations and structure, and restore the financial stability of the railway system of the United States, and to promote the revitalization of such railway system, so that this mode of transportation will remain viable in the private sector of the economy and will be able to provide energy-efficient, ecologically compatible transportation services with greater efficiency, effectiveness, and economy, through— 45 USC 801.

- (1) ratemaking and regulatory reform;
- (2) the encouragement of efforts to restructure the system on a more economically justified basis, including planning authority in the Secretary of Transportation, an expedited procedure for determining whether merger and consolidation applications are in the public interest, and continuing reorganization authority;
- (3) financing mechanisms that will assure adequate rehabilitation and improvement of facilities and equipment, implementation of the final system plan, and implementation of the Northeast Corridor project;
- (4) transitional continuation of service on light-density rail lines that are necessary to continued employment and community well-being throughout the United States;
- (5) auditing, accounting, reporting, and other requirements to protect Federal funds and to assure repayment of loans and financial responsibility; and
- (6) necessary studies.

(b) POLICY.—It is declared to be the policy of the Congress in this Act to—

- (1) balance the needs of carriers, shippers, and the public;
- (2) foster competition among all carriers by railroad and other modes of transportation, to promote more adequate and efficient transportation services, and to increase the attractiveness of investing in railroads and rail-service-related enterprises;
- (3) permit railroads greater freedom to raise or lower rates for rail services in competitive markets;
- (4) promote the establishment of railroad rate structures which are more sensitive to changes in the level of seasonal, regional, and shipper demand;
- (5) promote separate pricing of distinct rail and rail-related services;
- (6) formulate standards and guidelines for determining adequate revenue levels for railroads; and
- (7) modernize and clarify the functions of railroad rate bureaus.

DEFINITIONS

SEC. 102. As used in this Act, unless the context otherwise indicates, the term— 45 USC 802.

- (1) "Association" means the United States Railway Association;
- (2) "Commission" means the Interstate Commerce Commission;
- (3) "Corporation" means the Consolidated Rail Corporation;

(4) "final system plan" means the final system plan and any additions thereto adopted by the Association pursuant to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.);

(5) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(6) "Office" means the Rail Services Planning Office of the Commission;

(7) "railroad" means a common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes the National Railroad Passenger Corporation and the Alaska Railroad; and

(8) "Secretary" means the Secretary of Transportation or his designated representative.

TITLE II—RAILROAD RATES

EXPEDITIOUS DIVISIONS OF REVENUES

SEC. 201. Section 15(6) of the Interstate Commerce Act (49 U.S.C. 15(6)) is amended by (1) inserting "(a)" immediately after "(6)", and (2) adding at the end thereof the following three new subdivisions:

"(b) Notwithstanding any other provision of law, the Commission shall, within 180 days after the date of enactment of this subdivision, establish, by rule, standards and procedures for the conduct of proceedings for the adjustment of divisions of joint rates or fares (whether prescribed by the Commission or otherwise) in accordance with the provisions of this paragraph. The Commission shall issue a final order in all such proceedings within 270 days after the submission to the Commission of a case. If the Commission is unable to issue such a final order within such time, it shall issue a report to the Congress setting forth the reasons for such inability.

Report to
Congress.

"(c) All evidentiary proceedings conducted pursuant to this paragraph shall be completed, in a case brought upon a complaint, within 1 year following the filing of the complaint, or, in a case brought upon the Commission's initiative, within 2 years following the commencement of such proceeding, unless the Commission finds that such a proceeding must be extended to permit a fair and expeditious completion of the proceeding. If the Commission is unable to meet any such time requirement, it shall issue a report to the Congress setting forth the reasons for such inability.

Report to
Congress.

"(d) Whenever a proceeding for the adjustment of divisions of joint rates or fares (whether prescribed by the Commission or otherwise established) is commenced by the filing of a complaint with the Commission, the complaining carrier or carriers shall (i) attach thereto all of the evidence in support of their position, and (ii) during the course of such proceeding, file only rebuttal or reply evidence unless otherwise directed by order of the Commission. Upon receipt of a notice of intent to file a complaint pursuant to this paragraph, the Commission shall accord, to the party filing such notice, the same right to discovery that would be accorded to a party filing a complaint pursuant to this paragraph."

RAILROAD RATEMAKING

SEC. 202. (a) Section 1(5) of the Interstate Commerce Act (49 U.S.C. 1(5)) is amended by inserting "(a)" immediately after "(5)" and by adding at the end thereof the following new sentence: "The

provisions of this subdivision shall not apply to common carriers by railroad subject to this part.”

(b) Section 1(5) of the Interstate Commerce Act (49 U.S.C. 1(5)), as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new subdivisions:

“(b) Each rate for any service rendered or to be rendered in the transportation of persons or property by any common carrier by railroad subject to this part shall be just and reasonable. A rate that is unjust or unreasonable is prohibited and unlawful. No rate which contributes or which would contribute to the going concern value of such a carrier shall be found to be unjust or unreasonable, or not shown to be just and reasonable, on the ground that such rate is below a just or reasonable minimum for the service rendered or to be rendered. A rate which equals or exceeds the variable costs (as determined through formulas prescribed by the Commission) of providing a service shall be presumed, unless such presumption is rebutted by clear and convincing evidence, to contribute to the going concern value of the carrier or carriers proposing such rate (hereafter in this paragraph referred to as the ‘proponent carrier’). In determining variable costs, the Commission shall, at the request of the carrier proposing the rate, determine only those costs of the carrier proposing the rate and only those costs of the specific service in question, except where such specific data and cost information is not available. The Commission shall not include in variable cost any expenses which do not vary directly with the level of service provided under the rate in question. Notwithstanding any other provision of this part, no rate shall be found to be unjust or unreasonable, or not shown to be just and reasonable, on the ground that such rate exceeds a just or reasonable maximum for the service rendered or to be rendered, unless the Commission has first found that the proponent carrier has market dominance over such service. A finding that a carrier has market dominance over a service shall not create a presumption that the rate or rates for such service exceed a just and reasonable maximum. Nothing in this paragraph shall prohibit a rate increase from a level which reduces the going concern value of the proponent carrier to a level which contributes to such going concern value and is otherwise just and reasonable. For the purposes of the preceding sentence, a rate increase which does not raise a rate above the incremental costs (as determined through formulas prescribed by the Commission) of rendering the service to which such rate applies shall be presumed to be just and reasonable.

“(c) As used in this part, the terms—

“(i) ‘market dominance’ refers to an absence of effective competition from other carriers or modes of transportation, for the traffic or movement to which a rate applies; and

“(ii) ‘rate’ means any rate or charge for the transportation of persons or property.

“(d) Within 240 days after the date of enactment of this subdivision, the Commission shall establish, by rule, standards and procedures for determining, in accordance with section 15(9) of this part, whether and when a carrier possesses market dominance over a service rendered or to be rendered at a particular rate or rates. Such rules shall be designed to provide for a practical determination without administrative delay. The Commission shall solicit and consider the recommendations of the Attorney General and of the Federal Trade Commission in the course of establishing such rules.”

(c) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended by redesignating paragraphs (8) through (14) thereof as

“Market dominance.”

“Rate.”

Standards and procedures.
49 USC 15.

paragraphs (10) through (16) thereof, respectively, and by inserting therein a new paragraph (9) as follows:

“(9) Following promulgation of standards under section 1(5)(d) of this part, whenever a rate of a common carrier by railroad subject to this part is challenged as being unreasonably high, the Commission shall, upon complaint or upon its own initiative and within 90 days after the commencement of a proceeding to investigate the lawfulness of such rate, determine whether the carrier proposing such rate has market dominance, within the meaning of section 1(5)(c)(i) of this part, over the service to which such rate applies. If the Commission finds that such a carrier does not have such market dominance, such finding shall be determinative in all additional or other proceedings under this Act concerning such rate or service, unless (a) such finding is modified or set aside by the Commission, or (b) such finding is set aside by a court of competent jurisdiction. Nothing in this paragraph shall limit the Commission’s power to suspend a rate pursuant to this section, except that if the Commission has found that a carrier does not have such market dominance over the service to which a rate applies, the Commission may not suspend any increase in such rate on the ground that such rate as increased exceeds a just or reasonable maximum for such service, unless the Commission specifically modifies or sets aside its prior determination concerning market dominance over the service to which such rate applies.”

(d) Section 15 of the Interstate Commerce Act (49 U.S.C. 15) is amended by adding at the end thereof the following two new paragraphs:

“(17) Within 1 year after the date of enactment of this paragraph, the Commission shall establish, by rule, standards and expeditious procedures for the establishment of railroad rates based on seasonal, regional, or peak-period demand for rail services. Such standards and procedures shall be designed to (a) provide sufficient incentive to shippers to reduce peak-period shipments, through rescheduling and advance planning; (b) generate additional revenues for the railroads; and (c) improve (i) the utilization of the national supply of freight cars, (ii) the movement of goods by rail, (iii) levels of employment by railroads, and (iv) the financial stability of markets served by railroads. Following the establishment of such standards and procedures, the Commission shall prepare and submit to the Congress annual reports on the implementation of such rates, including recommendations with respect to the need, if any, for additional legislation to facilitate the establishment of such demand-sensitive rates.

“(18) In order to encourage competition, to promote increased reinvestment by railroads, and to encourage and facilitate increased non-railroad investment in the production of rail services, a carrier by railroad subject to this part may, upon its own initiative or upon the request of any shipper or receiver of freight, file separate rates for distinct rail services. Within 1 year after the date of enactment of this paragraph, the Commission shall establish, by rule, expeditious procedures for permitting publication of separate rates for distinct rail services in order to (a) encourage the pricing of such services in accordance with the carrier’s cash-outlays for such services and the demand therefor, and (b) enable shippers and receivers to evaluate all transportation and related charges and alternatives.”

(e) Section 15 of the Interstate Commerce Act (49 U.S.C. 15), as amended by this Act, is further amended—

(1) by adding at the end of paragraph (7) thereof the following new sentence: “This paragraph shall not apply to common carriers by railroad subject to this part.”; and

Annual report to
Congress.

(2) by inserting a new paragraph (8) as follows:

“(8) (a) Whenever a schedule is filed with the Commission by a common carrier by railroad stating a new individual or joint rate, fare, or charge, or a new individual or joint classification, regulation, or practice affecting a rate, fare, or charge, the Commission may, upon the complaint of an interested party or upon its own initiative, order a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice. The hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Such hearing shall be completed and a final decision rendered by the Commission not later than 7 months after such rate, fare, charge, classification, regulation, or practice was scheduled to become effective, unless, prior to the expiration of such 7-month period, the Commission reports in writing to the Congress that it is unable to render a decision within such period, together with a full explanation of the reason for the delay. If such a report is made to the Congress, the final decision shall be made not later than 10 months after the date of the filing of such schedule. If the final decision of the Commission is not made within the applicable time period, the rate, fare, charge, classification, regulation, or practice shall go into effect immediately at the expiration of such time period, or shall remain in effect if it has already become effective. Such rate, fare, charge, classification, regulation, or practice may be set aside thereafter by the Commission if, upon complaint of an interested party, the Commission finds it to be unlawful.

Hearing and
notice.

“(b) Pending a hearing pursuant to subdivision (a), the schedule may be suspended, pursuant to subdivision (d), for 7 months beyond the time when it would otherwise go into effect, or for 10 months if the Commission makes a report to the Congress pursuant to subdivision (a), except under the following conditions:

Schedule
suspension.

“(i) in the case of a rate increase, a rate may not be suspended on the ground that it exceeds a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under any provision of section 2, 3, or 4 of this part or, following promulgation of standards and procedures under section 1(5)(d) of this part, if the carrier is found to have market dominance, within the meaning of section 1(5)(c)(i) of this part, over the service to which such rate increase applies; or

“(ii) in the case of a rate decrease, a rate may not be suspended on the ground that it is below a just and reasonable level if the rate is within a limit specified in subdivision (c), except that such a rate change may be suspended under any provision of section 2, 3, or 4 of this part, or for the purposes of investigating such rate change upon a complaint that such rate change constitutes a competitive practice which is unfair, destructive, predatory or otherwise undermines competition which is necessary in the public interest.

“(c) The limitations upon the Commission's power to suspend rate changes set forth in subdivisions (b) (i) and (ii) apply only to rate changes which are not of general applicability to all or substantially all classes of traffic and only if—

“(i) the rate increase or decrease is filed within 2 years after the date of the enactment of this subdivision;

“(ii) the common carrier by railroad notifies the Commission that it wishes to have the rate considered pursuant to this subdivision;

“(iii) the aggregate of increases or decreases in any rate filed pursuant to clauses (i) and (ii) of this subdivision within the first 365 days following such date of enactment is not more than 7 per centum of the rate in effect on January 1, 1976; and

“(iv) the aggregate of the increases or decreases for any rate filed pursuant to clauses (i) and (ii) of this subdivision within the second 365 day-period following such date of enactment is not more than 7 per centum of the rate in effect on January 1, 1977.

“(d) The Commission may not suspend a rate under this paragraph unless it appears from specific facts shown by the verified complaint of any person that—

“(i) without suspension the proposed rate change will cause substantial injury to the complainant or the party represented by such complainant; and

“(ii) it is likely that such complainant will prevail on the merits.

The burden of proof shall be upon the complainant to establish the matters set forth in clauses (i) and (ii) of this subdivision. Nothing in this paragraph shall be construed as establishing a presumption that any rate increase or decrease in excess of the limits set forth in clauses (iii) or (iv) of subdivision (c) is unlawful or should be suspended.

“(e) If a hearing is initiated under this paragraph with respect to a proposed increased rate, fare, or charge, and if the schedule is not suspended pending such hearing and the decision thereon, the Commission shall require the railroads involved to keep an account of all amounts received because of such increase from the date such rate, fare, or charge became effective until the Commission issues an order or until 7 months after such date, whichever first occurs, or, if the hearings are extended pursuant to subdivision (a), until an order issues or until 10 months elapse, whichever first occurs. The account shall specify by whom and on whose behalf the amounts are paid. In its final order, the Commission shall require the common carrier by railroad to refund to the person on whose behalf the amounts were paid that portion of such increased rate, fare, or charge found to be not justified, plus interest at a rate which is equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. With respect to any proposed decreased rate, fare, or charge which is suspended, if the decrease or any part thereof is ultimately found to be lawful, the common carrier by railroad may refund any part of the portion of such decreased rate, fare, or charge found justified if such carrier makes such a refund available on an equal basis to all shippers who participated in such rate, fare, or charge according to the relative amounts of traffic shipped at such rate, fare, or charge.

“(f) In any hearing under this section, the burden of proof is on the common carrier by railroad to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable. The Commission shall specifically consider, in any such hearing, proof that such proposed changed rate, fare, charge, classification, rule, regulation, or practice will have a significantly adverse effect (in violation of section 2 or 3 of this part) on the competitive posture of shippers or consignees affected thereby. The Commission shall give such hearing and decision preference over all other matters relating to railroads pending before the Commission and shall make its decision at the earliest practicable time.”

(f) Nothing in the amendments made by this section shall be construed— 49 USC 1 note.

(1) to modify the application of section 2, 3, or 4 of the Interstate Commerce Act (49 U.S.C. 2, 3, or 4) in determining the lawfulness of any rate or practice;

(2) to make lawful any competitive practice which is unfair, destructive, predatory, or otherwise undermines competition which is necessary in the public interest;

(3) to affect the existing law or the authority of the Commission with respect to rate relationships between ports; or

(4) to affect the authority and responsibility of the Commission to guarantee the equalization of rates within the same port.

(g) The Secretary and the Commission shall separately study the effect of the amendments made by this section on the development of an efficient and financially stable railway system in the United States. Such studies shall include (1) an analysis of the effect of such provisions upon shippers and upon carriers in all modes of transportation, and (2) proposals for further regulatory and legislative changes, if necessary. The Commission shall gather all data relating to such studies as requested by the Secretary, and shall make such data available to the Secretary. The Secretary and the Commission shall transmit the results of their respective studies to each House of Congress within 20 months after the date of the enactment of this Act. Study. 49 USC 1 note.

Transmittal to Congress.

TARIFF MODIFICATIONS

SEC. 203. (a) Section 15(3) of the Interstate Commerce Act (49 U.S.C. 15(3)) is amended by adding at the end thereof the following new sentence: "With respect to carriers by railroad, in determining whether any such cancellation or proposed cancellation involving any common carrier by railroad is consistent with the public interest, the Commission shall, to the extent applicable, (a) compare the distance traversed and the average transportation time and expense required using the through route, and the distance traversed and the average transportation time and expense required using alternative routes, between the points served by such through route, (b) consider any reduction in energy consumption which may result from such cancellation, and (c) take into account the overall impact of such cancellation on the shippers and carriers who are affected thereby."

(b) Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended by adding at the end thereof the following new paragraph:

"(5) The Commission shall, in any proceeding which involves a proposed increase or decrease in railroad rates, specifically consider allegations that such increase or decrease would change the rate relationships between commodities, ports, points, regions, territories, or other particular descriptions of traffic (whether or not such relationships were previously considered or approved by the Commission) and allegations that such increase or decrease would have a significantly adverse effect on the competitive position of shippers or consignees served by the railroad proposing such increase or decrease. If the Commission finds that such allegations as to change or effect are substantially supported on the record, it shall take such steps as are necessary, either before or after such proposed increase or decrease becomes effective and either within or outside such proceeding, to investigate the lawfulness of such change or effect."

INVESTIGATION OF DISCRIMINATORY FREIGHT RATES FOR THE TRANSPORTATION OF RECYCLABLE OR RECYCLED MATERIALS

45 USC 793 note. SEC. 204. (a) INVESTIGATION.—The Commission, within 12 months after the date of enactment of this Act, and thereafter as appropriate, shall—

49 USC 1. (1) conduct an investigation of (A) the rate structure for the transportation, by common carriers by railroad subject to part I of the Interstate Commerce Act, of recyclable or recycled materials and competing virgin natural resource materials, and (B) the manner in which such rate structure has been affected by successive general rate increases approved by the Commission for such common carriers by railroad;

Public hearing. (2) determine, after a public hearing during which the burden of proof shall be upon such common carriers by railroad to show that such rate structure, as affected by rate increases applicable to the transportation of such competing materials, is just, reasonable, and nondiscriminatory, whether such rate structure is, in whole or in part, unjustly discriminatory or unreasonable;

(3) issue, in all cases in which such transportation rate structure is determined to be, in whole or in part, unjustly discriminatory or unreasonable, orders requiring the removal from such rate structure of such unreasonableness or unjust discrimination; and

Report to President and Congress. (4) report to the President and the Congress, in the annual report of the Commission for each of the 3 years following the date of enactment of this Act, and in such other reports as may be appropriate, all actions commenced or completed under this section to eliminate unreasonable and unjustly discriminatory rates for the transportation of recyclable or recycled materials.

(b) PARTICIPATION.—The Administrator of the Environmental Protection Agency shall take such steps as are necessary to assure that the Commission carries out the requirements set forth in subsection (a) of this section as expeditiously as possible. Such Administrator is authorized to participate as a party in the investigation to be commenced by the Commission under such subsection (a).

(c) RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—The Secretary, in cooperation with the Commission, shall establish a research, development, and demonstration program to develop and improve transport terminal operations, transport service characteristics, transport equipment, and collection and processing methods for the purpose of facilitating the competitive and efficient transportation of recyclable or recycled materials by common carriers by railroad subject to part I of the Interstate Commerce Act.

(d) REVIEW.—Orders issued by the Commission pursuant to this section shall be subject to judicial review or enforcement in the same manner as other orders issued by the Commission under the Interstate Commerce Act. In all proceedings under this section, the Commission shall comply fully with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) DEFINITIONS.—As used in this section, the term—

(1) “recyclable material” means any material which has been collected or recovered from waste for a commercial or industrial use, whether or not such collection or recovery follows end usage as a product; and

(2) “virgin natural resource material” and “virgin material” mean any raw material, including previously unused metal or metal ore, woodpulp or pulpwood, textile fiber or material, or

other resource which is, or which will become (through the application of technology), a source of raw material for commercial or industrial use.

ADEQUATE REVENUE LEVELS

SEC. 205. Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended—

(1) by adding at the end of paragraph (2) and at the end of paragraph (3) the following new sentence: "This paragraph shall not apply to common carriers by railroad subject to this part."; and

(2) by redesignating paragraph (4) as paragraph (6), and by inserting immediately after paragraph (3) the following new paragraph:

"(4) With respect to common carriers by railroad, the Commission shall, within 24 months after the date of enactment of this paragraph, after notice and an opportunity for a hearing, develop and promulgate (and thereafter revise and maintain) reasonable standards and procedures for the establishment of revenue levels adequate under honest, economical, and efficient management to cover total operating expenses, including depreciation and obsolescence, plus a fair, reasonable, and economic profit or return (or both) on capital employed in the business. Such revenue levels should (a) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation and (b) insure retention and attraction of capital in amounts adequate to provide a sound transportation system in the United States. The Commission shall make an adequate and continuing effort to assist such carriers in attaining such revenue levels. No rate of a common carrier by railroad shall be held up to a particular level to protect the traffic of any other carrier or mode of transportation, unless the Commission finds that such rate reduces or would reduce the going concern value of the carrier charging the rate."

Notice and hearing.
Standards and procedures.

RATE INCENTIVES FOR CAPITAL INVESTMENT

SEC. 206. Section 15 of the Interstate Commerce Act (49 U.S.C. 15), as amended by section 202 of this Act, is amended by adding at the end thereof the following new paragraph:

"(19) Notwithstanding any other provision of law, a common carrier by railroad subject to this part may file with the Commission a notice of intention to file a schedule stating a new rate, fare, charge, classification, regulation, or practice whenever the implementation of the proposed schedule would require a total capital investment of \$1,000,000 or more, individually or collectively, by such carrier, or by a shipper, receiver, or agent thereof, or an interested third party. The filing shall be accompanied by a sworn affidavit setting forth in detail the anticipated capital investment upon which such filing is based. Any interested person may request the Commission to investigate the schedule proposed to be filed, and upon such request the Commission shall hold a hearing with respect to such schedule. Such hearing may be conducted without answer or other formal pleading, but reasonable notice shall be provided to interested parties. Unless, prior to the 180-day period following the filing of such notice of intention, the Commission determines, after a hearing, that the proposed schedule, or any part thereof, would be unlawful, such carrier may file the schedule at any time within 180 days thereafter to become effective after 30

Notice.

Hearing.

Notice.

days' notice. Such a schedule may not, for a period of 5 years after its effective date, be suspended or set aside as unlawful under section 2, 3, or 4 of this part, except that the Commission may at any time order such schedule to be revised to a level equaling the variable costs of providing the service, if the rate stated therein is found to reduce the going concern value of the carrier."

EXEMPTIONS FROM INTERSTATE COMMERCE ACT

SEC. 207. Paragraph (1) of section 12 of the Interstate Commerce Act (49 U.S.C. 12(i)) is amended by inserting "(a)" immediately before "The Commission" and by adding at the end thereof the following new subdivision:

Notice and
hearing.

"(b) Whenever the Commission determines, upon petition by the Secretary or an interested party or upon its own initiative, in matters relating to a common carrier by railroad subject to this part, after notice and reasonable opportunity for a hearing, that the application of the provisions of this part (i) to any person or class of persons, or (ii) to any services or transactions by reason of the limited scope of such services or transactions, is not necessary to effectuate the national transportation policy declared in this Act, would be an undue burden on such person or class of persons or on interstate and foreign commerce, and would serve little or no useful public purpose, it shall, by order, exempt such persons, class of persons, services, or transactions from such provisions to the extent and for such period of time as may be specified in such order. The Commission may, by order, revoke any such exemption whenever it finds, after notice and reasonable opportunity for a hearing, that the application of the provisions of this part to the exempted person, class of persons, services, or transactions, to the extent specified in such order, is necessary to effectuate the national transportation policy declared in this Act and to achieve effective regulation by the Commission, and would serve a useful public purpose."

RATE BUREAUS

49 USC 1, 301,
901.

SEC. 208. (a) Effective 270 days after the date of enactment of this Act, section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended in paragraph (1)(A) thereof by striking out "part I, II, or III" and inserting in lieu thereof "part I (other than a common carrier by railroad), part II, or part III".

(b) Part I of the Interstate Commerce Act is amended by inserting after section 5a thereof a new section 5b as follows:

"AGREEMENTS BETWEEN CARRIERS SUBJECT TO PART I

Definitions.
49 USC 5c.

"SEC. 5b. (1) As used in this section, the term—

"(a) 'affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with, any other person, and as used in this subdivision, the term (i) 'control' has the same meaning as in section 1(3)(b) of this part; and (ii) 'ownership' refers to equity holdings of 5 per centum or more in any business entity;

"(b) 'antitrust laws' means the Act of July 2, 1890, as amended (15 U.S.C. 1, et seq.), the Act of October 15, 1914, as amended (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Act of August 27, 1894, as amended (15 U.S.C. 8 and 9), and chapter 592 of the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a); and

"(c) 'carrier' means any common carrier by railroad subject to part I of this Act.

“(2) Any carrier which is a party to an agreement, between or among two or more carriers, relating to rates, fares, classification, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation, or establishment thereof, shall, under such rules and regulations as the Commission shall prescribe, apply to the Commission for approval of such agreement. The Commission shall, by order, approve any such agreement if approval thereof is not prohibited by paragraph (4) or (5) and if it finds that, by reason of furtherance of the national transportation policy declared in this Act, the relief provided in paragraph (8) should apply with respect to the making and carrying out of such agreement; otherwise the application shall be denied. No such approval shall be granted or continued (a) if any of the terms and conditions which are prescribed under the last sentence of this paragraph are violated or not complied with, or (b) unless the Commission receives a verified written statement (and any written supplement or addendum thereto requested by the Commission) setting forth, with respect to each carrier which is a party to such agreement (i) its name, (ii) the mailing address and telephone number of its headquarter's office, (iii) the names of each of its affiliates, (iv) the names, addresses, and affiliations of each of its officers and directors and of each person who, together with any affiliate, owns or controls any debt, equity, or security interest in it having a value of \$1,000,000 or more, and (v) such other information as the Commission directs to be included. The approval of the Commission shall be granted only upon such terms and conditions as the Commission determines are necessary to enable its approval to be granted in accordance with the standard set forth in this paragraph.

“(3) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the Commission such reports, as may be prescribed by the Commission. All such accounts, records, files, and memoranda shall be subject to inspection by the Commission or its duly authorized representatives. The Commission may conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of relevant documents, records, and property, copy and verify the correctness of information subject to inspection, and take depositions (a) to determine whether any such conference, bureau, committee, or other organization, or any carrier which is a party to any such agreement, has acted or is acting in compliance with the provisions of this section, regulations issued under this section, and the public interest, (b) to determine whether any such organization or carrier is inhibiting an efficient utilization of transportation resources or has established practices which are inconsistent with efficient, flexible, and economic operation, and (c) for such other purposes as the Commission considers appropriate.

“(4) The Commission shall not approve under this section any agreement which it finds is an agreement with respect to a pooling, division, or other matter or transaction to which section 5 of this part is applicable.

“(5) (a) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration, unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action, without fear of any sanction or retal-

Recordkeeping.

49 USC 5.

iatory action, at any time before or after any determination arrived at through such procedure. In no event shall any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section—

“(i) permit participation in agreements with respect to, or any voting on, single-line rates, allowances, or charges established by any carrier;

“(ii) permit any carrier to participate in agreements with respect to, or to vote on, rates, allowances, or charges relating to any particular interline movement, unless such carrier can practically participate in such movement; or

“(iii) permit, provide for, or establish any procedure for joint consideration or any joint action to protest or otherwise seek the suspension of any rate or classification filed by a carrier of the same mode pursuant to section 15(7) of this part where such rate or classification is established by independent action.

49 USC 15.

As used in clause (i) of this subdivision, a single-line rate, allowance, or charge is one that is proposed by a single carrier applicable only over its own line and as to which the service (exclusive of terminal services provided by switching, drayage, or other terminal carriers or agencies) can be performed by such carrier.

“(b) The limitations set forth in subdivision (a) shall not be applicable to—

“(i) general rate increases or decreases, if the agreements accord the shipping public, under specified procedures, adequate notice of at least 15 days of such proposals and an opportunity to present comments thereon, in writing or otherwise, prior to the filing with the Commission of the tariffs containing such increases or decreases, or

“(ii) broad tariff changes if such changes are of general application or substantially general application throughout a territory or territories within which such changes are to be applicable.

In any proceeding in which it is alleged that a carrier voted or agreed upon a rate, allowance, or charge, in violation of the provisions of this section, the party alleging such violation shall have the burden of showing that such vote or agreement occurred. A showing of parallel behavior is not, by itself, sufficient to satisfy such burden.

Investigation.

“(6) (a) The Commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which such approval was granted, is not or are not in conformity with the standards set forth in paragraph (2) and with the public interest, and whether any such terms and conditions are necessary for purposes of conformity with such standard. After any such investigation the Commission shall, by order, terminate or modify its approval of such an agreement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the Commission determines to be reasonably necessary to avoid undue hardship.

“(b) The Commission shall periodically, but not less than once every 3 years, review each agreement which the Commission has by order approved under this section to determine whether such agreement, or any conference, bureau, committee, or other organization established or continued pursuant to such agreement, still conforms with the standard set forth in paragraph (2) and the public interest, and to evaluate the success and effect upon the consuming public and the national rail freight transportation system of such agreement and organization. The Commission shall report to the President and to the Congress on the results of such reviews, as part of its annual report pursuant to section 21. If the Commission makes a determination that any such agreement or organization is no longer in conformity with such standard, the Commission shall by order terminate or suspend its approval thereof.

Review.

Report to
President and
Congress.
49 USC 21.

“(7) No order shall be entered under this section except after interested parties have been afforded a reasonable opportunity for a hearing.

Hearing.

“(8) Parties to any agreement approved by the Commission under this section and other persons are, if the approval of such agreement is not prohibited by paragraph (4) or (5), hereby relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with its provisions and in conformity with the terms and conditions prescribed by the Commission.

“(9) Any action of the Commission under this section (a) in approving an agreement, (b) in denying an application for such approval, (c) in terminating or modifying such approval, (d) in prescribing the terms and conditions upon which such approval is to be granted, or (e) in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of paragraph (8).

“(10) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall periodically prepare an assessment of, and shall report to the Commission on (a) any possible anticompetitive features of (i) any agreements approved or submitted for approval under this section, and (ii) any conferences, bureaus, committees, or other organizations operating under such agreements, and (b) possible ways to eliminate or alleviate any such anticompetitive features, effects, or aspects in a manner that will further the goals of the national transportation policy and this Act. The Commission shall make such reports available to the public.

Report to
Interstate
Commerce
Commission.

“(11) Any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under this section shall make a final disposition with respect to any rule, rate, or charge docketed with such organization within 120 days after such proposal is docketed.”

Final disposition.

FILING PROCEDURES

SEC. 209. Section 6(6) of the Interstate Commerce Act (49 U.S.C. 6(6)) is amended by striking out “shall prescribe; and the” and inserting in lieu thereof the following: “shall prescribe. The Commission shall, beginning 2 years after the date of enactment of this sentence, require (a) that all rates shall be incorporated into the individual tariffs of each common carrier by railroad subject to this part or rail ratemaking association within 2 years after the initial publication of the rate, or within 2 years after a change in any rate is approved by the Commission, whichever is later, and (b) that any rate shall be null and void with respect to any such carrier or association which

does not so incorporate such rate into its individual tariff. The Commission may, upon good cause shown, extend such period of time. Notice of any such extension and a statement of the reasons therefor shall be promptly transmitted to the Congress. The”.

INTRASTATE RAILROAD RATE PROCEEDINGS

SEC. 210. Section 13 of the Interstate Commerce Act (49 U.S.C. 13) is amended by striking out “: *Provided, That*” and all that follows through “hearing and decision therein” in paragraph (4) thereof, and by adding at the end thereof the following new paragraph:

“(5) The Commission shall have exclusive authority, upon application to it, to determine and prescribe intrastate rates if—

“(a) a carrier by railroad has filed with an appropriate administrative or regulatory body of a State, a change in an intrastate rate, fare, or charge, or a change in a classification, regulation, or practice that has the effect of changing such a rate, fare, or charge, for the purpose of adjusting such rate, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce; and

“(b) the State administrative or regulatory body has not, within 120 days after the date of such filing, acted finally on such change.

Application.

Notice of the application to the Commission shall be served on the appropriate State administrative or regulatory body. Upon the filing of such an application, the Commission shall determine and prescribe, according to the standards set forth in paragraph (4) of this section, the rate thereafter to be charged. The provisions of this paragraph shall apply notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority.”.

DEMURRAGE CHARGES

Rules and regulations.

SEC. 211. Section 1(6) of the Interstate Commerce Act (49 U.S.C. 1(6)) is amended by inserting at the end thereof the following new sentence: “Demurrage charges shall be computed, and rules and regulations relating to such charges shall be established, in such a manner as to fulfill the national needs with respect to (a) freight car utilization and distribution, and (b) maintenance of an adequate freight car supply available for transportation of property.”.

CAR SERVICE COMPENSATION AND PRACTICES

Notice and hearing. Rules and regulations.

SEC. 212. (a) Section 1(14)(a) of the Interstate Commerce Act (49 U.S.C. 1(14)(a)) is amended to read as follows:

“(14)(a) It is the intent of the Congress to encourage the purchase, acquisition, and efficient utilization of freight cars. In order to carry out such intent, the Commission may, upon complaint of an interested party or upon its own initiative without complaint, and after notice and an opportunity for a hearing, establish reasonable rules, regulations, and practices with respect to car service by common carriers by railroad subject to this part, including (i) the compensation to be paid for the use of any locomotive, freight car, or other vehicle, (ii) the other terms of any contract, agreement, or arrangement for the use of any locomotive or other vehicle not owned by the carrier by which it is used (and whether or not owned by another carrier, shipper, or third party), and (iii) the penalties or other sanctions for nonobservance of

such rules, regulations, or practices. In determining the rates of compensation to be paid for each type of freight car, the Commission shall give consideration to the transportation use of each type of freight car, to the national level of ownership of each such type of freight car, and to other factors affecting the adequacy of the national freight car supply. Such compensation shall be fixed on the basis of the elements of ownership expense involved in owning and maintaining each such type of freight car, including a fair return on the cost of such type of freight car (giving due consideration to current costs of capital, repairs, materials, parts, and labor). Such compensation may be increased by any incentive element which will, in the judgment of the Commission, provide just and reasonable compensation to freight car owners, contribute to sound car service practices (including efficient utilization and distribution of cars), and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense. The Commission shall not make any incentive element applicable to any type of freight car if the Commission finds that the supply of such type of freight car is adequate. The Commission may exempt such incentive element from the compensation to be paid by any carrier or group of carriers if the Commission finds that such an exemption is in the national interest."

(b) The Commission shall, within 18 months after the date of enactment of this Act, revise its rules, regulations, and practices with respect to car service, in accordance with the amendment made by subsection (a) of this section.

Rules and
regulations,
revision.
49 USC 1 note.

TITLE III—REFORM OF THE INTERSTATE COMMERCE COMMISSION

ACCESS TO INFORMATION BY CONGRESSIONAL COMMITTEES

SEC. 301. Section 17 of the Interstate Commerce Act (49 U.S.C. 17), as amended by section 303 of this Act, is further amended by inserting therein a new paragraph (15) as follows:

"(15) Whenever the Committee on Interstate and Foreign Commerce of the House of Representatives or the Committee on Commerce of the Senate makes a written request for documents which are in the possession or under the control of the Commission and which relate to any matter involving a common carrier by railroad subject to this part, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee, or submit a report in writing to such committee stating the reason why such documents have not been so submitted, and the anticipated date on which they will be submitted. If the Commission transfers any document in its possession or under its control to any other agency or to any person, it shall condition such transfer on the guaranteed return by the transferee of such document to the Commission for purposes of complying with the preceding sentence. This paragraph shall not apply to documents which have been obtained by the Commission from persons subject to regulation by the Commission, and which contain trade secrets or commercial or financial information of a privileged or confidential nature. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, or any copy thereof."

"Document."

EFFECTIVE DATE OF ORDERS OF THE COMMISSION

SEC. 302. Section 15(2) of the Interstate Commerce Act (49 U.S.C. 15(2)), is amended by striking out “, not less than thirty days, and shall”, and inserting in lieu thereof “as the Commission may prescribe. Such orders shall”.

COMMISSION HEARING AND APPELLATE PROCEDURE

SEC. 303. (a) Section 17 of the Interstate Commerce Act (49 U.S.C. 17) is amended by redesignating paragraphs (9) through (12) thereof as paragraphs (10) through (13) thereof, respectively, and by inserting therein the following new paragraph (9):

“Hearing.”

“(9) (a) Whenever the term ‘hearing’ is used in this part, such term shall be construed to include an opportunity for the submission of all evidence in written form, followed by an opportunity for briefs, written statements, or conferences of the parties, such conferences to be chaired by a division, an individual Commissioner, an administrative law judge, an employee board, or any other designated employee of the Commission.

“(b) With respect to any matter involving a common carrier by railroad subject to this part, whenever the Commission assigns the initial disposition to any of such matter before the Commission to an administrative law judge, individual Commissioner, employee board, or division or panel of the Commission, such judge, Commissioner, board, division, or panel shall—

“(i) complete all evidentiary proceedings with respect to such matter within 180 days after its assignment; and

“(ii) with respect to any matter so assigned which involves written submissions or the taking of testimony at a public hearing, submit in writing to the Commission, within 120 days after the completion of all evidentiary proceedings, an initial decision, report, or order containing—

“(A) specific findings of fact;

“(B) specific and separate conclusions of law;

“(C) a recommended order; and

“(D) any justification in support of such findings of fact, conclusions of law, and order.

The Commission, or a duly designated division thereof, may, in its discretion, void any requirement for an initial decision, report, or order, and, in appropriate cases, may direct that any matter shall be considered forthwith by the Commission or such division, if it concludes that the matter involves a question of agency policy, a new or novel issue of law, or an issue of general transportation importance, or if the due and timely execution of its functions so requires. Whenever an initial decision, report, or order is submitted, copies thereof shall be served upon interested parties. Any such party may file an appeal with the Commission, with respect to such initial decision or report. If no such appeal is filed within 20 days after such service, or within such further period (not to exceed 20 days) as the Commission, or a duly designated division thereof, may authorize, the order set forth in such initial decision or report shall become the order of the Commission and shall become effective unless, within such period, the order shall have been stayed or postponed by the Commission pursuant to subdivision (d) or (e).

Review.

“(c) The Commission, or a duly designated division thereof, may, upon its own initiative, and shall, in any case in which an appeal is filed under subdivision (b), review the matter upon the same record or

upon the basis of a further hearing. Any such appeal shall be considered and acted upon by the Commission, or a duly designated division thereof, within 180 days after the date on which such appeal is filed. Any such decision, report, or order shall be stayed pending the determination of such appeal. Such a review shall be conducted in accordance with section 557 of title 5, United States Code, and such rules (limiting and defining the issues and pleadings upon review) as the Commission may adopt in conformance with section 557(b) of such title 5. The Commission may, in its discretion and on such terms and conditions as it may prescribe, authorize duly designated employee boards to perform functions under this paragraph of the same character as those which may be performed by a duly designated division of the Commission (other than the decision of any appeal under this paragraph which may be further appealed to the Commission).

“(d) Any decision, order, or requirement of the Commission, or of a duly designated division thereof, shall become effective 30 days after it is served on the parties thereto, unless the Commission provides for such decision, order, or requirement, or any applicable rule, to become effective at an earlier date. Any interested party to a decision, order or requirement of a duly designated division of the Commission may petition the Commission for rehearing, reargument, or other reconsideration, subject to such rules and limitations as the Commission may establish. If the Commission finds that a decision, order, or requirement presents a matter of general transportation importance, or if it finds that clear and convincing new evidence has been presented or that changed circumstances exist which would materially affect such decision, order, or requirement, the Commission may reconsider such decision, order, or requirement, and it may, in its discretion, stay the effective date of such decision, order, or requirement. If the Commission reconsiders a decision, order, or requirement, it must complete the process and issue its final order not more than 120 days after the date on which it grants the application for reconsideration.

“(e) The Commission may, in its discretion, extend any time period set forth in this section for a period of not more than 90 days, if a majority of the Commissioners, by public vote, agree to such extension. The Commission shall submit an annual report in writing to each House of Congress setting forth each extension granted pursuant to this subdivision (classified by the type of proceeding involved), and stating the reasons for each such extension and the duration thereof.

Report to
Congress.

“(f) In extraordinary situations in which an extension granted pursuant to subdivision (e) is not sufficient to allow for completion of necessary proceedings, the Commission may, in its discretion, grant a further extension if—

“(i) not less than 7 of the Commissioners, by public vote, agree to such further extension; and

“(ii) not less than 15 days prior to expiration of the extension granted pursuant to subdivision (e), the Commission reports in writing to the Congress that such further extension has been granted, together with—

“(A) a full explanation of the reasons for such further extension;

“(B) the anticipated duration of such further extension;

“(C) the issues involved in the matter before the Commission; and

“(D) the names of personnel of the Commission working on such matter.

“(g) The Commission may, at any time upon its own initiative, on grounds of material error, new evidence, or substantially changed circumstances—

“(i) reopen any proceeding;

“(ii) grant rehearing, reargument, or reconsideration with respect to any decision, order, or requirement; and

“(iii) reverse, modify, or change any decision, order, or requirement.

Rules.

The Commission may establish rules allowing interested parties to petition for leave to request reopening and reconsideration based upon material error, new evidence, or substantially changed circumstances.

“(h) Notwithstanding any other provision of this Act, any decision, order, or requirement of the Commission, or of a duly designated division thereof, shall be final on the date on which it is served. A civil action to enforce, enjoin, suspend, or set aside such a decision, order, or requirement, in whole or in part, may be brought after such date in a court of the United States pursuant to the provisions of law which are applicable to suits to enforce, enjoin, suspend, or set aside orders of the Commission.

“(i) Notwithstanding the provisions of paragraphs (5), (6), (7), and (8), the provisions of this paragraph shall govern the disposition of, and shall apply only to, any matter before the Commission which involves a common carrier by railroad subject to this part, except that the provisions of other sections of this part pertaining to deadlines in Commission proceedings shall govern to the extent that they are inconsistent with the provisions pertaining to deadlines contained in this paragraph.

“(j) Reports in writing and other written statement (including, but not limited to, any report, order, decision and order, vote, notice, letter, policy statement, rule, or regulation) of any official action of the Commission (whether such action is taken by the Commission, a division thereof, any other group of Commissioners, a single Commissioner, an employee board, an administrative law judge, or any other individual or group of individuals who are authorized to take any official action on behalf of the Commission) shall indicate (i) the official designation of the individual or group taking such action (ii) the name of each individual taking, or participating in taking, such action, and (iii) the vote or position of each such participating individual. If any individual who is officially designated as a member of a group which takes any such action does not participate in such action, the written statement of such action shall indicate that such individual did not participate. Each individual who participates in taking any such action shall have the right to express his individual views as part of the written statement of such action. The written statement of any such action shall be made available to the public in accordance with Federal law.”

Written
statement,
availability to
public.
49 USC 17.

(b) Section 17 of the Interstate Commerce Act is amended by inserting therein a new paragraph (14) as follows:

“(14) (a) Any formal investigative proceeding with respect to a common carrier by railroad which is instituted by the Commission after the date of enactment of this subdivision shall be concluded by the Commission with administrative finality within 3 years after the date on which such proceeding is instituted. Any such proceeding which is not so concluded by such date shall automatically be dismissed.

“(b) Within 1 year after the date of enactment of this subdivision, the Commission shall conclude or terminate, with administrative finality, any formal investigative proceeding with respect to a common carrier by railroad which was instituted by the Commission on its own

initiative and which has been pending before the Commission for a period of 3 or more years following the date of the order which instituted such proceeding.”.

OFFICE OF RAIL PUBLIC COUNSEL

SEC. 304. (a) Part I of the Interstate Commerce Act is amended by redesignating section 27 thereof as section 29 thereof and by inserting after section 26 thereof a new section 27, as follows: 49 USC 27.

“OFFICE OF RAIL PUBLIC COUNSEL

“SEC. 27. (1) There shall be established, within 60 days after the date of enactment of this section, a new independent office affiliated with the Commission to be known as the Office of Rail Public Counsel. The Office of Rail Public Counsel shall function continuously pursuant to this section and other applicable Federal laws. Establishment. 49 USC 26b.

“(2) (a) The Office of Rail Public Counsel shall be administered by a Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate. Director.

“(b) The term of office of the Director shall be 4 years. He shall be responsible for the discharge of the functions and duties of the Office of Rail Public Counsel. He shall be appointed and compensated, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. Term. 5 USC 5332 note.

“(3) The Director is authorized to appoint, fix the compensation, and assign the duties of employees of such Office and to procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code. Each bureau, office, or other entity of the Commission and each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized to provide the Office of Rail Public Counsel with such information and data as it requests. The Director is authorized to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his functions and duties. The Director shall submit a monthly report on the activities of the Office of Rail Public Counsel to the Chairman of the Commission, and the Commission, in its annual report to the Congress, shall evaluate and make recommendations with respect to such Office and its activities, accomplishments, and shortcomings. Report to Commission and Congress.

“(4) In addition to any other duties and responsibilities prescribed by law, the Office of Rail Public Counsel—

“(a) shall have standing to become a party to any proceeding, formal or informal, which is pending or initiated before the Commission and which involves a common carrier by railroad subject to this part;

“(b) may petition the Commission for the initiation of proceedings on any matter within the jurisdiction of the Commission which involves a common carrier by railroad subject to this part;

“(c) may seek judicial review of any Commission action on any matter involving a common carrier by railroad subject to this part, to the extent such review is authorized by law for any person and on the same basis;

“(d) shall solicit, study, evaluate, and present before the Commission, in any proceeding, formal or informal, the views of those communities and users of rail service affected by proceedings initiated by or pending before the Commission, whenever the Director determines, for whatever reason (such as size or location), that such community or user of rail service might not otherwise be adequately represented before the Commission in the course of such proceedings; and .

“(e) shall evaluate and represent, before the Commission and before other Federal agencies when their policies and activities significantly affect rail transportation matters subject to the jurisdiction of the Commission, and shall by other means assist the constructive representation of, the public interest in safe, efficient, reliable, and economical rail transportation services.

In the performance of its duties under this paragraph, the Office of Rail Public Counsel shall assist the Commission in the development of a public interest record in proceedings before the Commission.

“(5) The budget requests and budget estimates of the Office of Rail Public Counsel shall be submitted concurrently to the Congress and to the President.

“(6) There are authorized to be appropriated to the Office of Rail Public Counsel for the purpose of carrying out the provisions of this section not to exceed \$500,000 for the fiscal year ending June 30, 1976, not to exceed \$500,000 for the fiscal year transition period ending September 30, 1976, and not to exceed \$2,000,000 for the fiscal year ending September 30, 1977.”

(b) Section 13 of the Interstate Commerce Act (49 U.S.C. 13), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

“(6) (a) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a government entity) petitions the Commission for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation relating to common carriers by railroads under this Act, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, it shall set forth, and publish in the Federal Register, its reasons for such denial.

“(b) If the Commission denies a petition under subdivision (a) (or if it fails to act thereon within the 120-day period established by such subdivision), the petitioner may commence a civil action in an appropriate court of appeals of the United States for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

“(c) If the petitioner, in an action commenced under subdivision (b), demonstrates to the satisfaction of the court, by a preponderance of the evidence in the record before the Commission or, in an action based on a petition on which the Commission failed to act, in a new proceeding before such court, that the action requested in such petition to the Commission is necessary and that the failure of the Commission to take such action will result in the continuation of practices which are not consistent with the public interest or in accordance with this Act, such court shall order the Commission to initiate such action.

“(d) In any action under this paragraph, a court shall have no authority to compel the Commission to take any action other than the

Budget request
and estimates,
submittal to
Congress and
President.
Appropriation
authorization.

Ante, p. 46.

Publication in
Federal Register.
Civil action.

initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this Act.

“(e) As used in this paragraph, the term ‘Commission’ includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of the proceeding for the issuance, amendment, or repeal of any order, rule, or regulation under this Act relating to common carriers by railroad.”

“Commission.”

REFORM OF RULES OF PRACTICE BEFORE THE COMMISSION

SEC. 305. (a) Within 360 days after the date of enactment of this Act, the Commission shall study, develop, and submit to the Congress an initial proposal setting forth rules of practice under which the Commission proposes to conduct all adjudicatory and rulemaking proceedings with respect to any matter involving a common carrier by railroad subject to this part. Such rules of practice before the Commission shall be consistent with existing law, shall take into consideration the varying nature of proceedings before the Commission, and shall include—

Submittal to congressional committees.
49 USC 17 note.

(1) specific time limits upon the filing and disposition of all complaints, applications, petitions, pleadings, motions, appeals, and rulemaking proceedings before an administrative law judge, individual Commissioner, review board, division, or panel of the Commission, or the full Commission;

(2) specific methods of taking testimony, receiving evidence, hearing cross-examination, and the modification of such procedures so as to facilitate the timely execution of the functions of the Commission;

(3) utilization of additional administrative law judges or the assignment of employees of the Office, in complex adjudicatory or rulemaking proceedings, so as to facilitate proper focus and timely resolution of the issues within the required time limits; and

(4) specific remedies in any case of failure to observe required time limits.

(b) Within 420 days after the date of enactment of this Act, the Administrative Conference of the United States shall submit to the Congress and to the Commission its comments on the rules of practice before the Commission proposed pursuant to subsection (a) of this section, together with such recommendations as it considers appropriate.

(c) Within 30 days after the receipt of comments submitted pursuant to subsection (b) of this section, the Commission shall consider such comments and shall submit to the Congress a final proposal setting forth the rules of practice before the Commission with respect to matters involving common carriers by railroad. Such rules of practice shall take effect at the end of the first period of 60 calendar days of continuous session of the Congress after the date of submission of such final proposal, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such final proposal. If no resolution is adopted as provided in the preceding sentence, the Commission shall adopt such proposed rules of practice. For purposes of this subsection, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded from the computation of the 60-day period.

Final proposal, submittal to Congress.

(d) If either the Senate or the House of Representatives passes a resolution of disapproval under subsection (c) of this section, the Commission shall develop a revised proposal setting forth the rules of practice before the Commission pursuant to this section. Within 60 days after the date of such disapproval, each such revised proposal shall be submitted to the Congress by the Commission for review pursuant to such subsection (c).

Review.

(e) The Commission shall periodically, but not less than once every 3 years, review the rules of practice adopted pursuant to subsection (c) of this section, and shall revise such rules as it considers necessary.

PROHIBITING DISCRIMINATORY TAX TREATMENT OF TRANSPORTATION PROPERTY

SEC. 306. Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.), as amended by this Act, is further amended by inserting therein a new section 28, as follows:

49 USC 26c.

"SEC. 28. (1) Notwithstanding the provisions of section 202(b), any action described in this subsection is declared to constitute an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce. It is unlawful for a State, a political subdivision of a State, or a governmental entity or person acting on behalf of such State or subdivision to commit any of the following prohibited acts:

"(a) The assessment (but only to the extent of any portion based on excessive values as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property at a value which bears a higher ratio to the true market value of such transportation property than the ratio which the assessed value of all other commercial and industrial property in the same assessment jurisdiction bears to the true market value of all such other commercial and industrial property.

"(b) The levy or collection of any tax on an assessment which is unlawful under subdivision (a).

"(c) The levy or collection of any ad valorem property tax on transportation property at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction.

"(d) The imposition of any other tax which results in discriminatory treatment of a common carrier by railroad subject to this part.

District courts,
jurisdiction.

"(2) Notwithstanding any provision of section 1341 of title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, without regard to amount in controversy or citizenship of the parties, to grant such mandatory or prohibitive injunctive relief, interim equitable relief, and declaratory judgments as may be necessary to prevent, restrain, or terminate any acts in violation of this section, except that—

"(a) such jurisdiction shall not be exclusive of the jurisdiction which any Federal or State court may have in the absence of this subsection;

"(b) the provisions of this section shall not become effective until 3 years after the date of enactment of this section;

"(c) no relief may be granted under this section unless the ratio of assessed value to true market value, with respect to transportation property, exceeds by at least 5 per centum the ratio of assessed value to true market value, with respect to all other commercial and industrial property in the same assessment jurisdiction;

“(d) the burden of proof with respect to the determination of assessed value and true market value shall be that declared by the applicable State law; and

“(e) in the event that the ratio of the assessed value of all other commercial and industrial property in the assessment jurisdiction to the true market value of all such other commercial and industrial property cannot be established through the random-sampling method known as a sales assessment ratio study (conducted in accordance with statistical principles applicable to such studies) to the satisfaction of the court hearing the complaint that transportation property has been or is being assessed or taxed in contravention of the provisions of this section, then the court shall hold unlawful an assessment of such transportation property at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy bears to the true market value of all such other property, and the collection of any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to taxable property in the taxing district.

“(3) As used in this section, the term—

Definitions.

“(a) ‘assessment’ means valuation for purposes of a property tax levied by any taxing district;

“(b) ‘assessment jurisdiction’ means a geographical area, such as a State or a county, city, township, or special purpose district within such State which is a unit for purposes of determining the assessed value of property for ad valorem taxation;

“(c) ‘commercial and industrial property’ or ‘all other commercial and industrial property’ means all property, real or personal, other than transportation property and land used primarily for agricultural purposes or primarily for the purpose of growing timber, which is devoted to a commercial or industrial use and which is subject to a property tax levy; and

“(d) ‘transportation property’ means transportation property, as defined in regulations of the Commission, which is owned or used by a common carrier by railroad subject to this part or which is owned by the National Railroad Passenger Corporation.”.

UNIFORM COST AND REVENUE ACCOUNTING SYSTEM

SEC. 307. Paragraph (3) of section 20 of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended to read as follows:

“(3) (a) The Commission shall, not later than June 30, 1977, issue regulations and procedures prescribing a uniform cost and revenue accounting and reporting system for all common carriers by railroad subject to this part. Such regulations and procedures shall become effective not later than January 1, 1978. Before promulgating such regulations and procedures, the Commission shall consult with and solicit the views of other agencies and departments of the Federal Government, representatives of carriers, shippers, and their employees, and the general public.

Regulations.

“(b) In order to assure that the most accurate cost and revenue data can be obtained with respect to light density lines, main line operations, factors relevant in establishing fair and reasonable rates, and other regulatory areas of responsibility, the Commission shall

identify and define the following items as they pertain to each facet of rail operations:

“(i) operating and nonoperating revenue accounts;

“(ii) direct cost accounts for determining fixed and variable cost for materials, labor, and overhead components of operating expenses and the assignment of such costs to various functions, services, or activities, including maintenance-of-way, maintenance of equipment (locomotive and car), transportation (train, yard and station, and accessorial services), and general and administrative expenses; and

“(iii) indirect cost accounts for determining fixed, common, joint, and constant costs, including the cost of capital, and the method for the assignment of such costs to various functions, services, or activities.

“(c) The accounting system established pursuant to this paragraph shall be in accordance with generally accepted accounting principles uniformly applied to all common carriers by railroad subject to this part, and all reports shall include any disclosure considered appropriate under generally accepted accounting principles or the requirements of the Commission or of the Securities and Exchange Commission. The Commission shall, notwithstanding any other provision of this section, to the extent possible, devise the system of accounts to be cost effective, nonduplicative, and compatible with the present and desired managerial and responsibility accounting requirements of the carriers, and to give due consideration to appropriate economic principles. The Commission should attempt, to the extent possible, to require that such data be reported or otherwise disclosed only for essential regulatory purposes, including rate change requests, abandonment of facilities requests, responsibility for peaks in demand, cost of service, and issuance of securities.

Review.

“(d) In order that the accounting system established pursuant to this paragraph continue to conform to generally accepted accounting principles, compatible with the managerial responsibility accounting requirements of carriers, and in compliance with other objectives set forth in this section, the Commission shall periodically, but not less than once every 5 years, review such accounting system and revise it as necessary.

Appropriation
authorization.

“(e) There are authorized to be appropriated to the Commission for purposes of carrying out the provisions of this paragraph such sums as may be necessary, not to exceed \$1,000,000, to be available for—

“(i) procuring temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed \$250 per day plus expenses; and

“(ii) entering into contracts or cooperative agreements with any public agency or instrumentality or with any person, firm, association, corporation, or institution, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).”.

SECURITIES

SEC. 308. (a) (1) Paragraph (6) of section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a) (6)) is amended to read as follows:

“(6) Any security issued by a motor carrier the issuance of which is subject to the provisions of section 214 of the Interstate Commerce Act, or any interest in a railroad equipment trust. For purposes of this paragraph ‘interest in a railroad equipment trust’ means any interest in an equipment trust, lease, conditional sales contract, or other

“Interest in a
railroad
equipment trust.”

similar arrangement entered into, issued, assumed, guaranteed by, or for the benefit of, a common carrier to finance the acquisition of rolling stock, including motive power;”.

(2) The second sentence of section 19(a) of such Act (15 U.S.C. 77s(a)) is amended by striking out “; but insofar as they relate to any common carrier subject to the provisions of section 20 of the Interstate Commerce Act, as amended, the rules and regulations of the Commission with respect to accounts shall not be inconsistent with the requirements imposed by the Interstate Commerce Commission under authority of such section 20”.

49 USC 20.

(3) Section 214 of the Interstate Commerce Act (49 U.S.C. 314) is amended by striking out “That the exemption” and all that follows through “*And provided further,*”.

15 USC 77c.

(b) Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)) is amended by striking out “; and, in the case of carriers subject to the provisions of section 20 of the Interstate Commerce Act” and all that follows in such subsection, and inserting in lieu thereof “(except that such rules and regulations of the Commission may be inconsistent with such requirements to the extent that the Commission determines that the public interest or the protection of investors so requires).”.

(c) Paragraph (7) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(7)) is amended to read as follows:

“(7) Any company (A) which is subject to regulation under section 214 of the Interstate Commerce Act, except that this exception shall not apply to a company which the Commission finds and by order declares to be primarily engaged, directly or indirectly, in the business of investing, reinvesting, owning, holding, or trading in securities, or (B) whose entire outstanding stock is owned or controlled by a company excepted under clause (A) hereof, if the assets of the controlled company consist substantially of securities issued by companies which are subject to regulation under section 214 of the Interstate Commerce Act.”.

(d) (1) The amendments made by subsection (a) of this section shall take effect on the 60th day after the date of enactment of this Act, but shall not apply to any bona fide offering of a security made by the issuer, or by or through an underwriter, before such 60th day.

Effective date.
15 USC 77c note.

(2) The amendment made by subsection (c) of this section shall not apply to any report by any person with respect to a fiscal year of such person which began before the date of enactment of this Act.

15 USC 80a-3
note.

(3) The amendment made by subsection (c) of this section shall take effect on the 60th day after the date of enactment of this Act.

Effective date.
15 USC 80a-3
note.

RAIL SERVICES PLANNING OFFICE

SEC. 309. Section 205 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) is amended to read as follows:

“RAIL SERVICES PLANNING OFFICE

“SEC. 205. (a) ESTABLISHMENT.—The Rail Services Planning Office is established as an office in the Commission. The Office shall function continuously pursuant to the provisions of this Act, and shall be administered by a director.

“(b) DIRECTOR.—The Director of the Office shall be appointed for a term of 6 years by the Chairman of the Commission with the concurrence of 5 members of the Commission. He shall be appointed and compensated, without regard to the provisions of title 5, United States

Code, governing appointments in the competitive service, classification, and General Schedule pay rates, at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. The Director of the Office shall administer and be responsible for the discharge of the functions and duties of the Office from the date he takes office unless removed for cause by the Commission.

“(c) **POWERS.**—The Director of the Office is subject to the direction of, and shall report to, such member of the Commission as the Chairman thereof shall designate. The Chairman may designate himself as that member. Such Director is authorized, with the concurrence of such member or (in case of disagreement) the Chairman of the Commission, to enter into, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions and duties of the Office with any person (including a government entity). Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized, and shall give careful consideration to a request, to furnish to the Director of the Office, upon written request, on a reimbursable basis or otherwise, such assistance as the Director deems necessary to carry out the functions and duties of the Office. Such assistance includes transfer of personnel with their consent and without prejudice to their position and rating.

“(d) **DUTIES.**—In addition to its duties and responsibilities under other provisions of this Act and under the Railroad Revitalization and Regulatory Reform Act of 1976, the Office shall—

Ante, p. 31.

“(1) assist the Commission in studying and evaluating any proposal, submitted to the Commission pursuant to section 5(2) or (3) of the Interstate Commerce Act (49 U.S.C. 5 (2) or (3)), for a merger, consolidation, unification or coordination project, joint use of tracks or other facilities, or acquisition or sale of assets, which involves any common carrier by railroad subject to part I of such Act;

“(2) assist the Commission in developing, with respect to economic regulation of transportation, policies which are likely to result in a more competitive, energy-efficient, and coordinated transportation system which utilizes each mode of transportation to its maximum advantage to meet the transportation service needs of the Nation;

“(3) assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties, by establishing criteria for determining whether particular rail properties are suitable for rail service continuation subsidies, with such criteria to include the following considerations: rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than (A) the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation, (B) the cost to the gross national product in terms of reduced output of goods and services, (C) the cost of relocating or assisting through unemployment, retraining, and welfare benefits to individuals and firms adversely affected thereby, and (D) the cost to the environment measured by damage caused by increased pollution;

“(4) conduct an ongoing analysis of the national rail transportation needs, evaluate the policies, plans, and programs of the

Commission on the basis of such analysis, and advise the Commission of the results of such evaluation;

“(5) within 180 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, issue additional regulations, after conducting a proceeding in accordance with the provisions of section 553 of title 5, United States Code, which contain—

Regulations.
Ante, p. 31.

“(A) standards for the computation of subsidies for rail passenger service (except passenger service compensation disputes subject to the jurisdiction of the Commission under section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a))), which are consistent with the compensation principles described in the final system plan and which avoid cross subsidization among commuter, intercity, and freight rail services; and

“(B) standards for the determination of emergency commuter rail passenger service operating payments pursuant to section 17 of the Urban Mass Transportation Act of 1964;

Post, p. 143.

“(6) determine and publish, and from time to time revise and reissue, standards for determining (A) the ‘revenue attributable to the rail properties’, (B) the ‘avoidable costs of providing service’, (C) a ‘reasonable return on the value,’ and (D) a ‘reasonable management fee’, as those phrases are used in section 304 of this Act, after a proceeding in accordance with the provisions of section 553 of title 5, United States Code; and

“(7) employ and utilize the services of attorneys and such other personnel as may be required in order properly to protect the interests of those communities and users of rail service which, for whatever reason (such as their size or location) might not otherwise be adequately represented in the course of the reorganization process under this Act, until the assumption of such duties by the Office of Rail Public Counsel pursuant to section 27(4) (d) of the Interstate Commerce Act (49 U.S.C. 27(4) (d)).

“(e) ADDITIONAL DUTIES.—(1) Within 270 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, the Office shall issue additional regulations, after conducting a proceeding in accordance with section 553 of title 5, United States Code. Such regulations shall (A) develop an accounting system which will permit the collection and publication by the Corporation or by profitable railroads providing service over lines scheduled for abandonment, of information necessary for an accurate determination of the attributable revenues, avoidable costs, and operations of light density lines as operating and economic units, and (B) determine the ‘avoidable costs of providing rail freight service’, as that phrase is used in section 1a (6) (a) (ii) (A) of the Interstate Commerce Act. The Office may, at any time, revise and republish the standards and regulations required by this section to incorporate changes made necessary by the accounting system developed pursuant to this subsection.

Regulations.

Post, p. 127.

“(2) Upon the request of a State in the region, within 90 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, the Office shall prepare and publish an evaluation of the economic viability of any or all light density lines within such State which are not designated for inclusion in the final system plan. Such an evaluation shall include an analysis of the actions which may be necessary to make the operation of rail services over any such line economical. The results of each such evaluation shall be trans-

Evaluation.

Publication in
Federal Register.

mitted to the requesting State and published in the Federal Register, not later than 1 year after the date such request is received by the Office.”.

EQUITABLE DISTRIBUTION OF CARS FOR UNIT TRAIN SERVICE

“Unit-train
service.”

SEC. 310. Section 1(12) of the Interstate Commerce Act (49 U.S.C. 1(12)), is amended by adding at the end thereof: “In applying the provisions of this paragraph, unit-train service and non-unit-train service shall be considered separate and distinct classes of service, and a distinction shall be made between these two classes of service and between the cars used in each class of service; questions of the justness and reasonableness of, or discrimination or preference or prejudice or advantage or disadvantage in, the distribution of cars shall be determined within each such class and not between them, notwithstanding any other provision of section 1, 2, or 3 of this Act (49 U.S.C. 1, 2, or 3), and of section 1, 2, or 3 of the Elkins Act (49 U.S.C. 41, 42, or 43). Coal cars supplied by shippers or receivers shall not be considered a part of such carrier’s fleet or otherwise counted in determining questions of distribution or car count under this paragraph or any provision of law referred to in this section. As used in this paragraph, the term ‘unit-train service’, means the movement of a single shipment of coal of not less than 4,500 tons, tendered to one carrier, on one bill of lading, at one origin, on one day, and destined to one consignee, at one plant, at one destination, via one route.”.

APPROPRIATIONS REQUEST

Transmittal to
Congress.

SEC. 311. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by adding at the end thereof the following new subsection:

“(j) Whenever the Interstate Commerce Commission submits any budget estimate or request, other budget information (including manpower needs), legislative recommendations prepared testimony for congressional hearings, or comments on legislation, to the President or to the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress. No officer or agency of the United States shall have any authority to prohibit, impose conditions on, or in any way impair the free communication by such Commission with the Congress, its committees, or any of the Members of the Congress with respect to any budget estimate or request of the Commission.”.

LAW REVISION

49 USC 1 note.

49 USC prec. 1
note.
Final draft,
submittal to
Congress.

SEC. 312. The Commission shall prepare, or shall cause to be prepared, in whole or in part by consultants, a proposed modernization and revision of the Interstate Commerce Act, and a proposed codification of all Acts supplementary to the Interstate Commerce Act. The Commission shall submit the final draft thereof to the Congress within 2 years after the date of enactment of this Act. The final draft shall include comments on each proposed provision, significant alternative provisions considered but not recommended, and such other information as may be useful to the Congress. The final draft shall be designed to simplify the present law and to harmonize regulation among the several modes of transportation subject to regulation under the Interstate Commerce Act.

TITLE IV—MERGERS AND CONSOLIDATIONS

RESPONSIBILITIES OF THE SECRETARY

SEC. 401. The Department of Transportation Act (49 U.S.C. 1651 et seq.) is amended by inserting after section 4 thereof the following new section 5:

“RAIL SERVICES

“SEC. 5. (a) The Secretary may develop and make available to interested persons feasible plans, proposals, and recommendations for mergers, consolidations, reorganizations, and other unification or coordination projects for rail services (including, but not limited to, arrangements for joint use of tracks or other facilities and any acquisition or sale of assets) which the Secretary believes would result in a rail system which is more efficient, consistent with the public interest.

49 USC 1654.

“(b) In order to achieve a more efficient, economical, and viable rail system in the private sector, the Secretary may, upon the request of any railroad and in accordance with subsections (a) through (e) of this section, assist in planning, negotiating, and effecting a unification or coordination of operations and facilities with respect to two or more railroads.

“(c) The Secretary may conduct such studies as are deemed advisable to determine the potential cost savings and possible improvements in the quality of rail services which are likely to result from unification or coordination with respect to two or more railroads, through the elimination of duplicative or overlapping operations and facilities; the reduction of switching operations; utilization of the shortest, or the most efficient, and economical routes; the exchange of trackage rights; the combining of trackage and of terminal or other facilities; the upgrading of tracks and other facilities used by two or more railroads; reduction of administrative and other expenses; and any other measures likely to reduce costs and improve rail service. For purposes of studies conducted under this section and the study described in section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976, each railroad shall provide such information as may be requested by the Secretary in connection with the performance of functions under this section and such section 901. In furtherance of any of the functions or responsibilities of the Secretary under this section or such section 901, any officer or employee duly designated by the Secretary may obtain, from any railroad, information regarding the nature, kind, quality, origin, destination, consignor, consignee, and routing of property, without the consent of the consignor or consignee involved, notwithstanding the provisions of section 15(13) of the Interstate Commerce Act (49 U.S.C. 15(13)) and may, to the extent necessary or appropriate, exercise, with respect to any railroad, any of the powers described in section 203(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 713(c)), as provided therein, except that subpoenas shall be issued under the signature of the Secretary.

Studies.

Post, p. 147.

Subpoenas.

“(d) When requested by one or more railroads, the Secretary may also hold conferences with respect to any proposed unification or coordination project. The Secretary may invite officers and directors of all affected railroads; representatives of employees of such railroads who may be affected; the Interstate Commerce Commission; appropriate State and local government officials, shippers, and consumer representatives; and representatives of the Federal Trade Commission and of the Attorney General to one or more such conferences with respect to such a proposal. The Secretary may mediate any dispute

Conferences.

which may arise in connection with any proposed unification or coordination project. Persons attending or represented at any such conference shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference and as to any agreements reached at such conference, which are entered into with the approval of the Secretary in order to achieve or determine a plan of action to implement any such unification or coordination project.

“(e) Whenever any railroad submits a proposal for a merger or other action the approval of which is subject to the jurisdiction of the Interstate Commerce Commission under section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)), the Secretary may, if he has not already done so, conduct a study of such proposal in order to determine whether or not, in his judgment, such proposal is in accordance with the standards set forth in section 5(2)(c) of such Act (49 U.S.C. 5(2)(c)). Whenever such proposal is the subject of an application and a proceeding before such Commission, the Secretary is authorized to appear before the Commission in any proceeding held with respect to such application.”.

MERGER PROCEDURE

SEC. 402. (a) Section 5(2)(f) of the Interstate Commerce Act (49 U.S.C. 5(2)(f)) is amended by inserting a new sentence immediately preceding the last sentence thereof as follows: “Such arrangement shall contain provisions no less protective of the interests of employees than those heretofore imposed pursuant to this subdivision and those established pursuant to section 405 of the Rail Passenger Service Act (45 U.S.C. 565).”.

(b) Section 5(2) of the Interstate Commerce Act (49 U.S.C. 5(2)) is amended by adding at the end thereof the following two new subdivisions:

“(g) In any case arising under this paragraph which involves a common carrier by railroad, the Commission shall—

Application.

Publication in
Federal Register.

49 USC 17.

Publication in
Federal Register.

“(i) within 30 days after the date on which an application is filed with the Commission and after a certified copy of such application is furnished to the Secretary of Transportation, (A) publish notice thereof in the Federal Register, or (B) if such application is incomplete, reject such application by order, which order shall be deemed to be final under the provisions of section 17;

“(ii) provide that written comments on an application, as to which such notice is published, may be filed within 45 days after the publication of such notice in the Federal Register;

“(iii) require that copies of any such comments shall be served upon the Secretary of Transportation and the Attorney General, each of whom shall be afforded 15 days following the date of receipt thereof to inform the Commission whether he will intervene as a party to the proceeding, and if so, to submit preliminary views on such application;

“(iv) require that all other applications, which are inconsistent, in whole or in part, with such applications, and all petitions for inclusion in the transaction, shall be filed with the Commission and furnished to the Secretary of Transportation, within 90 days after the publication of notice of the application in the Federal Register;

“(v) conclude any evidentiary proceedings within 240 days following the date of such publication of notice, except that in the case of an application involving the merger or control of two or more class I railroads, as defined by the Commission, the Com-

mission shall conclude any evidentiary proceedings not more than 24 months following the date upon which notice of the application was published in the Federal Register; and

“(vi) issue a final decision within 180 days following the date upon which the evidentiary proceeding is concluded.

If the Commission fails to issue a decision which is final within the meaning of section 17 within such 180-day period, it shall notify the Congress in writing of such failure and the reasons therefor. If the Commission determines that the due and timely execution of its functions under this paragraph so requires, or that an application brought under this paragraph is of major transportation importance, it may order that the case be referred directly (without an initial decision by a division, individual Commissioner, board, or administrative law judge) to the full Commission for a decision which is final within the meaning of section 17.

Congressional
notification.

“(h) The Secretary of Transportation may propose any modification of any transaction governed by this paragraph which involves a carrier by railroad. The Secretary shall have standing to appear before the Commission in support of any such proposed modification.”

EXPEDITED RAILROAD MERGER PROCEDURE

SEC. 403. (a) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is amended by redesignating paragraphs (3) through (16) thereof as paragraphs (4) through (17) thereof, respectively, and by inserting therein a new paragraph (3), as follows:

“(3) (a) If a merger, consolidation, unification or coordination project (as described in section 5(c) of the Department of Transportation Act), joint use of tracks or other facilities, or acquisition or sale of assets, which involves any common carrier by railroad subject to this part, is proposed by an eligible party in accordance with subdivision (b) during the period beginning on the date of enactment of this paragraph and ending on December 31, 1981, the party seeking authority for the execution or implementation of such transaction may utilize the procedure set forth in this paragraph or in paragraph (2).

“(b) Any transaction described in subdivision (a) may be proposed to the Commission by—

“(i) the Secretary of Transportation (hereafter in this paragraph referred to as the ‘Secretary’), with the consent of the common carriers by railroad subject to this part which are parties to such transaction; or

“(ii) any such carrier which, not less than 6 months prior to such submission to the Commission, submitted such proposed transaction to the Secretary for evaluation pursuant to subdivision (f).

“(c) Whenever a transaction described in subdivision (a) is proposed under this paragraph, the proposing party shall submit an application for approval thereof to the Commission, in accordance with such requirements as to form, content, and documentation as the Commission may prescribe. Within 10 days after the date of receipt of such an application, the Commission shall send a notice of such proposed transaction to—

Application.

“(i) the Governor of each State which may be affected, directly or indirectly, by such transaction if it is executed or implemented;

“(ii) the Attorney General;

“(iii) the Secretary of Labor; and

“(iv) the Secretary (except where the Secretary is the proposing party).

Notice.

The Commission shall accompany its notice to the Secretary with a request for the report of the Secretary pursuant to clause (v) of subdivision (f). Each such notice shall include a copy of such application; a summary of the proposed transaction involved, and the proposing party's reasons and public interest justifications therefor.

Hearing.

"(d) The Commission shall hold a public hearing on each application submitted to it pursuant to subdivision (c), within 90 days after the date of receipt of such application. Such public hearing shall be held before a panel of the Commission duly designated for such purpose by the Commission. Such panel may utilize administrative law judges and the Rail Services Planning Office in such manner as it considers appropriate for the conduct of the hearing, the evaluation of such application and comments thereon, and the timely and reasonable determination of whether it is in the public interest to grant such application and to approve such proposed transaction pursuant to subdivision (g). Such panel shall complete such hearing within 180 days after the date of referral of such application to such panel, and it may, in order to meet such requirement, prescribe such rules and make such rulings as may tend to avoid unnecessary costs or delay. Such panel shall recommend a decision and certify the record to the full Commission for final decision, within 90 days after the termination of such hearing. The full Commission shall hear oral argument on the matter so certified, and it shall render a final decision within 120 days after receipt of the certified record and recommended decision of such panel. The Commission may, in its discretion, extend any time period set forth in this subdivision, except that the final decision of the Commission shall be rendered not later than the second anniversary of the date of receipt of such an application by the Commission.

"(e) In making its recommended decision with respect to any transaction proposed under this paragraph, the duly designated panel of the Commission shall—

"(i) request the views of the Secretary, with respect to the effect of such proposed transaction on the national transportation policy, as stated by the Secretary, and consider the matter submitted under subdivision (f);

"(ii) request the views of the Attorney General, with respect to any competitive or anticompetitive effects of such proposed transaction; and

"(iii) request the views of the Secretary of Labor, with respect to the effect of such proposed transaction on railroad employees, particularly as to whether such proposal contains adequate employee protection provisions.

Such views shall be submitted in writing and shall be available to the public upon request.

Proposed
transaction.

"(f) Whenever a proposed transaction is submitted to the Secretary by a common carrier by railroad pursuant to clause (ii) of subdivision (b), and whenever the Secretary develops a proposed transaction for submission to the Commission pursuant to subdivision (c), the Secretary shall—

Publication in
Federal Register.

"(i) publish a summary and a detailed account of the contents of such proposed transaction in the Federal Register, in order to provide reasonable notice to interested parties and the public of such proposed transaction;

Notice.

"(ii) give notice of such proposed transaction to the Attorney General and to the Governor of each State in which any part of the properties of the common carriers by railroad involved in such proposed transaction are situated;

"(iii) conduct an informal public hearing with respect to such proposed transaction and provide an opportunity for all interested parties to submit written comments; Hearing.

"(iv) study each such proposed transaction with respect to—

"(A) the needs of rail transportation in the geographical area affected;

"(B) the effect of such proposed transaction on the retention and promotion of competition in the provision of rail and other transportation services in the geographical area affected;

"(C) the environmental impact of such proposed transaction and of alternative choices of action;

"(D) the effect of such proposed transaction on employment;

"(E) the cost of rehabilitation and modernization of track, equipment, and other facilities, with a comparison of the potential savings or losses from other possible choices of action;

"(F) the rationalization of the rail system;

"(G) the impact of such proposed transaction on shippers, consumers, and railroad employees;

"(H) the effect of such proposed transaction on the communities in the geographical areas affected and on the geographical areas contiguous to such areas; and

"(I) whether such proposed transaction will improve rail service; and

"(v) submit a report to the Commission setting forth the results of each study conducted pursuant to clause (iv), within 10 days after an application is submitted to the Commission pursuant to subdivision (c), with respect to the proposed transaction which is the subject of such study. The Commission shall give due weight and consideration to such report in making its determinations under this paragraph. Report to
Commission.

"(g) The Commission may—

"(i) approve a transaction proposed under this paragraph, if the Commission determines that such proposed transaction is in the public interest; and

"(ii) condition its approval of any such proposed transaction on any terms, conditions, and modifications which the Commission determines are in the public interest; or

"(iii) disapprove any such proposed transaction, if the Commission determines that such proposed transaction is not in the public interest.

In each such case, the decision of the Commission shall be accompanied by a written opinion setting forth the reasons for its action."

(b) Section 5 of the Interstate Commerce Act (49 U.S.C. 5) is further amended—

(1) in paragraph (2)(a) thereof by inserting "or paragraph (3)" immediately after "subdivision (b)";

(2) in paragraph (2)(f) thereof, by inserting immediately after "(2)" the following: "or paragraph (3)";

(3) in paragraph (5) thereof, as redesignated by this Act, by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)", and by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)";

(4) in paragraph (8) thereof, as redesignated by this Act, by striking out "paragraph (4)" and inserting in lieu thereof

“paragraph (5)”, and by striking out “(12)” and inserting in lieu thereof “(13)”;

(5) in paragraph (10) thereof, as redesignated by this Act, by striking out “(7)” and inserting in lieu thereof “(8)”;

(6) in paragraph (14) thereof, as redesignated by this Act, by striking out “(12)” and inserting in lieu thereof “(13)”;

(7) in paragraph (16), as redesignated by this Act, by striking out “paragraph (14)” and inserting in lieu thereof “paragraph (15)”;

(8) in paragraph (17), as redesignated by this Act, by striking out “paragraph (14)” and inserting in lieu thereof “paragraph (15)”;

(9) by striking out “subparagraph” each place it appears and inserting in lieu thereof “subdivision”.

TITLE V—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

DEFINITIONS

45 USC 821.

SEC. 501. As used in this title, the term—

(1) “applicant” means any railroad, or other person (including a governmental entity) which submits an application to the Secretary for the guarantee of an obligation under which it is an obligor or for a commitment to guarantee such an obligation;

(2) “equipment” includes any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar. The Secretary may designate other types of cars as equipment upon a written finding, with reasons therefor, that such designation is consistent with the purposes of this Act;

(3) “facilities” means—

(A) track, roadbed, and related structures, including rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, office buildings used for operating purposes only, repair shops, enginehouses, and public improvements used or useable for rail service operations;

(B) communication and power transmission systems, including electronic, microwave, wireless, communication, and automatic data processing systems, electrical transmission systems, powerplants, power transmission systems, powerplant machinery and equipment, structures, and facilities for the transmission of electricity for use by railroads;

(C) signals, including signals and interlockers;

(D) terminal or yard facilities, including trailer-on-flat-car and container-on-flat-car terminals, express or railroad terminal and switching facilities, and services to express companies and railroads and their shippers, including ferries, tugs, carfloats, and related shoreside facilities designed for the transportation of equipment by water; or

(E) shop or repair facilities or any other property used or capable of being used in rail freight transportation services or in connection with such services or for originating, termi-

nating, improving, and expediting the movement of equipment;

(4) "Fund" means the Railroad Rehabilitation and Improvement Fund established under section 502 of this title;

(5) "holder" means the obligee or creditor under an obligation, except that when a bank or trust company is acting as agent or trustee for such an obligee or creditor, the term refers to such bank or trust company;

(6) "obligation" means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation issued or granted to finance or refinance equipment or facilities acquisition, construction, rehabilitation, or improvement; and

(7) "obligor" means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor who is approved by the Secretary.

THE RAIL FUND

SEC. 502. (a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States the Railroad Rehabilitation and Improvement Fund. The Fund shall be administered by the Secretary, without the requirement of annual authorizations, in order (1) to secure the payment, when due, of the principal of, any redemption premium on, and any interest on, all Fund anticipation notes and Fund bonds, by a first pledge of and a lien on all revenues payable to and assets held in the Fund, and (2) to carry out the purposes, functions, and powers authorized in this title.

Railroad
Rehabilitation
and Improvement
Fund.
45 USC 822.

(b) PURPOSE.—The purpose of the Fund is to provide capital which is necessary to furnish financial assistance to railroads, to the extent of appropriated funds, for facilities maintenance, rehabilitation, improvements, and acquisitions, and such other financial needs as the Secretary approves, in accordance with this title.

(c) GENERAL POWERS.—In order to achieve the objectives and to carry out the purposes of this title, the Secretary may—

(1) issue and sell securities, including Fund anticipation notes and Fund bonds, as provided for in sections 507 and 508 of this title;

(2) make and enforce such rules and regulations, and make and perform such contracts, agreements, and commitments, as may be necessary to appropriate to carry out the purposes or provisions of this title;

Rules and
regulations.

(3) prescribe and impose fees and charges for services by the Secretary, pursuant to this title;

(4) settle, adjust, and compromise, and, with or without consideration or benefit to the Fund, release or waive, in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Secretary or the Fund;

(5) sue and be sued, complain, and defend, in any State, Federal, or other court;

(6) acquire, take, hold, own, deal with, and dispose of, any property, including carrier redeemable preference shares as provided for in section 505(d) of this title; and

(7) determine, in accordance with appropriations, the amounts to be withdrawn from the Fund and the manner in which such withdrawals shall be effected.

(d) ASSISTANCE FROM OTHER AGENCIES.—The Secretary, with the consent of any department, establishment, or corporate or other instru-

mentality of the Federal Government, may utilize and act through any such department, establishment, or instrumentality. The Secretary may, with such consent, utilize the information, services, facilities, and personnel of any such department, establishment, or instrumentality, on a reimbursable basis. Each such department, establishment, and instrumentality is authorized to furnish any such assistance to the Secretary upon written request from the Secretary.

(e) JURISDICTION.—Whenever the Secretary or the Fund is a party to any civil action under this title, such action shall be deemed to arise under the laws of the United States. The district courts of the United States shall have original and removal jurisdiction of any action in which the Secretary or the Fund is a party, without regard to the amount in controversy. No attachment or execution may be issued against the Secretary, the Fund, or any property thereof prior to the entry of final judgment to such effect in any State, Federal, or other court.

(f) CONTENTS OF FUND.—There shall be deposited in the Fund, subject to utilization pursuant to subsection (i) of this section—

(1) funds received by the Secretary for deposit in the Fund, representing the proceeds from the issuance and sale by the Secretary to the Secretary of the Treasury of Fund anticipation notes, as provided in section 507 of this title;

(2) funds as may be hereafter appropriated to the Fund, following the submission to the Congress of the Secretary's report, under section 504 of this title, with respect to the perceived needs of the rail industry for facilities rehabilitation and improvement, projected cash shortfalls within the rail industry, and the scope and sources of long-term public sector funding for the Fund;

(3) funds received by the Secretary for deposit in the Fund, representing the proceeds from the issuance and sale of Fund bonds, as provided in section 508 of this title;

(4) redeemable preference shares issued by a railroad and purchased by the Secretary on behalf of the Fund and funds received by the Fund representing dividends and redemption payments on such shares, as provided in sections 505(d) and 506(a) and (b) of this title;

(5) income and gains realized by the Fund from any investment of excess funds, pursuant to subsection (g) of this section, and the obligations or securities comprising such investments; and

(6) any other receipts of the Fund.

(g) EXCESS FUNDS INVESTMENT.—If the Secretary determines that the amount of money in the Fund exceeds the amount required for current needs, the Secretary may, subject to sections 508(g) and (h) of this title, direct the Secretary of the Treasury to invest such amounts as the Secretary deems advisable, for such periods as the Secretary directs, in obligations of, or obligations guaranteed by, the Government of the United States, or in such other governmental or agency obligations or other securities of the United States as the Secretary of the Treasury deems appropriate.

(h) DEPOSITORY.—The Secretary may deposit moneys of the Fund with any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Secretary of the Treasury deems appropriate.

(i) USES.—Moneys in the Fund shall be utilized—

(1) to provide financial assistance to railroads for facilities maintenance, rehabilitation, improvement, and acquisition projects, and for such other financial needs as may be approved by the Secretary pursuant to section 505 of this title,

(2) to effect the payment, when due, of the principal of, and any interest on, Fund anticipation notes and Fund bonds issued by the Secretary pursuant to sections 507 and 508 of this title,

(3) to redeem, as contemplated by section 507(c) and section 508(g) of this title, Fund anticipation notes and Fund bonds,

(4) in such amounts as are provided in appropriation acts, to make payment of all expenses incurred by the Secretary in carrying out his duties with respect to the Fund, and

(5) to make transfers to the general fund of the Treasury.

CLASSIFICATION AND DESIGNATION OF RAIL LINES

SEC. 503. (a) **TRAFFIC DENSITY ANALYSIS.**—Within 90 days after the date of enactment of this Act, each railroad designated by the Commission as a class I railroad shall prepare and submit to the Secretary a full and complete analysis of the rail system operated by it. Such analysis shall indicate the traffic density for the preceding 5 calendar years on each of the main and branch rail lines of the railroad submitting such analysis. The requirements of the two preceding sentences shall not apply to any railroad subject to reorganization pursuant to the Regional Rail Reorganization Act of 1973.

Submittal to
Secretary of
Transportation.
45 USC 823.

(b) **PRELIMINARY STANDARDS AND DESIGNATIONS.**—Within 180 days after the date of enactment of this Act, the Secretary shall develop and publish—

45 USC 701 note.

(1) the preliminary standards for classification, in at least 3 categories, of main and branch rail lines according to the degree to which they are essential to the rail transportation system; and

(2) the preliminary designations with respect to each main and branch rail line, in accordance with such standards for classification.

The classification of rail lines for purposes of this subsection shall be based on the level of usage measured in gross-ton-miles, the contribution to the economic viability of the railroad which controls such lines, and the contribution of such lines to the probable economic viability of any other railroads which participate in the traffic originating on such lines. In determining “level of usage” and “probable economic viability”, for purposes of such classification, the Secretary shall take into account operational service and other appropriate factors, and he may make reasonable allowance for differences in operation among individual railroads or groups of railroads.

(c) **PUBLIC HEARINGS.**—Commencing 30 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall conduct public hearings, at representative locations, to solicit comments and receive views on the preliminary standards for classification and on the preliminary designations. The Office shall give notice of the date, time, and place of each such hearing, and such notices shall be designed and placed in such manner that all interested parties will have a full and fair opportunity to be heard.

Notice.

(d) **REPORT BY OFFICE.**—Within 120 days after the date of publication of the standards and designations required under subsection (b) of this section, the Office shall submit a report to the Secretary containing its conclusions and recommendations with respect to such preliminary standards for classification and such preliminary designations. This report shall be based on the record which was developed by the Office during the hearings under subsection (c) of this section, as supplemented by such studies as may be undertaken by the Office.

(e) **FINAL STANDARDS AND DESIGNATIONS.**—Within 60 days after the date of receipt of the report required under subsection (d) of this section, the Secretary, with the cooperation and assistance of the Office, shall, after giving due consideration to such report, prepare and publish—

(1) the final standards for classification of main and branch rail lines; and

(2) the final designations with respect to each main and branch rail line, in accordance with such standards for classification, including findings to support any material change which is made in a final designation from the corresponding preliminary designation.

CAPITAL NEEDS STUDY

45 USC 824.

SEC. 504. (a) DEFERRED MAINTENANCE STATEMENT.—Within 180 days after the date of enactment of this Act, each railroad designated by the Commission as a class I railroad (other than a railroad subject to reorganization pursuant to the Regional Rail Reorganization Act of 1973) shall prepare and submit to the Secretary a full and complete statement (1) of such railroad's deferred maintenance and delayed capital expenditures, as of December 31, 1975, and (2) of the projected amounts of appropriate maintenance to be performed and capital expenditures to be made for such railroad's facilities, during each of the years from 1976 through 1985. Each railroad shall submit such additional information as may be required from it by the Secretary, in connection with his duties under section 503 of this title or under this section, prior to July 1, 1977, including the projected sources of and uses for the funds required by such railroad for such projected program.

45 USC 701 note.

(b) **PRELIMINARY FINANCING RECOMMENDATIONS.**—Within 360 days after the date of enactment of this Act, the Secretary, after giving due consideration to (1) the final designations under section 503(e) of this title, (2) the information furnished under subsection (a) of this section, and (3) any other relevant information, shall develop, publish, and transmit—

(A) to the Congress, preliminary recommendations as to the amount and type of carrier equity and other financing to be effected through the Fund, or through any other funding mechanism, recommended by the Secretary, based upon his view of the rail industry's facilities rehabilitation and improvement needs, as projected through December 31, 1985; and

(B) to the Congress and to the Secretary of the Treasury, preliminary recommendations as to the means by which the Federal share, if any, of such equity and other financing should be provided.

In preparing such recommendations, the Secretary shall specifically consider and evaluate the public benefits and costs which would result from public ownership of railroad rights-of-way.

(c) **EVALUATION.**—Within 90 days after the date of publication of the Secretary's preliminary recommendations under subsection (b) of this section, the Secretary of the Treasury shall publish and transmit to the Secretary and to the Congress his evaluation thereof and any recommendations with respect to the matters referred to in subsection (b) (3) (B) of this section.

(d) **FINAL RECOMMENDATIONS.**—Within 90 days after the date of receipt of the evaluation, transmitted under subsection (c) of this

Transmittal to
Secretary and
Congress.

Transmittal to
Congress.

section, the Secretary shall, after giving due consideration to such recommendations, prepare and transmit to the Congress his final recommendations with respect to the matters referred to in subsection (b) of this section.

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 505. (a) **TIMING.**—Any railroad may apply to the Secretary following the date of enactment of this Act, in accordance with regulations promulgated by the Secretary— 45 USC 825.

(1) for such financial assistance as may be approved by the Secretary; and

(2) for financial assistance for facilities rehabilitation and improvement financing, except that the Secretary shall not act finally on any such application until the date of publication of the final standards and designations under section 503(e) of this title.

(b) **APPLICATION AND DETERMINATION.**—(1) Each application for facilities rehabilitation and improvement financing shall set forth—

(A) a description of the proposed facilities rehabilitation and improvement project for which such railroad is seeking financial assistance, and of the current physical condition of such facilities;

(B) the classification of each main and branch rail line included in such project, as determined in accordance with the final standards and designations under section 503(e) of this title;

(C) the track standard under which each such line has been and is being operated and the reasons therefor, and the safety standards and signal requirements necessary under such standard to prevent loss of life and serious accident or injury at grade crossings;

(D) the track standard necessary, in the judgment of such railroad, to provide reliable and competitive freight service (and passenger service, where applicable) over each such line, together with such railroad's recommendations as to (i) the most economical method of improving the physical condition of each such line to meet such track standard, (ii) the cost of providing adequate safety standards and signals, and (iii) an economic analysis of the cost of such improvements in condition and in safety standards and signals;

(E) such railroad's estimate as to the cost of labor and materials, and the date of completion, and its opinion as to the priority to be accorded such portions of the proposed project as are reasonably divisible;

(F) the amount and kind of Federal financial assistance required by such railroad in order to complete the proposed project; and

(G) such other information as the Secretary shall by regulation require to assist him in evaluating such application in accordance with this section or for carrying out the purposes of this title.

(2) The Secretary shall act upon each such application within 6 months after the date on which all required information is received, except as otherwise provided in subsection (a)(2) of this section. The Secretary may approve any such application if he determines that providing the requested financial assistance is in the public interest. When making such a determination, the Secretary shall consider (A) the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed, (B) the interest of the public in supplementing such other

funds as may be available in order to increase the total amount of funds available for railroad financing, and (C) the public benefits to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs. The Secretary, in granting financial assistance to any applicant, shall assign the highest priority, among applications for assistance which would return equal public benefits, to applications for assistance for providing safety improvements and signals, including underpasses or overpasses at railroad crossings at which injury or loss of life has frequently occurred or is likely to occur.

(c) **FINANCING AGREEMENT.**—Upon the approval of an application for financial assistance under this section, the Secretary shall promptly enter into an agreement with such railroad to provide financing in such amounts and at such times as is sufficient, in the judgment of the Secretary, to meet the reasonable cost, in whole or in part, of the facilities rehabilitation and improvement project which has been approved, in whole or in part. Each such agreement shall include such terms and conditions as are necessary or appropriate, in the judgment of the Secretary, to assure that the financing will be used only in the manner, and for the purposes, approved by the Secretary.

11 USC 205.

(d) **AUTHORIZATION.**—(1) In the case of a railroad other than a railroad in reorganization under section 77 of the Bankruptcy Act, financing pursuant to this section shall be in the form of purchase by the Secretary of redeemable preference shares at par. Such shares shall be specifically issued for such purpose in accordance with the terms and conditions set forth in section 506 of this title.

(2) (A) In the case of a railroad in reorganization under section 77 of the Bankruptcy Act, the Secretary, in order to provide financing pursuant to this section, may agree to purchase redeemable preference shares of such railroad at par as part of a plan of reorganization of such railroad approved by the court having jurisdiction over the reorganization of such railroad. Such shares shall be specifically issued in accordance with the terms and conditions set forth in section 506 of this title.

(B) The Secretary, in order to provide financing pursuant to this section, may also purchase certificates issued under section 77(c)(3) of the Bankruptcy Act by a trustee of a railroad in reorganization and approved by the reorganization court, under such terms and conditions as may be approved by the Secretary and the reorganization court. In purchasing such trustee certificates or at any time thereafter, the Secretary may agree with the trustee of such railroad in reorganization, subject to the approval of the reorganization court, to exchange such certificates for redeemable preference shares issued, in accordance with the terms and conditions set forth in section 506 of this title, in connection with a plan of reorganization approved by the reorganization court. No certificate shall be purchased under this section unless and until the Secretary makes a finding in writing that—

(i) such certificates cannot otherwise be sold at a reasonable rate of interest;

(ii) the project to be financed can reasonably be expected to be maintained as part of a financially self-sustaining railroad system; and

(iii) the probable value of the assets of the railroad in the event of liquidation provides reasonable protection to the United States.

(3) The total par value of the redeemable preference shares and the amount of trustee certificates which the Secretary may purchase from the proceeds received from the issuance and sale of Fund anticipation

notes shall not exceed \$600,000,000. Not more than \$100,000,000 of such proceeds may be used to purchase trustee certificates.

(e) **FUTURE PURCHASES OF REDEEMABLE PREFERENCE SHARES.**—The total par value of the redeemable preference shares which the Secretary may purchase under this title after September 30, 1978, shall be determined by the Congress following the receipt by the Congress of the Secretary's recommendations as to the scope and sources of funding of the Fund or any recommended alternative financing mechanism, as submitted pursuant to section 504 of this title, except that—

(1) the amount of the Secretary's investment in redeemable preference shares in any fiscal year (out of proceeds other than those derived through the issuance and sale of Fund anticipation notes) shall not, when added to the amount of his prior investment in such shares, exceed 200 percent of the aggregate principal amount of the Fund bonds which (A) have been issued by the Secretary prior to such fiscal year, and (B) are projected to be issued by the Secretary through the end of such fiscal year; and

(2) neither redemptions of Fund bonds nor their payment at scheduled maturity shall have any bearing on the limitation in paragraph (1) of this subsection.

REDEEMABLE PREFERENCE SHARES

SEC. 506. (a) CHARACTERISTICS.—The redeemable preference shares acquired by the Secretary pursuant to section 505(d) of this title are securities which are issued by a railroad for the purpose of obtaining financing under this title. Each such redeemable preference share—

45 USC 826.

(1) shall be nonvoting and shall have a par value of \$10.000;

(2) shall be senior in right (i) to all common stock of the issuing railroad, whenever issued, (ii) to any previously issued preferred stock where such seniority does not mitigate any rights of the holders of such stock accorded by the terms and conditions of such stock, and (iii) to any subsequently issued preferred stock, with respect to dividend and redemption payments and in case of liquidation or dissolution of such railroad, but shall be otherwise subordinate in such matters to any of such railroad's previously issued and outstanding securities which rank ahead of its common stock and shall be subordinate to all securities other than common stock received in exchange as a part of a court approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C. 205) approved after the date of enactment of this sentence for previously incurred senior debt or previously issued and outstanding securities which ranked ahead of its common stock;

(3) shall accrue dividends, commencing on the 10th anniversary date of the date of its original issuance, at such rate as shall be fixed by the Secretary for each issuance prior to the issuance thereof and which, when added to the amount of the mandatory redemption payments under subparagraph (4) of this paragraph, shall return to the Fund not less than 150 percent of the aggregate par value thereof, over the scheduled life of the issue and in annual payments which shall be as nearly equal as practicable; and

(4) shall be subject to mandatory redemption, at par, commencing not earlier than the 6th and not later than the 11th (as determined by the Secretary for each issuance) anniversary date of the date of its original issuance, in annual amounts which shall, over the period ending (as determined by the Secretary for

each issuance) not later than the 30th anniversary date of the date of its original issuance, aggregate the total par value of such share.

(b) **DEPOSIT.**—All redeemable preference shares which are acquired by the Secretary pursuant to section 505(d) of this title shall, upon such acquisition, be deposited in the Fund.

(c) **OVERDUE PAYMENTS.**—Whenever any dividend or redemption payment which is due on redeemable preference shares issued by any railroad remains unpaid for a period of 4 months, the Secretary shall be entitled to appoint two members to the Board of Directors of such railroad. The term of office of such members shall not extend beyond the period during which such dividend or redemption payments remains unpaid.

FUND ANTICIPATION NOTES

45 USC 827.

SEC. 507. (a) GENERAL.—The Secretary shall, until September 30, 1978, issue and sell, and the Secretary of the Treasury until such date shall, to the extent of appropriated funds, purchase Fund anticipation notes in an aggregate principal amount of not more than \$600,000,000, in order to provide financial assistance to railroads for such financing needs as the Secretary approves.

(b) **TERMS OF ISSUE.**—Fund anticipation notes shall be issued in denominations of \$100,000 (or any integral multiple thereof), upon such terms and conditions, with such maturities, such rates of interest, if any, and such redemption premiums, if any, as the Secretary in his sole discretion may determine. The date of maturity of each Fund anticipation note may not exceed 7 years from the date of its issuance.

(c) **REDEMPTION.**—If the Congress, following its receipt of the recommendations of the Secretary pursuant to section 504(d) of this title (with respect to the amount of facilities rehabilitation and improvement financing which should be effected through the Fund and the method of long-term public sector funding therefor) authorizes the issuance of Fund bonds, the Secretary shall redeem the Fund anticipation notes then outstanding, in such manner, and over such period of time, as the Secretary shall determine, from the proceeds of the sale of such Fund bonds and from such other public sector moneys as have been appropriated to the Fund.

(d) **REMITTANCE AND TERMINATION.**—If the Congress does not, on or before September 30, 1978, enact legislation of the type referred to in subsection (c) of this section, the Secretary shall hold in trust all redeemable preference shares issued by railroads which are held in the Fund, and the Fund shall thereupon terminate.

FUND BONDS

45 USC 828.

SEC. 508. (a) ISSUANCE.—The Secretary may, following enactment of the legislation referred to in section 507(c) of this title, issue Fund bonds in denominations of \$100,000 (or any integral multiple thereof), in such total amounts as may be authorized by the Congress. No Fund bonds—

(1) shall be issued which mature in less than 8, or more than 15, years from the date of original issuance thereof;

(2) shall be issued later than the 10th anniversary of the date of publication of the final standards and designations under section 503(e) of this title; and

(3) shall, except as otherwise provided pursuant to subsections (d), (6) and (g) of this section, be subject to redemption (at the option of the Secretary) (A) at any time prior to the 10th anni-

versary of the date of original issuance thereof, and (B) at any time thereafter.

(b) **PLEDGE AND LIEN.**—The Secretary, subject to sections 502(g) and 508(g) of this title, shall impose a first pledge of, and a first lien on, all revenues payable to, and assets held in, the Fund, and appropriated for the use of the Secretary pursuant to this title. The Secretary may impose such a pledge of and lien on all other revenues or property of the Fund. The purpose of any such pledge and lien shall be to secure the payment, when due, of the principal of, any redemption premiums on, and any interest on, all Fund anticipation notes and Fund bonds, and for other purposes incidental thereto. Such incidental purposes may include the creation of reserve and other funds which may be similarly pledged and used, to such extent and in such manner as the Secretary deems necessary or desirable. Any pledge made by the Secretary shall be valid and binding from the time it is made. The revenues and assets held in the Fund, and the revenues or property of the Fund which are so pledged and which are subsequently received by the Fund, shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind, in tort, contract, or otherwise, against the Secretary or the Fund, without regard to whether such parties have notice thereof. No instrument by which a pledge is created need be recorded or filed to protect such pledge.

(c) **ENHANCEMENT OF MARKETABILITY.**—The Secretary may enter into binding covenants with the holders of Fund bonds, and with the trustee, if any, under any agreement entered into in connection with the issuance of such bonds with respect to (1) the establishment of reserves, and other funds; (2) stipulations concerning the subsequent issuance of obligations; and (3) such other matters as the Secretary deems necessary or desirable to enhance the marketability of Fund bonds.

(d) **SPECIFIC DETERMINATIONS.**—Subject to subsection (a) of this section, the Secretary may determine, with respect to Fund bonds—

- (1) the form and denominations in which they shall be issued;
- (2) the time when they shall be sold, and in what amounts;
- (3) the time when they shall mature;
- (4) the price thereof at sale;
- (5) the rate of interest thereon;
- (6) whether, and in what manner, they may be redeemed prior to the date when they mature; and
- (7) whether they shall be negotiable or nonnegotiable and whether they shall be bearer or registered instruments, and any indentures or covenants relating thereto.

(e) **CHARACTERISTICS.**—Fund bonds issued by the Secretary under this section shall—

- (1) contain a recital that they are issued under this section, which shall be conclusive evidence as to the validity and regularity of issuance and sale of such Fund bonds;
 - (2) be subject to such other terms and conditions as the Secretary may, by the resolution authorizing their issuance, determine;
 - (3) be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States;
 - (4) not be exempted from Federal, State, and local taxation;
- and

(5) not be debts or enforceable general obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the United States. Neither the full faith and credit, nor the general taxing power, of the Federal Government shall be pledged to the payment of the principal of, any premium on, or interest on, such Fund bonds.

(f) **NO PERSONAL LIABILITY.**—Neither the Secretary, nor any other individual, who executes any Fund anticipation notes or Fund bonds, shall be subject to any personal liability or accountability by reason of the issuance of any such notes or bonds.

(g) **REDEMPTION AND TRANSFER.**—If, after the 10th anniversary date of the original issuance of the initial series of Fund bonds, the amount in the Fund, exclusive of the value of any redeemable preference shares held by the Fund, exceeds 250 percent of the amount required to satisfy amounts due in the succeeding fiscal year on account of Fund bonds, the Secretary may use such excess to redeem Fund bonds in accordance with their terms or may withdraw all or part of such excess from the Fund and transfer it to the general fund of the United States. When all Fund bonds have been redeemed, all amounts remaining in the Fund or thereafter accruing to it shall be transferred to the general fund of the United States, except to the extent necessary to cover such expenses of the Fund as may be required to carry on and complete any remaining responsibilities.

(h) **PURCHASE BY SECRETARY.**—The Secretary, subject to such agreements with holders of Fund bonds as may then exist, is authorized (out of any funds available) to purchase Fund anticipation notes or Fund bonds. Upon any such purchase, such bonds and notes shall be canceled.

AUTHORIZATIONS

45 USC 829.

SEC. 509. There is authorized to be appropriated to the Secretary of the Treasury for the purposes of the Fund not to exceed \$600,000,000 and the Secretary of the Treasury is authorized and directed to purchase, from time to time, prior to September 30, 1978, from the Secretary, out of such moneys in the Treasury as are appropriated under this sentence, Fund anticipation notes in such aggregate principal amounts, subject to the foregoing limitation, as the Secretary may so offer for sale. No money in the Fund, regardless of source, shall be obligated, expended, or otherwise committed to any purpose from the Fund prior to or after September 30, 1978, without prior approval thereof in an annual appropriations Act. The Fund shall not qualify as one of the exceptions provided in section 401(d) of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1351(d)).

EXEMPTION

45 USC 830.

SEC. 510. Neither the provisions of section 20a of the Interstate Commerce Act (49 U.S.C. 20a), nor the registration and prospectus delivery requirements of the Securities Act of 1933, nor the provisions of the securities laws of any State, shall be applicable to the issuance and sale of redeemable preference shares by railroads under this title.

GUARANTEE OF OBLIGATIONS

45 USC 831.

SEC. 511. (a) GENERAL.—The Secretary may, in accordance with the provisions of this section, guarantee and make commitments to guarantee the payment of the principal balance of, and any interest on, an obligation of an applicant prior to, on, or after the date of execu-

tion or the date of disbursement of such obligation, if the proceeds of such obligation shall be or have been used to acquire or to rehabilitate and improve facilities or equipment. Each guarantee of such an obligation shall be made in accordance with the provisions of sections 511 through 513 of this title and such rules as the Secretary may prescribe to protect reasonably the interest of the United States. Each application for the guarantee of such an obligation or for a commitment to guarantee such an obligation shall be made in writing to the Secretary in such form and with such content as the Secretary prescribes. Such application shall be granted, in whole or in part, if the Secretary determines that the proposed, negotiated, or executed obligation is eligible for such guarantee. Each such guarantee or commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate, consistent with the purposes of this title. Such a guarantee or commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment to guarantee applies.

(b) **FUND.**—An obligation guarantee fund shall be established and administered by the Secretary as a revolving fund to carry out the provisions of sections 511 through 513 of this title. Moneys in the obligation guarantee fund shall be deposited in the Treasury of the United States to the credit of such fund or invested in bonds or other obligations of the United States approved by the Secretary of the Treasury.

Obligation
guarantee fund.
Establishment.

(c) **VALUATION.**—Before granting any application for a guarantee or a commitment to guarantee any obligation, the Secretary shall make a determination of the value of the facilities or equipment which are or will be financed or refinanced by such obligation. Such determination of value shall be conclusive and not subject to review in any court.

(d) **MODIFICATIONS.**—The Secretary may approve any modification of any provision of a guarantee, or of a commitment to guarantee an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms and conditions, if the Secretary makes a finding in writing that such modification is equitable and is in the overall best interests of the United States under this title, and that the holder of such obligation consents to such modification.

(e) **EXTENT OF AUTHORITY.**—(1) The aggregate unpaid principal amounts of obligations which may be guaranteed by the Secretary under this section shall not exceed \$1,000,000,000 at any one time, of which not to exceed \$150,000,000 may be guaranteed for the purposes described in paragraph (2) of this subsection.

(2) Obligations may be guaranteed for the purpose of improving rail properties designated in the final system plan pursuant to section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C)), if the proceeds of such obligations shall be or have been used to acquire or rehabilitate and improve facilities or equipment in a manner that returns the most public benefits for the costs involved.

(f) **RATE OF INTEREST.**—The rate of interest (exclusive of premium charges for a guarantee and service fees) which shall be paid on the unpaid principal balance of each obligation guaranteed by the Secretary under this section, shall not exceed an annual percentage rate which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates for similar obligations in the private market.

Publication in
Federal Register.

(g) NOTICE.—Upon receipt of an application for the guarantee of an obligation under this section, the Secretary shall cause a notice of such application to be published in the Federal Register and shall invite and afford interested persons an opportunity to submit comments on such application.

(h) PREQUISITES FOR GUARANTEES.—No obligation shall be guaranteed and no commitment shall be made to guarantee any obligation under this section, unless and until the Secretary makes a finding in writing that—

(1) an obligation for equipment acquisition, rehabilitation, or improvement is secured by the particular equipment which is to be financed or refinanced by such obligation;

(2) payment of the obligation is required by its terms to be made within 25 years from the date of its execution;

(3) the financing or refinancing is justified by the present and probable future demand for rail services to be rendered by the applicant and will serve to meet demonstrable needs for rail services and to provide shippers with improved service;

(4) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, or improved with the proceeds of the obligation will be economically and efficiently utilized;

(5) the probable value of any equipment or facilities to be improved, rehabilitated, or acquired is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor, in the case of repossession by the holder of the obligation or in the case of possession or purchase by the Secretary; and

(6) the transaction will result in an improvement in the ability of any affected railroad to transport passengers or freight.

(i) GENERAL REQUIREMENT.—The recipients of any guarantees of, or of any commitments to guarantee, an obligation under this section, shall, consistent with their capital resources, maintain their facilities, on a continuing basis, in accordance with standards promulgated under this subsection. The Secretary shall assure compliance with this requirement by regular periodic inspection.

Periodic
inspection.

(j) CONDITIONS OF GUARANTEES.—No guarantee of, and no commitment to guarantee, an obligation may be granted, approved, or extended under this section, unless the obligor first agrees in writing that so long as any principal or interest is due and payable on such obligation—

(1) there will be no increase in discretionary dividend payments over the average ratio which such payments bore to earnings for the applicable fiscal period during the 5 years preceding such proposed increase, without prior approval of such increase by the Secretary;

(2) the obligor will not use assets or revenues (other than cash) related to or derived from railroad operations in nonrailroad enterprises, without prior approval in writing from the Secretary; and

(3) the obligor will take all reasonable and practicable steps possible, in accordance with such guidelines as may be established by the Secretary, to improve the equitable distribution and efficient and expeditious use of all equipment and facilities in order to improve rail service.

Hearing.

Approval under paragraph (1) or (2) of this subsection may only be granted if, after a public hearing with an opportunity for interested persons to submit comments, the Secretary makes a written finding

that such increase in dividends (or such use of assets or revenues) will not materially affect the ability of the obligor to comply with the requirements of this section.

(k) **BREACH OF CONDITIONS.**—The Attorney General shall commence a civil action in any appropriate district court of the United States to enjoin any activity which the Secretary finds is in violation of any requirement or condition specified in subsection (i) or (j) of this section, and to secure any other appropriate relief, including termination, suspension, and punitive damages.

(l) **INVESTIGATION CHARGE.**—The Secretary shall charge and collect from each applicant such amounts as he deems reasonable for the investigation of any application submitted under this section, for appraisal of the value of the equipment or facilities involved, and for making the necessary determinations and findings. Such charges shall not aggregate more than one-half of 1 percent of the principal amount of the obligation with respect to which the applicant seeks a guarantee or commitment to guarantee.

(m) **PREMIUM CHARGE.**—The Secretary shall assess and collect from the obligor an annual premium charge on each obligation guaranteed under this section. The amount of such premium may not exceed an annual rate of 1 percent on the unpaid principal balance of such obligation at the time payment is due. Payment is due initially when the obligation is guaranteed by the Secretary, and, thereafter, on the anniversary date of such guarantee.

(n) **ADMINISTRATIVE COSTS.**—All moneys received by the Secretary under this section shall be deposited in the obligation guarantee fund, and to the extent provided in appropriation acts, may be used by the Secretary to pay administrative costs and expenses incurred by him pursuant to this section.

ISSUANCE OF NOTES OR OBLIGATIONS

SEC. 512. (a) AUTHORIZATION.—The Secretary may issue, in such amounts as are provided in appropriation acts, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary may prescribe. Such obligations may be issued whenever the moneys in the obligation guarantee fund are not sufficient to pay any amount which the Secretary is required to pay under section 513 of this title. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States. Moneys obtained under this subsection shall be deposited in the obligation guarantee fund, and redemptions of any such obligations shall be made by the Secretary from such fund.

45 USC 832.

Interest rate.

31 USC 774.

(b) **VALIDITY.**—No guarantee or commitment to guarantee under section 511 of this title may be terminated, suspended, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Secretary. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of such sections of this title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment to guarantee shall be valid and incontestable in the hands of the holder thereof, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

(c) **DEFINITION.**—As used in this section, the term “Secretary of the Treasury” includes any designated representative of such Secretary.

DEFAULT ON GUARANTEED OBLIGATIONS

45 USC 833.

SEC. 513. (a) GENERAL.—If there is a default by the obligor in any payment of principal or interest due under an obligation guaranteed under section 511 of this title, and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Secretary of the unpaid interest on, and the unpaid principal of, such obligation consistent with the terms of the guarantee of such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of such default. Within such specified period, but not later than 60 days from the date of such demand, the Secretary shall pay to such holder the unpaid interest on, and the unpaid principal of, such obligation, consistent with the terms of the guarantee of such obligation, except that (1) the Secretary shall not be required to make any such payment if he finds, prior to the expiration of such period, that there was no default by the obligor in the payment of interest or principal or that such default has been remedied, and (2) no such holder shall receive payment or be entitled to retain payment in a total amount which, together with an other recovery (including any recovery based upon a security interest in equipment or facilities) exceeds the actual loss of such holder.

(b) **RIGHTS OF THE SECRETARY.**—(1) If the Secretary makes payment to a holder under subsection (a) of this section, the Secretary shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement between such holder and the obligor.

(2) The Secretary may, in his discretion, complete, recondition reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this section. The terms of any such sale or other disposition shall be as approved by the Secretary.

(c) **FORM OF PAYMENT.**—Any amount required to be paid by the Secretary pursuant to subsection (a) of this section shall be paid in cash.

(d) **ACTION AGAINST OBLIGOR.**—If there is a default by the obligor in any payment due under an obligation guaranteed under section 511 of this title, the Secretary shall take such action against such obligor

or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Secretary all records and evidence necessary to prosecute any such suit. The Secretary may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Secretary receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under subsection (a) of this section, he shall pay such excess to the obligor.

AUDIT OF TRANSACTIONS

SEC. 514. (a) GENERAL.—The Comptroller General of the United States is authorized to audit the operations of the Fund and of the obligation guarantee fund in accordance with such rules and regulations as he may prescribe. Any such audit shall be conducted at the place or places where accounts of the Fund or of the obligation guarantee fund are normally kept. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with the Fund, the obligation guarantee fund, or the Secretary which pertain to the financial transactions of the Fund or the obligation guarantee fund and which are necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, things, and property shall remain in the possession and custody of the Fund, the obligation guarantee fund, or the Secretary, as the case may be. 45 USC 834.

(b) ACCESS TO INFORMATION.—The representatives of the Comptroller General shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any person or entity which has entered into a financial transaction with or involving the Fund, the obligation guarantee fund, or the Secretary, under this title, to the extent deemed necessary by the Comptroller General to facilitate any audit of financial transactions pursuant to subsection (a) of this section. Such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such person or entity shall, to the extent practicable, remain in the possession and custody of such person or entity.

(c) REPORT.—The Comptroller General shall make a report of each such audit to the Congress. Such report shall contain all comments and information which the Comptroller General deems necessary to inform Congress of the financial operations and condition of the Fund and of the obligation guarantee fund and any recommendations which he deems advisable. Such report shall indicate specifically and describe in detail any program, expenditure, or other financial transaction or undertaking observed in the course of such audit which the Comptroller General deems to have been carried on or made without lawful authority or which is inconsistent with the purposes and provisions of this title. A copy of such report shall be furnished to the President, the Secretary, and the Commission, at the time it is submitted to the Congress.

ANNUAL REPORT

45 USC 835.

SEC. 515. The Secretary shall report to the Congress within 90 days following the end of each fiscal year on the financial condition and operations of the Fund and of the obligation guarantee fund during such fiscal year, and on the anticipated condition and operations of the Fund and of the obligation guarantee fund during the current fiscal year.

EMPLOYEE PROTECTION

45 USC 836.

SEC. 516. (a) GENERAL.—Fair and equitable arrangements shall be provided, in accordance with this section, to protect the interests of any employees not otherwise protected under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.), who may be affected by actions taken pursuant to authorizations or approval obtained under this title. Such arrangements shall be determined by the execution of an agreement between the representatives of the railroads and the representatives of their employees, within 120 days after the date of enactment of this title. In the absence of such an executed agreement, the Secretary of Labor shall prescribe the applicable protective arrangements, within 150 days after the date of enactment of this title.

(b) TERMS.—The arrangements required by subsection (a) of this section shall apply to each employee who has an employment relationship with a railroad on the date on which such railroad first applies for applicable financial assistance under this title. Such arrangements shall include such provisions as may be necessary for the negotiation and execution of agreements as to the manner in which the protective arrangements shall be applied, including notice requirements. Such agreements shall be executed prior to implementation of work funded from financial assistance under this title. If such an agreement is not reached within 30 days after the date on which an application for such assistance is approved, either party to the dispute may submit the issue for final and binding arbitration. The decision on any such arbitration shall be rendered within 30 days after such submission. Such arbitration decision shall in no way modify the protection afforded in the protective arrangements established pursuant to this section, shall be final and binding on the parties thereto, and shall become a part of the agreement. Such arrangements shall also include such provisions as may be necessary—

(1) for the preservation of compensation (including subsequent general wage increases, vacation allowances, and monthly compensation guarantees), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, and vacations, under the same conditions and so long as such benefits continue to be accorded to other employees of the employing railroad in active service or on furlough, as the case may be) to such employees under existing collective-bargaining agreements or otherwise;

(2) to provide for final and binding arbitration of any dispute which cannot be settled by the parties, with respect to the interpretation, application, or enforcement of the provisions of the protective arrangements;

(3) to provide that an employee who is unable to secure employment by the exercise of his or her seniority rights, as a result of actions taken with financial assistance obtained under

this title, shall be offered reassignment and, where necessary, retraining to fill a position comparable to the position held at the time of such adverse effect and for which he is, or by training and retraining can become, physically and mentally qualified, so long as such offer is not in contravention of collective bargaining agreements relating thereto; and

(4) to provide that the protection afforded pursuant to this section shall not be applicable to employees benefited solely as a result of the work which is financed by funds provided pursuant to this title.

(c) SUBCONTRACTING.—The arrangements which are required to be negotiated by the parties or prescribed by the Secretary of Labor, pursuant to subsections (a) and (b) of this section, shall include provisions regulating subcontracting by the railroads of work which is financed by funds provided pursuant to this title.

INTERCITY RAIL PASSENGER SERVICE

SEC. 517. The Secretary is authorized, pursuant to the provisions of, and within the authorizations contained in, this title, to provide financial assistance, in the aggregate sum of up to \$200,000,000, to any railroad or railroads for the purpose of improving intercity rail passenger service on any lines of such railroad or railroads which are located outside of the Northeast Corridor (as defined in section 701 (c) of this Act).

45 USC 837.

Post, p. 119.

TITLE VI—IMPLEMENTATION OF THE FINAL SYSTEM PLAN

GENERAL

SEC. 601. (a) Unless otherwise specified, whenever, in this title, an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or provision of “such Act”, the section or other provision amended or repealed is a section of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(b) The table of contents of such Act is amended to read as follows:

“TABLE OF CONTENTS

“TITLE I—GENERAL PROVISIONS

“Sec. 101. Declaration of policy.

“Sec. 102. Definitions.

“TITLE II—UNITED STATES RAILWAY ASSOCIATION

“Sec. 201. Formation and structure.

“Sec. 202. General powers and duties of the Association.

“Sec. 203. Access to information.

“Sec. 204. Report.

“Sec. 205. Rail Services Planning Office.

“Sec. 206. Final system plan.

“Sec. 207. Adoption of final system plan.

“Sec. 208. Review by Congress.

“Sec. 209. Judicial review.

“Sec. 210. Obligations of the Association.

“Sec. 211. Loans.

“Sec. 212. Records, audit, and examination.

“Sec. 213. Emergency assistance pending implementation.

“Sec. 214. Authorization for appropriations.

“Sec. 215. Maintenance and improvement of plant.

“Sec. 216. Purchase of debentures and series A preferred stock.

"TITLE III—CONSOLIDATED RAIL CORPORATION

- "Sec. 301. Formation and structure.
- "Sec. 302. Powers and duties of the Corporation.
- "Sec. 303. Valuation and conveyances of rail properties.
- "Sec. 304. Termination and continuation of rail services.
- "Sec. 305. Continuing reorganization; supplemental transactions.
- "Sec. 306. Certificates of value.
- "Sec. 307. Protection of Federal funds.

"TITLE IV—LOCAL RAIL SERVICES

- "Sec. 401. Findings and purposes.
- "Sec. 402. Rail service continuation assistance.
- "Sec. 403. Acquisition and modernization loans.

"TITLE V—EMPLOYEE PROTECTION

- "Sec. 501. Definitions.
- "Sec. 502. Employment offers.
- "Sec. 503. Assignment of work.
- "Sec. 504. Collective-bargaining agreements.
- "Sec. 505. Employee protection.
- "Sec. 506. Contracting out.
- "Sec. 507. Arbitration.
- "Sec. 508. Duties of acquiring and selling railroads.
- "Sec. 509. Payment of benefits.

"TITLE VI—MISCELLANEOUS PROVISIONS

- "Sec. 601. Relationship to other laws.
- "Sec. 602. Annual evaluation by the Secretary.
- "Sec. 603. Freight rates for recyclables.
- "Sec. 604. Separability.
- "Sec. 605. Duty of transferee."

(c) Section 202(a)(2) of such Act (45 U.S.C. 712(a)(2)) is amended to read as follows:

45 USC 720.

45 USC 721.

Post, p. 89.

"(2) issue obligations under section 210 of this title; make loans under section 211 of this title; purchase or otherwise acquire or receive and hold and dispose of securities (whether debt or equity) of the Corporation under section 216 of this title and exercise all of the rights, privileges, and powers of a holder of any such securities; and issue certificates of value under section 306 of this Act;"

(d) Section 303 of such Act (45 U.S.C. 743) is amended by adding at the end thereof the following new subsection:

Post, p. 100.

"(e) TRANSFER AND OTHER TAXES AND RECORDING FEES.—All transfers or conveyances of rail properties (whether real, personal, or mixed) which are made under this Act (including transfers and conveyances which are made in accordance with a supplemental transaction pursuant to section 305 of this title) shall be exempt from any taxes, imposts, or levies now or hereafter imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyances or on the recording of deeds, bills of sale, liens, encumbrances, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumbrances, or other instruments and, consistent with the designations and applicable principles in the final system plan, to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed."

(e) Section 208 of such Act (45 U.S.C. 718) is amended by adding at the end thereof the following new subsection:

“(d) ADDITIONS.—(1) The supplemental report, dated September 18, 1975, to the final system plan, and the provisions of the Association’s official errata supplement to the final system plan, dated December 1, 1975, including all designations made therein, shall be treated for all purposes as if they had been part of and included in the final system plan adopted by the Association and reviewed by the Congress. The final system plan shall, for all purposes, be deemed to be approved as modified and amended by such supplemental report and such supplement.

“(2) The Association may, upon petition of any State, modify the final system plan to make further designations with respect to rail properties of railroads in reorganization in the region designated for transfer to the Corporation under such plan, if such designations (A) are likely to result in improved rail service on such rail properties and connecting rail properties, and (B) would not materially impair the profitability of the Corporation. Such designations, including designations of such rail properties to a State, a profitable railroad, or a responsible person, may be made at any time prior to delivery of the final system plan to the special court under section 209(c) of this title. Such further designations shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress, and the final system plan shall for all purposes be deemed to be approved as modified by such designations. Any action of the Association with respect to any such petition shall not be subject to review by any court.

“(3) (A) Within 20 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, the Association may, by notice to the Congress and by publication in the Federal Register, modify, supplement, or add to the designations of rail properties in the final system plan if the Association finds such actions are necessary to—

Notice to Congress; publication in Federal Register. *Ante*, p. 31.

“(i) achieve the efficient implementation of the final system plan, or

“(ii) provide for the offer to profitable railroads of rail properties designated in the final system plan to the Corporation, if such properties are not essential in the operation of other rail properties of the Corporation but are or would be integrally related to the operation of rail properties of (or which are offered pursuant to the final system plan to) such profitable railroad, or

“(iii) provide for the designation of additional rail properties to the Corporation or to a subsidiary thereof to enable the Corporation to serve efficiently a line of railroad designated to the Corporation in the final system plan if such line does not connect with any other line of railroad so designated to the Corporation or if such line would be served more efficiently as a consequence of such designation.

Any designation to a profitable railroad pursuant to this paragraph shall comply with the second sentence of section 206(d)(4) of this title, and shall only be made upon a finding by the Association that such designation is integrally related to an offer of rail properties to a profitable railroad in the final system plan, that the goals of the final system plan require that the rail properties be operated as a part of the rail properties included in such offer, and that the implementation of such designation will not materially and adversely affect the impact of such offer on the profitability of the Corporation or any profitable railroad operating in the region. Any designation to a profitable railroad pursuant to this subsection, which amends any prior offer, shall terminate 30 days after the date of enactment of this paragraph

Post, p. 97.

unless, prior to such date, such profitable railroad has notified the Association in writing of its acceptance of such amendment to the prior offer.

“(B) If a line of railroad or any segment thereof is designated for rail service in the final system plan, no designation may be made by the Association pursuant to this paragraph which would result in such line or segment not being so designated. Any designations made pursuant to this paragraph shall be treated for all purposes as if they had been included in the final system plan adopted by the Association and reviewed by the Congress. The final system plan shall for all purposes be deemed to be approved as amended by such designations.

“(C) Any designations made pursuant to this paragraph shall not be subject to review by any court.

Post, p. 117.

“(D) Any labor agreements entered into under section 508 of this Act shall be subject to further negotiations for any modifications which may be necessary to implement designations made pursuant to this paragraph.”

(f) Section 102(14) of such Act (45 U.S.C. 702(14)) is amended to read as follows:

“Secretary.”

“(14) ‘Secretary’ means the Secretary of Transportation or the person at the time performing the duties of the Office of the Secretary of Transportation in accordance with law, or the duly authorized representative of either of them;”.

(g) Section 102 of such Act (45 U.S.C. 702) is amended (1) by redesignating paragraphs (8) through (15) thereof as paragraphs (10) through (17) thereof, respectively; and (2) by inserting therein a new paragraph (9) as follows:

“Local or regional transportation authority.”

“(9) ‘local or regional transportation authority’ includes a political subdivision of a State.”.

SPECIAL COURT

SEC. 602. (a) Section 209(b) of such Act (45 U.S.C. 719) is amended by striking out the sixth sentence thereof and inserting in lieu thereof the following new sentence: “The special court may issue rules for the conduct of any proceedings under this section and under section 305 of this Act, including rules with respect to the time within which motions may be filed, and with respect to appropriate representation of interests not otherwise represented (including the Secretary with respect to a petition by the Association in the case of a proposal developed by the Secretary, under such section 305).”.

Post, p. 100.

(b) Section 209 of such Act (45 U.S.C. 719) is amended by adding at the end thereof the following three new subsections:

“(e) ORIGINAL AND EXCLUSIVE JURISDICTION.—(1) Notwithstanding any other provision of law, any civil action—

“(A) for injunctive or other relief against the Association from the enforcement, operation, or execution of this Act or any provision thereof, or from any action taken by the Association pursuant to authority conferred or purportedly conferred under this Act;

“(B) challenging the constitutionality of this Act or any provision thereof;

“(C) challenging the legality of any action of the Association, or any failure of the Association to take any action, pursuant to authority conferred or purportedly conferred under this Act;

“(D) to obtain, inspect, copy, or review any document in the possession or control of the Association that would be discoverable in litigation pursuant to section 303(c) of this Act;

45 USC 743.

“(E) brought after a conveyance, pursuant to section 303(b) of this Act, to set aside or annul such conveyance or to secure in any way the reconveyance of any rail properties so conveyed; or

45 USC 743.

“(F) with respect to continuing reorganization and supplemental transactions, in accordance with section 305 of this Act; shall be within the original and exclusive jurisdiction of the special court. The special court shall not hear or determine any such action prior to the date of conveyance, pursuant to section 303(b) (1) of this Act, except as the Constitution may require. Relief shall not be granted in any action referred to in subparagraph (A), (C), or (E) unless the person seeking such relief establishes that the Association acted in reckless or deliberate disregard of applicable law.

USC prec. title 1.

“(2) The original and exclusive jurisdiction of the special court shall include any action, whether filed by any interested person or initiated by the special court itself, to interpret, alter, amend, modify, or implement any of the orders entered by such court pursuant to section 303(b) of this Act in order to effect the purposes of this Act or the goals of the final system plan. During the pendency of any proceeding described in this paragraph, the special court may enter such orders as it determines to be appropriate, including orders enjoining, restraining, conditioning, or limiting any conveyance, transfer, or use of any asset or right which is subject to such an order or which is at issue in such a proceeding, or which involves the enforcement of any liens or encumbrances upon such assets or rights. Any orders pursuant to this paragraph which interpret, alter, amend, modify, or implement orders entered by the special court shall be final and shall not be restrained or enjoined by any court.

“(3) A final order or judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality or invalidity, of this Act, in whole or in part, or of any action taken under this Act, shall be reviewable by direct appeal to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28, United States Code. Such review is exclusive and any petition or appeal shall be filed not more than 20 days after entry of such order or judgment.

“(f) DISPOSITION OF CASH DEPOSITS.—Whenever the compensation which is deposited with the special court under section 303(a) of this Act is in the form of cash, such cash shall be invested and reinvested upon such terms and conditions as the special court shall determine, pending the making of the findings referred to in paragraphs (1), (2), and (3) of section 303(c) of this Act. Notwithstanding section 303(c) (4) of this Act, the special court may order (1) the income from such investments, (2) the dividends or interest, if any, received on any securities or obligations deposited with the special court under such section 303(a), and (3) the income, if any, received with respect to any other form of compensation so deposited, to be distributed to the trustee of each railroad in reorganization and to any person leased, operated or controlled by such a railroad which conveyed the right, title, and interest in the rail properties with respect to which such cash, securities, obligations, or other compensation have been so deposited with the special court. Notwithstanding section 303(c) (4) of this Act, the special court may, within 90 days after the date of conveyance of rail properties pursuant to section 303(b) of this Act, order up to 25 percent of any cash (including investments made with cash) and other compensation deposited with the special court to be distributed

45 USC 743.

to such trustee or person. On petition of the applicable trustee or person, the special court may order such additional distributions as it finds reasonable and appropriate, prior to the making of the findings referred to in paragraphs (1), (2), and (3) of such section 303(c).

“(g) STAY OF COURT PROCEEDINGS.—The special court may stay or enjoin any action or proceeding in any State court or in any court of the United States other than the Supreme Court if such action or proceeding is contrary to any provision of this Act, impairs the effective implementation of this Act, or interferes with the execution of any order of the special court pursuant to this Act.”

FINANCE COMMITTEE

SEC. 603. (a) Section 201 of such Act (45 U.S.C. 711) is amended by redesignating subsections (i) and (j) thereof as subsections (j) and (k) thereof, respectively, and by inserting therein a new subsection “(i)” as follows:

“(i) FINANCE COMMITTEE.—The Board of Directors of the Association shall have a Finance Committee which shall consist of the Chairman of such Board, the Secretary, and the Secretary of the Treasury (acting directly or, at any time, through their respective duly authorized representatives). The Finance Committee is authorized to exercise only such powers as are vested in it pursuant to any provision of this Act. The vesting of such powers in the Finance Committee shall not be deemed to relieve the Board of Directors of its authority to exercise any other powers of the Association, none of which may be delegated to the Finance Committee, or of its general authority to study, analyze, and make advisory findings with respect to any matter relevant to the role of the Association as an investor in securities of the Corporation. Notwithstanding any provision of State law, (1) the Finance Committee, without any requirement of review or approval by the Board of Directors of the Association, is authorized to establish, revise, and maintain its own rules and procedures, by majority vote of the members thereof, and (2) the Board of Directors of the Association shall not have power to take, and shall not take, any action affecting the membership of the Finance Committee or limiting the exercise by the Finance Committee of the powers vested in it pursuant to any provision of this Act.”

(b) (1) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended by adding at the end thereof the following new sentence: “The Secretary and the Chairman of the Commission may act in such capacity directly or at any time through their duly authorized representatives.”

(2) Section 201(d)(2) of such Act (45 U.S.C. 711(d)(2)) is amended by striking “or” and inserting in lieu thereof the following: “acting directly or at any time through”.

(c) Section 102 of such Act (45 U.S.C. 702), as amended by this Act, is amended by redesignating paragraph (7) thereof as paragraph (8) thereof, and by inserting therein a new paragraph (7) as follows:

“(7) ‘Finance Committee’ means the Finance Committee of the Board of Directors of the Association established under section 201(i) of this Act;”.

OBLIGATIONS OF THE ASSOCIATION

SEC. 604. Section 210(b) of such Act (45 U.S.C. 720(b)) is amended to read as follows:

“(b) **MAXIMUM OBLIGATIONAL AUTHORITY.**—The aggregate amount of obligations of the Association issued under this section which may be outstanding at any one time shall not exceed \$275,000,000. No obligations or proceeds thereof shall be issued or made available after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 except—

Ante, p. 31.

“(1) to meet existing or potential commitments for loans under section 211 of this title made or applied for prior to January 1, 1976; and

Post, p. 92.

“(2) for the purpose of providing loans pursuant to subsections (g) and (h) of section 211 of this title.”.

DEBENTURES AND SERIES A PREFERRED STOCK

SEC. 605. Title II of such Act is amended by adding at the end thereof the following new section:

“DEBENTURES AND SERIES A PREFERRED STOCK

“SEC. 216. (a) **GENERAL.**—The Association is authorized, in accordance with the provisions of this section, and such rules and regulations as it may prescribe, to invest from time to time in the securities of the Corporation by purchasing (1) up to \$1,000,000,000 of debentures issued by the Corporation, and (2) after the acquisition of such debentures, up to \$1,100,000,000 of the series A preferred stock of the Corporation.

Rules and
regulations.
45 USC 726.

“(b) **PURPOSES AND PROCEDURE FOR INVESTMENT.**—(1) The Association is authorized to purchase debentures and, thereafter, series A preferred stock of the Corporation at such times and in such amounts as may be required and requested by the Corporation in accordance with the terms and conditions governing such purchases (which shall be prescribed by the Association), to provide—

“(A) for the modernization, rehabilitation and maintenance of rail properties of the Corporation;

“(B) for the acquisition of equipment and other capital needs;

“(C) for the refinancing of indebtedness which was incurred by the Corporation under section 211 of this title or which was incurred under section 215 of this title and assumed by the Corporation; or

45 USC 725.

“(D) working capital as contemplated by the final system plan.

“(2) Purchases of up to \$1,000,000,000 of debentures and, thereafter, of up to \$1,100,000,000 of series A preferred stock shall be made by the Association as required and requested by the Corporation, unless the Finance Committee makes an affirmative finding that—

“(A) the Corporation has failed in any material respect to comply with any covenants or undertakings made to the Association and such failure remains uncorrected;

“(B) the Corporation has failed substantially (as determined by performance within the margins prescribed by the Board of Directors) to attain the overall operating (including rehabilitation) and financial results projected for the Corporation in the final system plan (including any modifications of such projected results and of the performance margins applicable to such projected results which are jointly approved by the Finance Committee and the Board of Directors and which would improve the possibility that the Corporation will attain such projected results and perform within such margins, as modified); or

“(C) it is not reasonably likely, taking into consideration all relevant factors including the overall operating (including rehabilitation) and financial results achieved by the Corporation, that the Corporation will be able to become financially self-sustaining without requiring Federal financial assistance substantially in excess of the amounts authorized in this section.

“(c) FINDING, DIRECTION, AND REVIEW BY CONGRESS.—(1) If the Finance Committee makes an affirmative finding pursuant to subsection (b) (2) of this section, it may direct the Association—

“(A) not to purchase any debentures or series A preferred stock of the Corporation after the date of such affirmative finding; or

“(B) to purchase debentures or series A preferred stock of the Corporation, after the date of such affirmative finding, only in such amounts, at such times, and on such terms and conditions (notwithstanding subsection (e) (1) of this section) as the Finance Committee determines to be appropriate to the role of the Association as an investor in such debentures and series A preferred stock.

“(2) A copy of each affirmative finding, the reasons therefor, and each direction made by the Finance Committee under paragraph (1) of this subsection, together with the comments and recommendations thereon of the Board of Directors of the Association, shall be transmitted to the Congress by the Association within 10 days after the date on which the Finance Committee makes such finding and direction, or if not so transmitted, shall be transmitted by the Finance Committee. Each such direction so transmitted shall become finally effective and is required to be implemented by the Association, unless within the first period of 30 calendar days of continuous session of Congress after the date of its transmittal to Congress either House of Congress disapproves such direction (except that such direction shall become finally effective immediately upon approval of such direction by both Houses of Congress) in accordance with the procedures specified in section 1017 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1407). For purposes of this paragraph, continuity of session of Congress is broken only in the circumstances described in section 1011 (5) of that Act (31 U.S.C. 1401 (5)). During review by the Association and Congress, the Association shall take no action inconsistent with the direction of the Finance Committee pursuant to paragraph (c) (1) of this section, except to the extent the Association finds necessary, in its discretion, to assure continuous orderly operation of the Corporation.

“(3) If the Congress, pursuant to paragraph (2) of this subsection, disapproves a direction submitted to the Association pursuant to paragraph (1) of this subsection, the Association shall continue to purchase the debentures or series A preferred stock of the Corporation as otherwise provided in this title until such time as a direction is submitted under this section which is not so disapproved (or affirmatively approved). The powers of the Association and of the Board of Directors of the Association shall remain in effect except to the extent modified by any such direction. If any such direction is disapproved by either House of Congress, the Finance Committee may, not earlier than 30 days after the date of such disapproval, make (and the Board of Directors of the Association shall transmit) any additional affirmative finding and direction with respect to the same matter, which direction shall become effective in accordance with paragraph (2) of this subsection. An affirmative finding and direction under this subsection, or action by the Association during a

review thereof by the Congress, may not be held unlawful or set aside by any reviewing court on the ground that such finding and direction or action were not adequate to meet the requirements of subparagraph (A), (E), or (F) of section 706(2) of title 5, United States Code.

“(4) Notwithstanding any other provision of this section, or any terms and conditions governing its purchase of securities of the Corporation, the Association shall, upon written application by the Corporation at least 30 days prior to such investment, make an initial investment in debentures of the Corporation within 60 days after the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act. Such initial investment shall be limited to such amounts as the Association and Finance Committee, acting jointly, determine are necessary for the continued and orderly operations of the Corporation prior to any additional investment.

45 USC 743.

“(5) Not later than 60 days after the date of conveyance pursuant to section 303(b)(1) of this Act, the Association shall select 6 individuals to serve as members of the Board of Directors of the Corporation, subject to the provisions of section 301(d) of this Act.

45 USC 741.

“(d) TERMS AND CONDITIONS.—Notwithstanding any other provision of State law, the debentures and the series A preferred stock of the Corporation shall have such terms and conditions, not inconsistent with the final system plan or this title, as may be prescribed by the Association, except as follows:

“(1) The Corporation shall not be required to issue to the Association additional shares of series A preferred stock of the Corporation as a dividend on any such stock.

“(2) The dividends payable on series A preferred stock of the Corporation shall not be cumulative and shall be paid in cash when and to the extent that there is ‘cash available for restricted cash payments’, as that term is defined in the final system plan.

“(3) After the Association calls for redemption of the certificates of value, no shares of series A preferred stock of the Corporation shall be issued in lieu of interest on the debentures of the Corporation and, to the extent such interest is not payable in cash by reason of the absence of sufficient ‘cash available for restricted cash payment’, the Corporation shall deliver to the holders of the debentures contingent interest notes in a face amount equal to such unpaid interest.

“(4) If the Board of Directors of the Association and the Finance Committee, acting jointly, modify the terms or conditions governing the purchase of debentures or series A preferred stock of the Corporation pursuant to subsection (e)(1) of this section, or if the Finance Committee waives compliance with any term, condition, provision, or covenant of such securities pursuant to subsection (e)(2) of this section, the Finance Committee may require the Corporation to issue contingent interest notes in such amount as, in the determination of the Finance Committee, will provide protection for the United States, in the event of bankruptcy, reorganization, or receivership of the Corporation, equal to the protection the United States would have had in the absence of such modification or waiver.

“(5) The contingent interest notes issued pursuant to this section shall bear interest compounded annually at the rate of 8 percent per annum and such notes and the accumulated interest thereon shall be payable only in the event of bankruptcy, reorganization, or receivership of the Corporation occurring prior to the repayment and redemption of all outstanding debentures and accumulated series A preferred stock of the Corporation. The

contingent interest notes and the accumulated interest thereon shall have the same priority in bankruptcy, reorganization, or receivership as the debentures of the Corporation. The other terms and conditions of the contingent interest notes shall be as set forth in an agreement to be entered into between the Association and the Corporation prior to issuance of any debentures.

“(e) MODIFICATIONS, WAIVERS, AND CONVERSIONS.—(1) The Board of Directors of the Association and the Finance Committee, acting jointly, may agree with the Corporation to modify any of the terms and conditions governing the purchase by the Association of securities of the Corporation, upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan.

“(2) The Finance Committee may, in its discretion and upon a finding that such action is necessary or appropriate to achieve the purposes of this Act or the goals of the final system plan, waive compliance with any term, condition, provision, or covenant of the securities of the Corporation held by the Association, including any provision of such securities with respect to redemption of principal or issuance price, payment of interest or dividends, or any term or condition governing the purchase of such securities.

“(3) Notwithstanding any provision of State law, there shall be no conversion of the debentures of the Corporation into series A preferred stock of the Corporation, as provided in the terms and conditions of the debentures and pursuant to the final system plan, unless the Board of Directors of the Association and the Finance Committee jointly determine to effect such conversion.

“(f) APPROPRIATION.—There is authorized to be appropriated to the Association \$2,100,000,000 to be used for the purchase of securities of the Corporation in accordance with this section. All sums received by the Association on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.”.

LOANS

45 USC 721.

SEC. 606. Section 211 of such Act (45 U.S.C. 741) is amended by adding at the end thereof the following new subsections:

45 USC 743.

“(g) PRE-CONVEYANCE LOANS TO THE CORPORATION.—During the period between the effective date of the final system plan and the date of the conveyance of rail properties pursuant to section 303(b) of this Act, the Association may make such loans in such amounts to the Corporation as the Association deems essential to provide for the purchase by the Corporation of material, supplies, equipment, and services necessary to permit the orderly and efficient implementation of the final system plan. Notwithstanding any inability of the Association during such period to make the finding required by subsection (e)(3) of this section because of any existing contingencies, the Association may make any such loans to the Corporation, subject to—

“(1) the most favorable terms and conditions for assuring timely repayment and security as may then be reasonably available, and

“(2) the requirement that any loan to the Corporation under this subsection be refinanced immediately out of the proceeds of the first sale by the issuance of debentures under section 216 of this title.

Ante, p. 89.

In order to assure that necessary funds are available to the Corporation for implementation of the final system plan, the Corporation is authorized to accept such loans as may be approved by the Association

under this subsection, and any such acceptance shall be deemed for all purposes to constitute a reasonable and prudent business judgment in compliance with any fiduciary obligations imposed on the Corporation or its directors. For purposes of this subsection, the term 'Corporation' includes a subsidiary of the Corporation.

"(h) **LOANS FOR PAYMENT OF OBLIGATIONS.**—(1) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed \$230,000,000 in the aggregate, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of the transferors, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to amounts claimed by suppliers (including private car lines) of materials or services utilized in current rail operations, claims by shippers arising from current rail services, payments to railroads for settlement of current interline accounts, claims of employees arising under the collective bargaining agreements of the railroads in reorganization in the region and subject to section 3 of the Railway Labor Act, claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Acts (45 U.S.C. 51-60), and amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefit plans described in section 505(a) of this Act. The Association shall not make such a loan unless it first finds that the loan is for the purpose of paying obligations with respect to accrued pension plans referred to in the preceding sentence or that the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to subsections (e) and (g) of section 504 of this Act, or unless it first finds that—

"(A) provision for the payment of such obligations was not included in the financial projections of the final system plan;

"(B) such obligations arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act and are, under other applicable law, the responsibility of a railroad in reorganization in the region;

"(C) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligations by the Corporation, the National Railroad Passenger Corporation or profitable railroad is necessary to avoid disruptions in ordinary business relationships;

"(D) the transferor is unable to pay such obligations within a reasonable period of time; and

"(E) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from the railroads in reorganization in the region for obligations paid on their behalf under this subsection, have been jointly agreed to by the Finance Committee and the Corporation.

"(2) The trustees of each railroad in reorganization in the region shall attempt to negotiate agency agreements with the Corporation,

Ante, p. 88.

45 USC 743.

45 USC 153.

45 USC 51 note.

45 USC 775.

Post, p. 113.

45 USC 743.

the National Railroad Passenger Corporation, or a profitable railroad for the processing of all accounts receivable and accounts payable attributable to operations prior to the conveyance of property pursuant to section 303(b)(1) of this Act. If any railroad in reorganization in the region fails to conclude such an agreement within a reasonable time prior to such conveyance, the applicable reorganization courts, after giving all parties an opportunity to be heard, shall prescribe the terms of such an agency arrangement by order, giving due consideration to the need, wherever possible, to make such agreements uniform among the various estates.

“(3) The Association may, not less than 30 days prior to the date of conveyance pursuant to section 303(b)(1) of this Act, petition each district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region for an order, which shall be entered prior to such conveyance, and which—

“(A) identifies that cash and other current assets of the estate of such railroad which shall be utilized to satisfy obligations of the estates identified in paragraph (1) of this subsection; and

“(B) provides for the application by the trustees of such railroads and their agents, consistent with the principles of reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205) and with the agency agreement specified in paragraph (2) of this subsection, of all such current assets, including cash available as of or subsequent to such date of conveyance, to the payment in the postconveyance period of the obligations of the estates identified in paragraph (1) of this subsection.

“(4) (A) Each obligation of a railroad in reorganization in the region which is paid with financial assistance under paragraph (1) of this subsection shall be processed, on behalf of such railroad, by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate. An obligation of a railroad in reorganization in the region shall be paid, on behalf of such railroad, by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate, if—

“(i) such obligation is deemed by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate, to have been, on the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act, the obligation of a railroad in reorganization in the region;

“(ii) such obligation accrues after such date of conveyance but as a result of rail operations conducted prior to such date, and the trustees of such railroad in reorganization acknowledge that it is an obligation of such railroad; or

“(iii) the district court of the United States having jurisdiction over such railroad in reorganization in the region approves such obligation as a valid administrative claim against such railroad; to the extent that payment is required under a loan agreement with the Association under such paragraph (1).

“(B) The Association shall resolve any disputes among the Corporation, the National Railroad Passenger Corporation, and a profitable railroad concerning which of them shall process and pay any particular obligation on behalf of a particular railroad in reorganization.

“(C) The Corporation, the National Railroad Passenger Corporation, or a profitable railroad shall have a direct claim, as a current expense of administration, for reimbursement from the estate of a railroad in reorganization in the region for all obligations of such estate (plus interest thereon) which are paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, as the case

may be. The right of the Corporation or the National Railroad Passenger Corporation to receive reimbursement under this subparagraph from the estate of a railroad in reorganization in the region shall be reduced by the amount, if any, of loans, plus interest forgiven under paragraph (5) of this subsection.

“(5) (A) If, at any time, the Finance Committee of the Association determines that the failure of the Corporation to receive full reimbursement with interest from the estate of a railroad in reorganization in the region for any obligation of such estate paid pursuant to this subsection could adversely affect the fairness and equity of the transfers and conveyances pursuant to section 303(b)(1) of this Act, or that the failure of the National Railroad Passenger Corporation to receive such full reimbursement plus interest for any such obligation would be contrary to the public interest, the Association shall forgive the indebtedness, plus accrued interest, of the Corporation or of the National Railroad Passenger Corporation incurred pursuant to paragraph (1) of this subsection in the amount recommended by the Finance Committee. The Association shall have a direct claim, as a current expense of administration of the estate of such railroad in reorganization, equal to the amount by which loans of the Corporation or of the National Railroad Passenger Corporation, plus interest, have been forgiven. Such direct claim shall not be subject to any reduction by way of setoff, cross-claim, or counter-claim which the estate of such railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.

45 USC 743.

“(B) The direct claim of the Association under this paragraph, and any direct claim authorized under paragraph (4) of this subsection, shall be prior to all other administrative claims of the estate of a railroad in reorganization, except claims arising under trustee's certificates or from default on the payment of such certificates.

“(6) Notwithstanding any other provision of this subsection, the Association shall forgive any loan made to the Corporation or the National Railroad Passenger Corporation pursuant to this subsection, plus accrued interest thereon, on the 3rd anniversary date of any such loan, except that the Association shall not forgive any loan or portion thereof, in accordance with this paragraph, if—

“(A) the Finance Committee makes an affirmative finding, with respect to such loan or portion thereof, that—

“(i) the Corporation has not exercised due diligence in executing the procedures adopted pursuant to paragraph (1) (E) of this subsection, and

“(ii) the failure of the Association to forgive such loan or portion thereof will not adversely affect the ability of the Corporation to become financially self-sustaining;

“(B) the Finance Committee so directs the Association; and

“(C) neither House of the Congress disapproves such affirmative finding and direction, in accordance with the following provisions of this paragraph.

A copy of each such finding, the reasons therefor, and such direction made by the Finance Committee, together with the comments and recommendations thereon of the Board of Directors of the Association, shall be transmitted to the Congress by the Association within 10 days after the date on which the Finance Committee makes such finding and direction, or if not so transmitted, shall be transmitted by the Finance Committee. Each such finding and direction so transmitted shall become effective immediately, and shall remain in effect, unless, within

the first period of 30 calendar days of continuous session of Congress after the date of transmittal of such finding and direction to Congress, either House of Congress disapproves such finding and direction in accordance with the procedures specified in section 1017 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1407). For purposes of this paragraph, continuity of session of Congress is broken only in the circumstances described in section 1011(5) of that Act (31 U.S.C. 1401(5)).

“Corporation.”

“(7) For purposes of this subsection, the term ‘Corporation’ includes a subsidiary of the Corporation.

Ante, pp. 76-80.

“(i) **ELECTRIFICATION.**—Upon application by the Corporation, the Secretary shall, pursuant to the provisions of and within the obligatory limitations contained in sections 511 through 513 of the Railroad Revitalization and Regulatory Reform Act of 1976, guarantee obligations of the Corporation for the purpose of electrifying high-density mainline routes if the Secretary finds that such electrification will return operating and financial benefits to the Corporation and will facilitate compatibility with existing or renewed electrification systems. The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary under this paragraph shall not exceed \$200,000,000 at any one time.”

MISCELLANEOUS AMENDMENTS TO TITLE II

SEC. 607. (a) Section 201(j) of such Act (45 U.S.C. 711(j)), as redesignated by section 603(a) of this Act, is amended by adding at the end thereof the following new paragraph:

“(4) Any reference in this Act to the Secretary of the Treasury is to the Secretary of the Treasury or the person at the time performing the duties of the Office of the Secretary of the Treasury in accordance with law, or the duly authorized representative of either of them. Any reference in this Act to the Chairman of the Commission is to the Chairman of the Commission or the person at the time performing the duties of the Chairman of the Commission in accordance with law, or the duly authorized representative of either of them.”

(b) Section 202(e) of such Act (45 U.S.C. 712(e)) is amended by inserting after “obligations issued” and before “and loans” in clause (4) thereof the following: “, certificates of value issued, securities purchased,”.

(c) Section 202(f) of such Act (45 U.S.C. 712(f)) is amended by inserting after “section” and before “)” in the first sentence thereof the following: “and receipts and disbursements under section 216 of this title and section 306 of this Act.”.

Ante, p. 89;
Post, p. 104.

(d) Section 203(a) of such Act (45 U.S.C. 713(a)) is amended by striking out the last sentence thereof.

(e) Section 206(d)(3) of such Act (45 U.S.C. 716(d)(3)) is amended by inserting after the first sentence thereof the following three new sentences: “All determinations made by the Association in the correction to the preliminary system plan published on April 11, 1975 (40 Fed. Reg. 16377), shall be treated for all purposes as if they had been made upon adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to such correction shall be treated for all purposes as if they had been made within 90 days after adoption and release by the Association of the preliminary system plan. All determinations made by the Commission with respect to acquisitions by profitable railroads referred to in any supplement to the preliminary system plan pub-

lished under section 207(b)(2) of this title shall be deemed to be timely if made prior to the adoption of the final system plan under section 207(c) of this title.” 45 USC 717.

(f) Section 206(c)(1)(B) of such Act (45 U.S.C. 716(c)(1)(B)) is amended by inserting immediately after “paragraph” the following: “and what alternative designations shall be made under this paragraph”.

(g) Section 206(c)(1)(A) of such Act (45 U.S.C. 716(c)(1)(A)) is amended by striking out the semicolon and inserting in lieu thereof the following: “: *Provided*, That the Corporation shall, within 95 days after the effective date of the final system plan, give notice to the Association of which such rail properties, if any, are to be transferred to a subsidiary of the Corporation in the event that the Board of Directors of the Association finds that such transfer would be consistent with the final system plan;”.

(h) Section 206(c)(2) of such Act (45 U.S.C. 716(c)(2)) is amended by adding at the end thereof the following new sentence: “Any rail properties designated to be offered for sale to the Corporation may be sold instead to a subsidiary of the Corporation.”.

(i) Sections 206(d)(1), 209(c) and (d), 215(d), 304(e), and 501(1) and (2) of such Act (45 U.S.C. 716(d)(1), 719(c) and (d), 744(e), and 771(1) and (2)) are amended by inserting after “Corporation” each time it appears the following: “or any subsidiary thereof”.

45 USC 716,
719, 725, 744,
771.

(j) Section 206(c)(1)(D) of such Act (45 U.S.C. 716(c)(1)(D)) is amended by—

- (1) inserting immediately after “by” the following “(i)”; and
- (2) striking out “; and” at the end thereof and adding the following: “, or (ii) the National Railroad Passenger Corporation to meet the needs of improved rail passenger service over intercity routes, other than properties designated pursuant to subparagraph (C) of this paragraph; and”.

(k) Section 210(c) of such Act (45 U.S.C. 720(c)) is amended by adding at the end thereof the following new sentence: “All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States for the payment of which its full faith and credit are pledged.”.

Guarantees.

(l) Section 209(c) of such Act (45 U.S.C. 719(c)) is amended by striking out “obligations of the Association” each time it appears and inserting in lieu thereof “certificates of value of the Association”.

(m) (1) Subsection (b) of section 214 of such Act (45 U.S.C. 724(b)) is amended by striking out “\$5,000,000” and inserting in lieu thereof “\$7,000,000”.

Appropriation
authorization.

(2) Section 214(c) of such Act is amended by striking out the period and inserting in lieu thereof “, and not to exceed \$14,000,000 for the fiscal period which includes the period ending September 30, 1977.”.

(n) Section 214(a) of such Act (45 U.S.C. 724(a)) is amended by adding at the end thereof the following: “There are authorized to be appropriated to the Secretary such sums as may be necessary to discharge the obligations of the United States arising under section 303(c)(5) of this Act.”.

Appropriation
authorization.

Post, p. 109.

(o) Paragraph (4) of section 206(d) of such Act (45 U.S.C. 716(d)(4)) is amended—

- (1) in the first sentence thereof, by striking out “30 days after the effective date of the final system plan” and inserting in lieu thereof “7 days after the date of the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976”; and in the

Ante, p. 31.

second sentence thereof, by striking out "60" and inserting in lieu thereof "95"; and

(2) by inserting immediately after the first sentence thereof the following new sentence: "Any such offer may be modified until the date of acceptance thereof, unless such modification results in an offer for the sale of rail properties at less than the net liquidation value thereof."

(p) Section 206(d) of such Act (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any statement to the contrary in the final system plan, a State (or a local or regional transportation authority) shall not be required to deliver to the Corporation a firm commitment to acquire rail properties designated to such State or authority prior to 7 days after the date of enactment of this paragraph."

45 USC 716.

(q) Section 206 of such Act (45 U.S.C. 717(c)) is amended by adding at the end thereof the following new subsection:

"(j) Any rail properties over which rail service was being provided as of the date of enactment of this Act, and which were recommended in the preliminary system plan for transfer to the Corporation, shall be deemed to be designated in the final system plan for transfer to the Corporation under subsection (c)(1)(A) of this section. Any designation in the final system plan, pursuant to subsection (c)(1)(B) of this section, of overhead trackage rights to be acquired by a profitable railroad operating in the region over specified rail properties to be acquired by the Corporation, where such designation does not (1) authorize such profitable railroad to interchange traffic with at least one railroad, or (2) provide for the connection of portions of such profitable railroad's rail properties, and where the transfer of ownership of such rail properties (including trackage rights) to such profitable railroad was recommended in the preliminary system plan, and the Commission has made a determination with respect thereto, in accordance with subsection (d)(3) of this section, shall be deemed to authorize such profitable railroad to interchange traffic with the Corporation and any other profitable railroad connecting with such specified rail properties."

Final system
plan, certified
copy, delivery
date.

(r) Section 209(c) of such Act (45 U.S.C. 719(c)) is amended by adding at the end thereof, without paragraph indentation, the following new sentences: "Notwithstanding any other provisions of this subsection and subsection (d) of this section, the time for the delivery of a certified copy of the final system plan shall be March 12, 1976, and may be extended to a date not more than 30 days thereafter, prescribed in a notice filed by the Association not later than February 10, 1976, with the special court, the Congress, and each court referred to in such subsection (d). Such notice shall contain the certification of the Association that an orderly conveyance of rail properties cannot reasonably be effected before the date for conveyance determined with respect to such notice. The time prescribed in section 303(a) of this Act shall be determined with respect to the date prescribed in such notice."

45 USC 743.

(s) Section 209(c) (1) and (2) of such Act (45 U.S.C. 719(c) (1) and (2)) is amended by striking out "railroad leased" each time it appears therein and inserting in lieu thereof "person leased".

Ante, p. 86.

(t) Section 102(12) of such Act (45 U.S.C. 702(12)), as redesignated by this Act, is amended (1) by inserting immediately before "which are used or useful" the following: "(or a person owned, leased, or otherwise controlled by a railroad)"; and (2) by striking out "phase" and inserting in lieu thereof "phrase".

CAPITALIZATION OF THE CORPORATION

SEC. 608. Section 301(e) of such Act (45 U.S.C. 741(e)) is amended to read as follows:

“(e) INITIAL CAPITALIZATION.—(1) In order to carry out the final system plan, the Corporation is authorized to issue debentures, series A preferred stock, series B preferred stock, common stock, contingent interest notes, and other securities.

“(2) Debentures and series A preferred stock shall be issued initially to the Association. Series B preferred stock and common stock shall be issued initially to the estates of railroads in reorganization in the region, to railroads leased, operated, and controlled by railroads in reorganization in the region, and to other persons leased, operated or controlled by a railroad in reorganization who are transferors of rail properties in exchange for rail properties transferred to the Corporation pursuant to the final system plan. Notwithstanding any other provisions of State or Federal law, the series B preferred stock and common stock shall have terms and conditions not inconsistent with the final system plan. As a condition of its investment in the Corporation, the Association may require that the Corporation adopt limitations consistent with the final system plan on the circumstances under which dividends on the series B preferred stock and common stock are payable so long as any of the debentures or series A preferred stock are outstanding.”.

PROTECTION OF FEDERAL FUNDS

SEC. 609. Title III of such Act, as amended by this Act, is further amended by inserting the following new section:

“PROTECTION OF FEDERAL FUNDS

“SEC. 307. (a) AUDIT.—(1) The Comptroller General of the United States is authorized to audit the programs, activities, and financial operations of the Corporation for any period during which (A) Federal funds provided pursuant to this Act are being used to finance any portion of its operations, or (B) Federal funds have been invested therein pursuant to this Act. Any such audit may be conducted under such rules and regulations as the Comptroller General may prescribe. The Comptroller General shall report to the Congress at such times and to such extent as he considers necessary to keep the Congress informed on the security of such Federal funds and guarantees and, to the extent appropriate, make recommendations for achieving greater economy, efficiency, and effectiveness in such programs, activities, and operations. 45 USC 747.

“(2) For the purpose of any audit conducted pursuant to subsection (a) of this section, the Comptroller General, or a designated representative of the Comptroller General, shall have access to and the right to examine all books, accounts, records, reports, files, and other papers, items, or property belonging to or in use by the Corporation.

“(b) REPORT.—The Association shall prepare and submit an annual report to Congress on the performance of the Corporation in order to keep the Congress informed as to matters which may affect the quality of rail services in the region and which may affect the security of Federal funds referred to in subsection (a) of this section. Each such report shall be submitted within 150 days after the end of the fiscal year of the Corporation. Each such report shall include an evaluation of—

Report to
Congress.

45 USC 716.

“(1) the degree to which the goals of section 206(a) of this Act are being met;

“(2) the amounts and causes of deviations, if any, from the financial projections of the final system plan;

“(3) the amount of Federal funds made available to the Corporation and a clear description of the uses of such funds;

“(4) the projected financial needs of the Corporation;

“(5) the projected sources from which such financial needs are likely to be met; and

“(6) the ability of the Corporation to become financially self-sustaining without requiring Federal funds in excess of those authorized by section 216(f) of this Act.”.

Ante, p. 89.

CONTINUING REORGANIZATION; SUPPLEMENTAL TRANSACTIONS

SEC. 610. (a) Section 102 of such Act (45 U.S.C. 702), as amended by this Act, is amended—

(1) in paragraph (16) thereof, by striking out “and”;

(2) in paragraph (17) thereof, by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following two new paragraphs:

“Subsidiary.”

“(18) ‘subsidiary’ means any corporation 100 percent of whose total combined voting shares are, directly or indirectly, owned or controlled by the Corporation; and

“Supplemental transaction.”

Infra.

45 USC 743.

“(19) ‘supplemental transaction’ means any transaction set forth in a proposal under section 305 of this Act, within 6 years after the date on which the special court orders conveyances of rail properties to the Corporation under section 303(b) of this Act, under which the Corporation or a subsidiary thereof would (A) acquire rail properties not designated for transfer or conveyance to it under the final system plan, (B) convey rail properties to a profitable railroad, a subsidiary of the Corporation or, other than as designated in the final system plan, to the National Railroad Passenger Corporation or to a State or a local or regional transportation authority, or to any other responsible person for use in providing rail service, or (C) enter into contractual or other arrangements with any person for the joint use of rail properties or the coordination or separation of rail operations or services.”.

(b) Title III of such Act is amended by adding at the end thereof the following new sections:

“CONTINUING REORGANIZATION; SUPPLEMENTAL TRANSACTIONS

45 USC 745.

“SEC. 305. (a) PROPOSALS.—If the Secretary or the Association determines that, as part of continuing reorganization, further restructuring of rail properties in the region through transactions supplemental to the final system plan would promote the establishment and retention of a financially self-sustaining rail service system in the region adequate to meet the needs of the region, the Secretary or the Association, as the case may be, may develop proposals for such supplemental transactions as are necessary or appropriate to implement the needed restructuring. Transfers of rail properties included in proposals developed by the Association shall be limited to (1) rail properties which would have qualified for designation under section 206(c) (1)

45 USC 716.

(A) of this Act but which were not transferred or conveyed under the final system plan, and which the Association finds to be essential to the efficient operations of the Corporation, and (2) transfers, con-

sistent with the final system plan, of rail properties from the Corporation to a subsidiary thereof. Each proposal (other than a proposal developed by the Association) shall be submitted in writing to the Association and shall state and describe any transactions proposed, the rail properties involved, the parties to such transactions, the financial and other terms of such transactions, the purposes of the Act or the goals of the final system plan intended to be effectuated by such transactions, and such other information incidental thereto as the Association may prescribe. Within 10 days after receipt of a proposal developed by the Secretary, and upon the development of a proposal developed by the Association, the Association shall publish a summary of such proposal in the Federal Register, and shall afford interested persons (including the Corporation when property is to be transferred to or from the Corporation) an opportunity to comment thereon.

Publication in
Federal Register.

“(b) EVALUATION BY ASSOCIATION.—The Association shall analyze each proposal containing one or more supplemental transactions, taking into account the comments of interested persons and statements and exhibits submitted at any public hearings which may have been held. The Association shall, within 120 days after the publication of a summary thereof under subsection (a) of this section, publish in the Federal Register a report evaluating such proposal. Such evaluation shall state whether the supplemental transactions contained in such proposal, considered in their entirety, are (1) in the public interest and consistent with the purposes of this Act and the goals of the final system plan, and (2) fair and equitable. If the Corporation opposes, or seeks modification of, any such proposed transfer, its written comments shall be given due consideration by the Association and shall be published as part of the evaluation. Within 30 days after the Association publishes its report, each proposed transferor or transferee shall notify the Association in writing as to whether any proposed supplemental transaction requiring the transfer of any property from or to such transferor or transferee is acceptable to such proposed transferor or transferee. If any such proposed transferor (other than the Corporation) or transferee fails to notify the Association that any proposed supplemental transaction requiring the transfer of any property from such transferor or to such transferee is acceptable to it, no further administrative or judicial proceedings shall be conducted with respect to such proposed supplemental transaction.

Publication in
Federal Register.

“(c) REVIEW BY THE COMMISSION.—Within 90 days after the publication in the Federal Register of each report referred to in subsection (b) of this section, the Commission shall determine whether the supplemental transactions referred to in the report, considered in their entirety, would be in the public interest and consistent with the purposes of this Act and the goals of the final system plan. In making such determination, the Commission shall give due consideration to the views received by it, within 30 days after the publication of the applicable report, from the Corporation and the Secretary. The Commission may condition its approval of such supplemental transactions on such reasonable terms and conditions as it may deem necessary in the public interest. The approval by the Commission of such supplemental transactions shall not be a prerequisite to the consummation of such transactions, but any determination of the Commission modifying, approving, or disapproving any proposed supplemental transactions shall be given due weight and consideration by the special court in the proceedings prescribed in subsection (d) of this section. If the Commission fails to act within the time period provided in this sub-

section, the supplemental transactions involved shall be deemed to have been approved by the Commission. The Commission may prescribe such regulations as may be necessary for the administration of this section.

“(d) SPECIAL COURT PROCEEDINGS.—(1) If the Association has made the determination pursuant to subsection (b) of this section that a proposal for supplemental transactions is in the public interest and consistent with the purposes of this Act and the goals of the final system plan, and is fair and equitable, the Association shall, within 40 days after the date of the Commission's determination under subsection (c) of this section, or after the expiration of the 90-day period referred to in such subsection (c), whichever is applicable, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest and consistent with the purposes of this Act and the goals of the final system plan, and is fair and equitable, and directing the Corporation to carry out the supplemental transactions specified in such proposal. If the Association has determined, pursuant to subsection (b) of this section that a proposal made by the Secretary is not in the public interest or is not consistent with the purposes of this Act and the goals of the final system plan or is not fair and equitable, the Secretary may, if he determines that such proposal is in the public interest and consistent with the purposes of this Act and the goals of the final system plan and is fair and equitable, petition the special court for an order of such court finding that such proposal for supplemental transactions is in the public interest and consistent with the purposes of this Act and the goals of the final system plan and is fair and equitable, and directing the Corporation to carry out any supplemental transactions specified in such proposal. Such a petition shall be submitted to the special court within 90 days after the date of the Commission's determination under such subsection (c), or after the expiration of the 90-day period referred to in such subsection (c), whichever is applicable.

“(2) Within 180 days after the filing of a petition under paragraph (1) of this subsection, the special court shall decide, after a hearing, whether the proposed supplemental transactions contained in such petition, considered in their entirety, are in the public interest and consistent with the purposes of this Act and the goals of the final system plan and are fair and equitable. If the special court determines that such proposed supplemental transactions, considered in their entirety, are in the public interest and consistent with the purposes of this Act and the goals of the final system plan and are fair and equitable, it shall, upon making such determination, issue such orders as may be necessary to direct the Corporation to consummate the transactions. If the special court determines that such proposed supplemental transactions, considered in their entirety, are not in the public interest or not consistent with the purposes of this Act and the goals of the final system plan, or are not fair and equitable, it shall file an opinion stating its conclusion and the reasons therefor. In such event the Association (in the case of a proposal developed by the Association) or the Secretary (in the case of a proposal developed by the Secretary) may, within 120 days after the filing of such opinion, certify to the special court that the terms and conditions of the proposal have been modified consistent with the opinion of the court and are acceptable to each proposed transferor (other than the Corporation) or transferee, and may petition the special court for recon-

sideration of the proposal as so modified. Within 90 days after the filing of such petition, the special court shall decide, after a hearing, whether the proposal as modified by the certification is in the public interest and consistent with the purposes of this Act and the goals of the final system plan and is fair and equitable, and shall enter such further orders as are consistent with its determination.

“(3) The Corporation is authorized to petition the special court and to be represented regarding any proposed supplemental transaction, contained in a proposal developed by either the Association or the Secretary, which involves the properties of the Corporation.

“(4) In proceedings under this subsection, the special court is authorized to exercise the powers of a judge of a United States district court with respect to such proceedings and such powers shall include those of a reorganization court.

“(5) Any evaluation by the Association, the Secretary, or the Commission shall not be reviewable in any court except the special court in accordance with the provisions of this section. The supplemental transactions shall not be restrained or enjoined by any court nor shall they be otherwise reviewable by any court other than by the special court to the extent provided in this section.

“(6) Notwithstanding any other provision of this Act, no findings, determinations, or proceedings shall be required with respect to any proposal for supplemental transactions other than as expressly set forth in this section.

“(7) Any supplemental transaction under this section shall subject the transferor and transferee, in each such supplemental transaction, to the requirements and other provisions of title V of this Act, except that the term ‘effective date of this Act’ contained in such title V shall be applied to such supplemental transaction as if it read ‘effective date of the supplemental transaction’.

45 USC 771.

“(8) A final order or judgment of the special court entering or denying an order pursuant to this subsection shall be reviewable in the same manner as provided in section 209(e) (3) of this Act.

Ante, p. 86.

“(e) **DEFINITION.**—As used in this section, the term ‘fair and equitable’ means fair and equitable, in accordance with the standards applicable to the approval of a plan of reorganization (or a step in such plan) under section 77 of the Bankruptcy Act (11 U.S.C. 205) to—

“(1) the estates of railroads in reorganization in the region and persons leased, operated, or controlled by such railroads who have conveyed rail properties, under section 303(b) (1) of this title, in exchange for securities of the Corporation, the Association, or profitable railroads and other benefits provided as a consequence of this Act and to any subsequent holders of such securities at the time of the supplemental transaction involved; and

45 USC 743.

“(2) the holders of other securities of the Corporation.

Whenever any property or securities of the Corporation are required to be valued in order to determine whether the terms of a supplemental transaction are fair and equitable, the special court shall give proper recognition to the contributions to the Corporation by all classes of security holders, except that such court shall not assign to the series B preferred stock or the common stock of the Corporation any values added to those securities, by reason of investment by the Association in debentures and series A preferred stock of the Corporation, in excess of any value required by constitutional principles applicable to a reorganization process.

"CERTIFICATES OF VALUE

45 USC 746.

45 USC 743.

Guaranteed
payment.

"SEC. 306. (a) GENERAL.—On the date when the Corporation is required to deposit securities with the special court pursuant to section 303(a)(1) of this title, the Association shall deposit with the special court the certificates of value of the Association required by this section. The Secretary shall guarantee the payment of all certificates of value delivered in accordance with this title. All guarantees entered by the Secretary under this section shall constitute general obligations of the United States of America for the payment or redemption of which its full faith and credit are pledged. Such guarantees shall be valid and incontestable except as to mutual mistake of fact or as to fraud or material misrepresentation by the holder of such certificates or the transferor of rail properties to which certificates of value of any series so guaranteed are issued.

"(b) NUMBER AND DISTRIBUTION.—A separate series of certificates of value shall be issued to each railroad in reorganization in the region and each person leased, operated, or controlled by such a railroad that transfers rail properties to the Corporation or a subsidiary thereof. The number of certificates of value of each series to be deposited pursuant to subsection (a) shall be equal to the number of shares of series B preferred stock of the Corporation which are required to be deposited by the Corporation with the special court, pursuant to section 303(a)(1) of this title in exchange for the rail properties transferred to the Corporation or a subsidiary thereof by such transferor. Certificates of value of the appropriate series shall be distributed by the special court, pursuant to section 303(c)(4) of this title, at the same time to the same transferors, and in the same numbers of units as shares of such series B preferred stock are distributed to such transferor.

"(c) REDEMPTION.—(1) Certificates of value, of any series, shall be redeemed by the Association on December 31, 1987, or on such earlier date as the Board of Directors of the Association and the Finance Committee jointly may determine and specify.

"(2) Each certificate of value of each series shall be redeemable for an amount, payable in cash, equal to its base value on the redemption date, minus—

"(A) the sum of the fair market value of the series B preferred stock applicable to such certificate, the fair market value of the common stock applicable to such certificate, and all cash dividends theretofore paid on any such series B preferred stock and on any such common stock; and

"(B) any sums paid to a transferor of rail properties to whom such series of certificates of value was issued resulting from sales or leases by the Corporation of properties transferred to it by such transferor divided by the number of certificates of value distributed to such transferor.

"(3) The number of shares of series B preferred stock and common stock applicable to each certificate of value of any series, pursuant to paragraph (2) of this subsection, shall be—

"(A) one share of series B preferred stock (without regard to any stock splits, stock combinations, reclassifications or similar transactions affecting the number of shares of outstanding series B preferred stock following the date of distribution pursuant to section 303(c)(4) of this title); and

"(B) the number of shares of common stock determined by dividing the total number of shares of common stock distributed pursuant to section 303(c)(4) of this Act to the transferor receiv-

ing such series of certificate of value by the total number of certificates of value in the series so distributed to such transferor.

“(4) The base value of each certificate of value of any series shall be the value obtained by (A) taking the net liquidation value, as determined by the special court, to which the transferor to whom such series of certificates of value is issued is entitled by virtue of transfers of rail properties, under section 303(b)(1) of this title to the Corporation or a subsidiary thereof; (B) subtracting the value of other benefits provided under this Act, as determined by the special court; (C) adding such amount, if any, as the special court may determine shall be required after taking into consideration compensable unconstitutional erosion, if any, in the estate of a railroad in reorganization, or of a railroad leased, operated, or controlled by such a railroad, which the special court finds to have occurred during any bankruptcy proceeding with respect to such railroad; (D) adding interest from the transfer date to the redemption date to be compounded annually at a rate of 8 percent per annum; and (E) dividing the resulting value by the number of certificates of value of such series distributed to such transferor. In determining such base value, the special court shall give due weight and consideration to the finding of the Association as to the net liquidation value to which each transferor is entitled by virtue of conveyances of rail properties under section 303(b)(1) of this title. For purposes of this paragraph, the term ‘rail properties’ includes all rights with respect to employee benefit plans transferred and assigned to the Corporation pursuant to section 303(b)(6) of this title. Net liquidation value with respect to such rights shall be determined after taking into account all obligations finally transferred or assigned to the Corporation pursuant to such section.

“(5) The fair market value of series B preferred stock and of common stock of the Corporation shall be determined in accordance with regulations prescribed by the Association, on the basis of the average price of each such security in the primary established market in which such securities are traded over a period of 120 consecutive trading days ending not less than 20 nor more than 40 trading days preceding the redemption date, or, in the case of a security for which there is not an established trading market, on the basis of the fair market value thereof as determined by the majority vote of three experts in the valuation of securities, one to be selected by the Association, one to be selected by the directors of the Corporation elected by the holders of the security to be valued, and one to be selected by the two first selected.

“(d) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to discharge the obligations of the United States arising under this section.”

OFFICERS AND DIRECTORS OF THE CORPORATION

SEC. 611. (a) Section 301(c) of such Act (45 U.S.C. 741(c)) is amended by inserting “(1)” immediately before “The members”, by deleting the second sentence of such paragraph (1) and by adding at the end thereof the following new paragraph:

“(2) Notwithstanding any provision of State law, after the date of enactment of this paragraph, the members of the executive committee of the Association (including duly authorized representatives of members who are authorized by this Act to be represented) and the chief executive officer and chief operating officer of the Corporation shall adopt the bylaws of the Corporation and serve as the Board of Direc-

Base value.

45 USC 743.

“Rail properties.”

Post, p. 110.

Fair market value.

tors of the Corporation until all members of the Board of Directors of the Corporation have been selected in accordance with subsection (d) of this section. The chief executive officer shall serve as chairman of such Board until a chairman thereof is selected pursuant to subsection (d) of this section, after which time such chairman shall serve at the pleasure of such Board.”

(b) Section 301(d) of such Act (45 U.S.C. 741(d)) is amended to read as follows:

“(d) BOARD OF DIRECTORS.—(1) Notwithstanding any provision of State law, the articles of incorporation and bylaws of the Corporation shall provide that the Board of Directors of the Corporation shall consist of 13 members selected in accordance with the articles and bylaws of the Corporation, as follows:

“(A) six individuals selected by the holders of the Corporation’s debentures and series A preferred stock voting as one class, with every \$100 principal amount of debentures, and every \$100 liquidation amount of series A preferred stock each receiving one vote for directors;

“(B) three individuals selected by the holders of the Corporation’s series B preferred stock; and

“(C) two individuals selected by the holders of the Corporation’s common stock.

“(2) The chief executive officer and the chief operating officer of the Corporation shall also serve on the Board, but the chief executive officer and chief operating officer of the Corporation shall not be entitled to vote on the election or removal of either. In the event a vacancy occurs on the Board of Directors due to death, disability or resignation of a director (other than resignations pursuant to this subsection), such vacancy shall be filled only by a vote of the holders of the class of securities that initially elected such director. Two members of the Board selected by the holders of the Corporation’s debentures and series A preferred stock shall resign when the total of the principal amount of the outstanding debentures and the amount of the liquidation amount of the outstanding series A preferred stock, once having exceeded \$1,500,000,000, has been reduced below that amount; two additional members of the Board selected by the holders of the Corporation’s debentures and series A preferred stock of the Corporation shall resign when the total of the principal amount of the outstanding debentures and the amount of the liquidation amount of the outstanding series A preferred stock, once having exceeded \$1,500,000,000, has been reduced below \$750,000,000. The two remaining members of the Board selected by the holders of the Corporation’s debentures and series A preferred stock shall resign when all the debentures and series A preferred stock have been redeemed by the Corporation. As directors resign in accordance with the foregoing provisions, the election of corporate directors to fill the vacancies created by their resignations shall be governed by applicable State law and the articles and bylaws of the Corporation.”

(c) Section 301 of such Act (45 U.S.C. 741) is amended by (1) striking out subsection (f) thereof; (2) redesignating subsection (g) thereof as subsection (h); and (3) inserting therein the following two new subsections:

“(f) OFFICERS.—The officers of the Corporation shall include a chief executive officer and a chief operating officer, who shall be appointed by the Board of Directors and who shall serve at the pleasure of the Board; and such other officers as shall be provided for in the bylaws of the Corporation.

“(g) VOTING TRUSTEES.—For and during the period between the deposit of securities of the Corporation with the special court, in accordance with section 303(a) of this title, and the distribution of such securities, in accordance with section 303(c) of this title, the special court shall, within 30 days after the date of conveyance pursuant to section 303(b)(1) of this Act, appoint one or more voting trustees for each class of securities which is so deposited. Such voting trustees shall, on behalf of the distributees, exercise the rights of the holders of such securities as their interests may appear. Within 30 days after such appointment, such voting trustees shall select members of the Board of Directors of the Corporation on behalf of the holders of the class of securities whose rights they exercise pursuant to this subsection.”.

45 USC 743.

MISCELLANEOUS AMENDMENTS TO TITLE III

SEC. 612. (a) Section 303(b)(3) of such Act (45 U.S.C. 743(b)(3)) is amended to read as follows:

“(3)(A)(i) Notwithstanding any other provision of this Act, if an interest in railroad rolling stock is included in the rail properties conveyed pursuant to subsection (b)(1) of this section, and if such conveyance is in accordance with the requirements of clause (ii) of this subparagraph, the conveyance of such properties shall be deemed an assignment. Any such assignment shall relieve the assignor of liability for any breach which occurs after the date of such conveyance, except that such assignor shall remain liable for any breach, event of default, or violation of covenant which occurred (and any charges or obligations which accrued) prior to the date of such conveyance, regardless of whether the assignee thereof assumes such liabilities, charges or obligations. If any such liabilities, charges, or obligations (accrued prior to the date of such conveyance) are paid by or on behalf of any person or entity other than such assignor, such person or entity shall have a claim to direct reimbursement, as a current expense of administration, from such assignor, together with interest on the amount so paid.

Railroad rolling
stock,
conveyance.

“(ii) A conveyance referred to in clause (i) of this subparagraph may be effected only if—

“(I) the Corporation or a subsidiary thereof, the profitable railroad operating in the region, or the State or responsible person to whom such conveyance is made assumes all of the obligations under any applicable conditional sale agreement, equipment trust agreement, or lease with respect to such rolling stock (including any obligations which accrued prior to the date on which such properties are conveyed), and

“(II) such conveyance is made subject to such obligations. As used in this subparagraph, the term ‘railroad rolling stock’ means assets which could be carried in Interstate Commerce Commission account numbers 52, 53, 54, and 57.

“Railroad rolling
stock.”

“(B) Subject to the provisions of this paragraph, the provisions of this Act shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale vendor under any conditional sale agreement, equipment trust agreement, or lease under section 77(j) of the Bankruptcy Act (11 U.S.C. 205(j)). A profitable railroad operating in the region, the Corporation or a subsidiary thereof, or a State or responsible person, to whom such a conveyance is made as assignee or as lessee, shall assume all liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by,

such a profitable railroad, Corporation, subsidiary, State, or responsible person shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provisions of any such agreement or lease.”.

(b) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by (1) inserting “and” after the comma at the end of subsection (7) thereof; and (2) deleting “, and (9) the Consolidated Rail Corporation to the extent provided in the Regional Rail Reorganization Act of 1973.” and inserting in lieu thereof “.”.

45 USC 701 note. (c) (1) Section 303(a)(1) of such Act (45 U.S.C. 743(a)(1)) is amended by inserting after “Corporation”, the second time it appears “or any subsidiary thereof”.

(2) Paragraphs (1) and (2) of section 303(b) of such Act (45 U.S.C. 743(b)(1) and (2)) are amended by inserting after “Corporation” each time it appears therein (except the first time) “or any subsidiary thereof”.

(3) Section 303(c)(1) of such Act (45 U.S.C. 743(c)(1)) is amended by inserting after “Corporation” each time it appears “or any subsidiary thereof”.

(4) Paragraph (2)(A) of section 303(c) of such Act (45 U.S.C. 743(c)(2)(A)) is amended by striking “Corporation” the second time it appears and inserting in lieu thereof “Corporation or any subsidiary thereof”.

(d) (1) Section 303(a)(2) of such Act (45 U.S.C. 743(a)(2)) is amended by inserting after “region” the first time it appears “and each State or responsible person (including a government entity)”.

(2) Section 303(b)(1) of such Act (45 U.S.C. 743(b)(1)) is amended (A) by inserting immediately after “region” the first place it appears the following: “, States, and responsible persons”, and (B) by striking out “and the respective profitable railroads operating in the region” and inserting in lieu thereof “, the respective profitable railroads operating in the region, States, and responsible persons”.

(3) Section 303(b)(2) of such Act (45 U.S.C. 743(b)(2)) is amended by striking out “and the respective profitable railroads operating in the region” and inserting in lieu thereof “, the respective profitable railroads operating in the region, States, and responsible persons”.

(4) Paragraph (4) of section 303(b) of such Act (45 U.S.C. 743(b)(4)) is amended by striking “or the profitable railroad” and inserting in lieu thereof “, profitable railroad, State, or responsible person”.

(5) Section 303(c) of such Act (45 U.S.C. 743(c)) is amended by striking “and profitable railroads operating in the region” and inserting in lieu thereof “, profitable railroads operating in the region, States, and responsible persons”.

(6) Paragraph (1)(A)(ii) of section 303(c) of such Act (45 U.S.C. 743(c)(1)(A)(ii)) is amended by inserting “State, or responsible person” after “region”.

(7) Paragraph (3) of section 303(c) of such Act (45 U.S.C. 743(c)(3)) is amended by inserting “, State, or responsible person” after “region” and by inserting after “railroad” each time it appears therein (except the first time) “, State, or responsible person”.

(8) Paragraph (4) of section 303(c) of such Act (45 U.S.C. 743(c)(4)) is amended by inserting “, States, and responsible persons” after “railroads”.

(e) Section 303(c)(2) of such Act (45 U.S.C. 743(c)(2)) is amended by (1) striking out “shall” in the clause preceding subparagraph (A) thereof and inserting “may” in lieu thereof; (2) striking

out the semicolon at the end of subparagraph (A) thereof and inserting in lieu thereof “, except that at least one share of series B preferred stock and one certificate of value shall be allocated to each such railroad;”; and (3) amending subparagraph (C) thereof to read as follows:

“(C) enter a judgment against the Corporation if the judgment would not endanger the viability or solvency of the Corporation.”.

(f) Section 303(c) of such Act (45 U.S.C. 743(c)) is amended by adding at the end thereof the following new paragraph:

“(5) Whenever the special court orders, pursuant to section 303(b) (1) of this title, the transfer or conveyance to the Corporation or any subsidiary thereof of rail properties designated under section 206 (c) (1) (C) or (D) of this Act, to the National Railroad Passenger Corporation, to a profitable railroad, or to a State, or responsible person (including a government entity), the United States shall pay any judgment entered against the Corporation with respect to the conveyance of any such rail properties or against the National Railroad Passenger Corporation, such profitable railroad, State, or responsible person, plus interest thereon at such rate as is constitutionally required. The United States may, in its discretion, represent the Corporation or the National Railroad Passenger Corporation, such profitable railroad, State or responsible person, in any proceedings before the special court that could result in such a judgment against the Corporation under paragraph (2) of this subsection or against the National Railroad Passenger Corporation, such profitable railroad, State or responsible person, under paragraph (3) of this subsection. The Corporation, the National Railroad Passenger Corporation, any profitable railroad, State, or responsible person, which is represented by the United States of America shall cooperate diligently in whatever manner the United States shall reasonably request of it in connection with such proceedings. Neither the Corporation, or its subsidiaries, nor the National Railroad Passenger Corporation, any profitable railroad, State or responsible person, shall be obligated to reimburse the United States for any moneys paid by the United States pursuant to this section.”.

45 USC 716.

(g) Section 303(d) of such Act (45 U.S.C. 743(d)) is amended by (1) striking out “5” and inserting in lieu thereof “20”.

(h) Section 303(c)(4) of such Act (45 U.S.C. 743(c)(4)) is amended by (1) striking out “subsection (b)” and inserting in lieu thereof “subsection (a)” and (2) inserting after “region” the following: “and to persons leased, operated, or controlled by such railroads who so transferred or conveyed rail properties”.

(i) Section 303 of such Act (45 U.S.C. 743) is amended by (1) adding “, certificates of value” after “securities” in subsection (c)(1) (A) thereof, in the preamble of subsection (c)(2) and in subsection (c)(2) thereof, and in subsection (c)(3) thereof; (2) adding “and certificates of value” after “of the Corporation” in subsection (c)(2) (A) thereof and after “Corporation’s securities” in subsection (c)(2) (B) thereof; (3) striking out “obligations of the Association” each place the phrase appears and inserting in lieu thereof “certificates of value issued by the Association”; and (4) striking out “obligations” each place it appears other than as part of such phrase and inserting in lieu thereof “certificates of value”.

(j) (1) Section 301(a) of such Act (45 U.S.C. 741(a)) is amended by inserting immediately after “Corporation” the following: “or such other corporate name as may be duly adopted by the Corporation”.

(2) Section 201(k) of such Act (45 U.S.C. 711(k)), as redesignated by section 603(a) of this Act, is amended (A) by striking out “these provisions” in the third sentence thereof and inserting in lieu thereof “this provision”; (B) by striking out “or the Corporation” each place

it appears in the third and fourth sentences thereof; and (C) by striking out the second sentence thereof.

(3) Section 301(b) of such Act (45 U.S.C. 741(b)) is amended in the third sentence thereof by inserting immediately after "of the Corporation" the following: "or of its principal railroad operating subsidiary".

(k) Section 303(b)(4) of such Act (45 U.S.C. 743(b)(4)) is amended by inserting immediately after "is made assumes" the following: "all future liability under such lease and".

(1) Section 303(b) of such Act (45 U.S.C. 743(b)) is amended by inserting at the end thereof the following two new paragraphs:

"(5) Notwithstanding any covenant, undertaking, condition, or provision of any sort in any lease, agreement, or contract, the conveyance, transfer, assignment, or other disposition of such lease, agreement, or contract or of any interest therein to, or the assumption by, the Corporation or any subsidiary thereof, or a profitable railroad of obligations thereunder, shall not be deemed a breach, an event of default, or a violation of any covenant of such lease, agreement, or contract.

"(6) Notwithstanding anything to the contrary contained in this Act or any other provision of law, the special court shall include in its order such further directions as may be necessary to assure (A) that the operation and administration of the employee pension benefit plans described in section 505(a) of this Act shall be continued, without termination or interruption, by the Corporation until such time as the Corporation elects to amend or terminate any such plan, in whole or in part; and (B) that appropriate transfers and assignments with respect to all rights and obligations relating to such plans shall be made to the Corporation for such purposes, without prejudice to payment of consideration for whatever rights any railroad in reorganization may have in any residual assets under any such employee pension benefit plan. No court shall enter any judgment against the Corporation with respect to any such rights, except that the special court may enter such a judgment in an order issued by it pursuant to subsection (c) of this section, after taking into consideration the rights and obligations transferred pursuant to this paragraph. All liabilities as an employer shall be imposed solely upon the railroad in reorganization in the event such plan is terminated, in whole or in part, by the Corporation within 1 year after the date of such transfer or assignment (except liabilities as an employer under the Employee Retirement Income Security Act of 1974 for benefits accruing during such period)."

(m) Section 301 of such Act (45 U.S.C. 741) is amended by adding at the end thereof the following two new subsections:

"(h) **LIABILITY OF DIRECTORS.**—No director of the Corporation shall be liable, for money damages or otherwise, to any party by reason of the fact that such person is or was a director, if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty which he in good faith reasonably believed to be required by law or vested in him in his capacity as a director of the Corporation or as an officer of the United States. The United States shall indemnify such person against all judgments, amounts paid in settlement, and costs and expenses (including fees of accountants, experts, and attorneys), actually and reasonably incurred in connection with any such action, suit, or proceeding in which such person is determined to have met such standard of conduct. This subsection shall not be construed to grant any immunity from any criminal law of the United States.

"(i) **CORPORATE SIMPLIFICATION.**—In the interest of corporate simplification, the Corporation, in implementing the final system plan, shall undertake, as soon as possible and pursuant to financial assistance provided by the Railroad Revitalization and Regulatory Reform

45 USC 775.

29 USC 1001
note.

Act of 1976, to acquire all interests in rail lines and related rail properties otherwise conveyed to the Corporation, upon the tender of such interests to it, so as to eliminate any remaining intermediate layers of ownership or interest, such as leaseholds, owned or held by persons who are neither a railroad, a railroad in reorganization, nor controlled by a railroad in reorganization. Any option conditions regarding the purchase price for such interests, in existence since prior to January 2, 1974, shall be deemed to be conclusive of fair and equitable value.”.

Ante, p. 31.

(n) Section 303(c)(3) of such Act (45 U.S.C. 743(c)(3)) is amended by adding at the end thereof the following: “The special court shall also find the amount of the payments, if any, which each profitable railroad has made on behalf of a transferor railroad in reorganization in accordance with section 211(h) of this Act, for which payment the profitable railroad has not been reimbursed, as provided in section 211(h). Notwithstanding any other provision of this paragraph or of paragraph (4), the special court shall order the return to any such profitable railroad from compensation deposited by such profitable railroad pursuant to section 303(a)(2), of any such amount so found together with interest at the rate provided in section 211(h).”.

Ante, p. 92.

(o) Section 303(b)(1) of such Act (45 U.S.C. 743(b)(1)) is amended by striking out “railroad leased” and inserting in lieu thereof “person leased”.

(p) Section 303(b)(1) of such Act (45 U.S.C. 743(b)(1)) is amended by adding at the end thereof the following: “In any case where the special court orders the trustee or trustees of a railroad in reorganization in the region to execute and deliver deeds or other instruments conveying rail properties to the Corporation or a subsidiary thereof or to a profitable railroad operating in the region or a State or responsible person, those deeds or other instruments may be executed, acknowledged, and delivered on behalf of the trustee or trustees by any person or persons who have been duly authorized to perform such acts on behalf of the trustee or trustees by the district court of the United States or any other court having jurisdiction over the respective railroad in reorganization in the region. Notwithstanding any provision of State or local law, in any case where deeds or other instruments have been executed, acknowledged, or delivered by a representative of the trustee or trustees of a railroad in reorganization in the region in accordance with the previous sentence, such execution, acknowledgment, and delivery, and the deeds or other instruments to which they pertain, shall have the same legal effect as they would have had if the trustee or trustees had themselves executed, acknowledged and delivered such deeds or other instruments.”.

(q) (1) Section 303(c)(1)(A)(i) of such Act is amended by inserting after “exchange” the second time it appears the following: “(taking into consideration compensable unconstitutional erosion, if any, which the special court finds to have occurred in the estate of each such railroad, during the bankruptcy proceeding with respect to such railroad)”.

(2) Section 303(c)(1)(A)(ii) of such Act (45 U.S.C. 743(c)(1)(A)(ii)) is amended by inserting immediately after “region,” the following: “in exchange for compensation and other benefits accruing to such transferor as a result of such exchange (taking into consideration compensable unconstitutional erosion, if any, which the special court finds to have occurred in the estate of each such railroad, during the bankruptcy proceeding with respect to such railroad)”.

(3) Section 303(c)(2) of such Act (45 U.S.C. 743(c)(2)) is amended by inserting immediately after “reorganization” the second time it appears the following: “(taking into consideration compensa-

ble unconstitutional erosion, if any, which the special court finds to have occurred in the estate of each such railroad, during the bankruptcy proceeding with respect to such railroad.”.

(4) Section 303(c)(3) of such Act (45 U.S.C. 743(c)(3)) is amended by adding at the end thereof the following new sentence: “In making any finding under this paragraph, the special court shall take into consideration compensable unconstitutional erosion, if any, which it finds to have occurred in the estate of a railroad in reorganization in the region, or of a railroad leased, operated, or controlled by such a railroad, during the bankruptcy proceeding with respect to such railroad.”.

DEFINITIONS

SEC. 613. Section 501 of such Act (45 U.S.C. 771) is amended—

(1) in paragraphs (1) and (6) thereof, by inserting immediately after “Corporation” each place it appears the following: “or a subsidiary thereof”;

(2) in paragraph (2) thereof (A) by inserting immediately after “Corporation” the following: “or a subsidiary thereof, to the National Railroad Passenger Corporation,”; and (B) by striking out “except a president,” and inserting in lieu thereof “(except a Class I railroad which is not wholly owned, operated, or leased by a railroad in reorganization but is controlled by a railroad in reorganization), but does not include a president,”;

(3) by amending paragraph (3) thereof to read as follows:

“(3) ‘protected employee’ means any employee of—

“(A) an acquiring or selling railroad who is adversely affected by a transaction;

“(B) the Corporation who, immediately preceding such employment by the Corporation, was employed by a selling railroad and who is adversely affected by the sale of rail properties to the Corporation pursuant to an offer designated under section 206(c)(2) of this Act;

“(C) a railroad in reorganization in the region; and

“(D) a railroad who is adversely affected by a supplemental transaction under section 305 of this Act or by a project recommended under section 206(g) of this Act;

who, in any such case, has not reached age 65 on the effective date of this Act;”

(4) amending paragraph (8) thereof by (A) striking out “this Act or” and inserting in lieu thereof “this Act, including section 305 thereof, or”, and (B) striking out “and” at the end of such paragraph;

(5) striking out the period at the end of paragraph (9) thereof and inserting in lieu thereof “; and”; and

(6) adding at the end thereof the following new paragraph:

“(10) ‘selling railroad’ means a railroad which sells rail properties pursuant to an offer designated under section 206(c)(2) of this Act.”.

EMPLOYMENT OFFERS

SEC. 614. (a) Section 502(b) of such Act (45 U.S.C. 772(b)) is amended to read as follows:

“(b) MANDATORY OFFER.—The Corporation shall offer employment, to be effective as of the date of a conveyance or discontinuance of serv-

45 USC 716.

Ante, p. 100.

ice under the provisions of this Act, to each employee of a railroad in reorganization in the region who has not already accepted an offer of employment by the Association (where applicable), an acquiring railroad, or the Corporation. Such offers of employment to employees represented by labor organizations shall be confined to their same craft and class. The Corporation shall apply to such employees the protective provisions of this title.”

(b) Section 502(a) of such Act (45 U.S.C. 772(a)) is amended by adding at the end thereof the following new sentence: “As used in this subsection, the term ‘where applicable’ refers to the relation of the Association, as an employer (A) to employees of the Association who, before the date of conveyance, under section 303(b)(1) of this Act, had creditable service under the relevant statute and who were offered and accepted coverage under such statute, and (B) to former employees of railroads in reorganization in the region, after the date of such conveyance.” 45 USC 743.

COLLECTIVE BARGAINING AGREEMENTS

SEC. 615. Section 504 of such Act (45 U.S.C. 774) is amended by adding at the end thereof the following three new subsections:

“(e) **LIABILITY FOR EMPLOYEE CLAIMS.**—In all cases of claims by employees, arising under the collective bargaining agreements of the railroads in reorganization in the region, and subject to section 3 of the Railway Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act. In those cases in which claims for employees were sustained or settled prior to such date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estates of the railroads in reorganization which were their former employers.

Ante, p. 92.

“(f) **TRANSFER OF EMPLOYEES TO THE NATIONAL RAILROAD PASSENGER CORPORATION OR ACQUIRING RAILROADS.**—Notwithstanding any otherwise applicable provisions of this title, protected employees to whom the Corporation has made offers of employment may be transferred to the National Railroad Passenger Corporation in accordance with the following procedure:

“(1) Not later than 90 days after the date of completion of the transaction required by section 206(c) of this Act, implementing agreement negotiations between representatives of the various crafts or classes of employees associated with the involved properties, the Corporation, and the National Railroad Passenger Corporation shall commence. These negotiations shall— 45 USC 716.

“(A) identify the specific employees of the Corporation to whom the National Railroad Passenger Corporation offers employment;

“(B) the procedure by which those employees of the Corporation may elect to accept employment with the National Railroad Passenger Corporation;

“(C) the procedure for acceptance of such employees into the National Railroad Passenger Corporation’s employment; and

“(D) the procedure for determining the seniority of such employees in their respective crafts or classes on the National

Railroad Passenger Corporation's system which shall, to the extent possible, preserve their prior seniority rights.

45 USC 791.

Hearings.

45 USC 151.

If no agreement regarding the matters referred to in this subsection is reached by the end of 60 days after the date of commencement of negotiations (which shall also be a date which is at least 90 days after the transaction contemplated by section 601 (d) of this Act), upon notice of any party, all parties thereto shall within an additional 10 days select a neutral referee. If such parties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee. Hearings shall commence not later than 30 days after the date of selection or appointment of such referee, and a decision shall be rendered by such referee within 60 days after the date of commencement of the hearings. The referee shall resolve and decide all matters in dispute regarding the negotiation of the implementing agreement or agreements. All parties may participate, but the referee shall have the only vote. The referee's decision shall be final and binding and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provisions of the Railway Labor Act.

"(2) Prior to implementation of an agreement or agreements pursuant to paragraph (1) of this subsection, the representatives of the various crafts or classes of employees designated to be transferred to the National Railroad Passenger Corporation shall meet with representatives of the National Railroad Passenger Corporation for the purposes of negotiating agreements regarding rates of pay, rules, and working conditions. If, 60 days after the date of commencement of such negotiations, no agreement has been reached, the bargaining agreement in existence on the rail properties from which the employees are to be transferred and which is applicable to the craft or class of employees being transferred will apply and such implementing agreement will be put into effect.

Post, p. 116.

"(3) An employee of the Corporation who is entitled to protection and who is transferred as a result of an acquisition pursuant to this Act shall upon transfer to the National Railroad Passenger Corporation or to an acquiring railroad, carry with him his protected status. The National Railroad Passenger Corporation or an acquiring railroad, as new employers, shall be responsible for payment of protective benefits and shall be entitled to reimbursement pursuant to section 509 of this title.

"(4) The National Railroad Passenger Corporation may prior to completion of any of the agreements referred to in this section, offer employment to any noncontract employee. Noncontract employees accepting employment with the National Railroad Passenger Corporation shall carry with them all rights and benefits accorded to them under this title.

45 USC 743.

Ante, p. 92.

"(g) ASSUMPTION OF PERSONAL INJURY CLAIMS.—All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization in the region arising prior to the date of conveyance of rail properties, pursuant to section 303 of this Act, shall be assumed by the Corporation or an acquiring railroad, as the case may be. The Corporation or the acquiring railroad shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 211 (h) of this Act."

EMPLOYEE PROTECTION

SEC. 616. (a) Section 505(a) of such Act (45 U.S.C. 775(a)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “, including benefits under any employee pension benefit plan in effect on December 1, 1975, other than a plan maintained primarily for the purpose of providing deferred compensation for a select group of management personnel or other highly compensated employees. For purposes of protecting employee pension benefits under this title, the term ‘protected employee’ whose employment is governed by a collective-bargaining agreement includes any beneficiary of, and any participant in, such plan, including noncontract employees. The protected benefits of such beneficiary or participant, accrued as of the date of conveyance, may be limited to the amount guaranteed under terminated plans pursuant to title IV of the Employee Retirement Income Security Act of 1974. Pension benefits shall not be paid to any beneficiary of a terminated plan whose benefits are guaranteed by such Act.”

29 USC 1301.

(b) Section 505(b)(1) of such Act (45 U.S.C. 775(b)(1)) is amended by striking out “the last 12 months immediately prior to his being adversely affected” and inserting in lieu thereof “the 12 full calendar months immediately preceding February 26, 1975, or in the case of a supplementary transaction, the 12 full calendar months immediately preceding the effective date of such transaction”.

(c) Section 505(b)(3) of such Act (45 U.S.C. 775(b)(3)) is amended by striking out “his being adversely affected” and inserting in lieu thereof “February 26, 1975, or the effective date of the supplemental transaction, as the case may be”.

(d) Section 505(b) of such Act (45 U.S.C. 775) is amended by (1) redesignating paragraph (4) thereof as paragraph (5) thereof and (2) inserting a new paragraph (4) therein as follows:

“(4) If a noncontract employee exercises seniority rights in a craft or class of employees protected under this Act, then, during the period such seniority is exercised, such noncontract employee shall be entitled to the same protection offered under this Act to employees in the craft or class in which such seniority is exercised. However, in computing the monthly displacement allowance, the last 12 months prior to February 26, 1975, during which such noncontract employee performed service under a collective-bargaining agreement, shall be used.”

Noncontract employees.

(e) Section 505(f) of such Act (45 U.S.C. 775(f)) is amended to read as follows:

“(f) **TERMINATION ALLOWANCE.**—The Corporation may terminate the employment of an employee of a railroad in reorganization who has less than 3 years’ service with such railroad, as of the date of enactment of this Act. The Corporation’s right to terminate an employee must be exercised within a period of 1 year from the date of conveyance, pursuant to section 303 of this Act. Upon notification to the employee of the Corporation’s intent to terminate his services, the employee shall have the option of accepting the termination allowance or of accepting a voluntary furlough without pay. If the employee entitled to receive a lump sum separation allowance accepts such an allowance, the amount shall be determined as follows:

45 USC 743.

2 to 3 years’ service.....	180 days’ pay at the rate of the position last held.
1 to 2 years’ service.....	90 days’ pay at the rate of the position last held.
Less than 1 year’s service.....	5 days’ pay at the rate of the position last held for each month of service.”

(f) Section 505(h) of such Act (45 U.S.C. 775(h)) is amended by adding at the end thereof the following new sentence: "Provisions of this title shall be applied, upon a conveyance or discontinuance of service, to employees who are otherwise entitled to protective benefits and who were placed in furlough status on or after February 26, 1975."

(g) Section 505 of such Act (45 U.S.C. 775) is amended by adding at the end thereof the following new subsection:

"(i) **NONCONTRACT EMPLOYEES.**—Compensation, severance, termination, and moving expense benefits for employees not governed by a collective-bargaining agreement shall be consistent with subsections (b), (c), (e), (f), and (g) of this section and shall be in accordance with the following provisions:

"(1) A protected employee, whose employment is not governed by the terms of a collective-bargaining agreement, may be required by the Corporation, upon reasonable notice, to transfer to any position on the Corporation's system. If such transfer requires a change in residence, the employee may either voluntarily suspend his employment at his home location in lieu of protective benefits, or he may sever his employment and receive a benefit computed in accordance with subsection (e) or (f) of this section. These provisions supersede all provisions or conditions in subsection (d) of this section.

"(2) If any dispute arises between the Corporation and a noncontract employee regarding the interpretation or application of any provision of this title, the Corporation shall establish a resolution procedure with arbitration as the final step. Either party may request arbitration, and the cost and expenses of such arbitration shall be shared equally by the parties."

(h) Section 509 of such Act (45 U.S.C. 779) is amended to read as follows:

"PAYMENT OF BENEFITS

"SEC. 509. The Corporation, the Association (where applicable), and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title, other than provisions with respect to employee pension benefits, not to exceed the aggregate sum of \$250,000,000, by the Railroad Retirement Board, upon certification to such Board, by the Corporation, the Association (where applicable), and acquiring railroads, of the amounts paid such employees. Such reimbursement shall be made from a separate account maintained in the Treasury of the United States to be known as the Regional Rail Transportation Protective Account. Neither the Regional Rail Transportation Protective Account nor the Corporation nor an acquiring railroad shall be charged for any amounts of benefits paid to a protected employee under the provisions of the Railroad Unemployment Insurance Act or any other income protection law or regulation. There is authorized to be appropriated to the Regional Rail Transportation Protective Account annually such sums as may be required to meet the obligations payable hereunder, not to exceed the aggregate sum of \$250,000,000. There is further authorized to be appropriated to the Railroad Retirement Board annually such sums as may be necessary to provide for additional administrative expenses to be incurred by the Board in the performance of its functions under this section."

Regional Rail
Transportation
Protective
Account.

45 USC 367.
Appropriation
authorization.

DUTIES OF ACQUIRING AND SELLING RAILROADS

SEC. 617. Section 508 of such Act (45 U.S.C. 778) is amended to read as follows:

“DUTIES OF ACQUIRING AND SELLING RAILROADS

“SEC. 508. (a) ACQUIRING RAILROADS.—(1) An acquiring railroad shall offer such employment, subject to such rules and working conditions, and afford such employment protection to employees of a railroad from which it acquires properties or facilities (including operating rights) pursuant to this Act, and shall afford such protection to its own employees who are adversely affected by such acquisition, as shall be agreed upon between such acquiring railroad and the representatives of such employees prior to such acquisition, except that the protection and benefits (except as to rules and working conditions) provided for protected employees in such agreements shall be the same as those specified in section 505 of this title. Unless and until such agreements are reached, the acquiring railroad shall not enter into purchase agreements pursuant to section 206(d)(4) of this Act. For purposes of this subsection, the National Railroad Passenger Corporation shall be deemed to be an acquiring railroad, with respect to employees described in section 501(3) of this title.

45 USC 775.

45 USC 716.

45 USC 771.

“(2) If the National Railroad Passenger Corporation acquires rail properties of a railroad in reorganization in the region, prior to the date of conveyance of rail properties to the Corporation pursuant to section 303(b)(1) of this Act but after the publication of the preliminary system plan, it shall offer such employment and afford such employment protection to employees of a railroad from which it acquires rail properties and shall further protect its own employees who may be adversely affected by such acquisition, as shall be agreed upon between the National Railroad Passenger Corporation and the representatives of such employees prior to such acquisitions. The protection and benefits provided for employees in such agreements shall be the same as those specified in section 505 of this title, and such protection and benefits shall supersede conflicting provisions in any previously applicable job stabilization agreements or agreements implementing such stabilization agreements, and the National Railroad Passenger Corporation shall be reimbursed for expenses incurred as a result of any such acquisition, as provided in section 509 of this title.

45 USC 743.

Ante, p. 116.

“(b) SELLING RAILROADS.—A selling railroad shall offer such employment and shall provide such employment protection to each of its employees who are adversely affected by such sale, pursuant to agreements to be entered into between it and the representatives of such employees prior to said sale: *Provided*, That (1) the protection and benefits provided for protected employees in such agreements shall be the same as those specified in section 505 of this title, and (2) unless and until such agreements are reached, the selling railroad shall not enter into selling agreements pursuant to section 206(d) of this Act.”

EXEMPTIONS

SEC. 618. (a) Section 601(a)(2) of such Act (45 U.S.C. 791(a)(2)) is amended by adding immediately before the period at the end thereof the following: “and with respect to any action taken to formulate or implement any supplemental transaction”.

(b) Section 601(b) of such Act (45 U.S.C. 791(b)) is amended to read as follows:

11 USC 1 note. “(b) **COMMERCE, SECURITIES, AND BANKRUPTCY.**—(1) The provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.) and the Bankruptcy Act (11 U.S.C. 205 et seq.) are inapplicable (A) to actions taken under this Act to formulate and implement the final system plan where such action was in compliance with the requirements of such plan, and (B) to actions taken under this Act to formulate or implement any supplemental transaction.

“(2) All securities of the Corporation which are issued to the Association as the initial holder, or which are issued in connection with the transfer to the Corporation or a subsidiary thereof of rail properties under this Act, shall be deemed for all purposes to have been issued subject to and authorized pursuant to section 20a of the Interstate Commerce Act (49 U.S.C. 20a).

45 USC 743. “(3) The provisions of section 5 of the Securities Act of 1933 (15 U.S.C. 77e), shall not apply to transactions involving the issuance of any security of the Corporation to the Association, transactions involving the issuance of any security of the Corporation that is deposited with the special court pursuant to section 303(a) of this Act, or transactions involving the issuance or distribution of any security of the Corporation, where the terms and conditions of such issuance or distribution are approved by the special court pursuant to section 303(c) of this Act.

“(4) The powers and duties of the Commission under section 77 of the Bankruptcy Act (11 U.S.C. 205), with respect to a railroad in reorganization in the region which conveys all or substantially all of its designated rail properties to the Corporation or a subsidiary thereof, or to profitable railroads in the region, pursuant to the final system plan, and the requirement that plans of reorganization be filed with the Commission, shall cease upon the date of such conveyance. The powers and duties of the Commission under section 77 of the Bankruptcy Act shall also so terminate, as of the date of enactment of this paragraph, with respect to any railroad in reorganization under such section 77 but not subject to this Act which (1) does not operate any line of railroad, and (2) has transferred all or substantially all of its rail properties to a railroad in reorganization in the region which was subject to this Act prior to the date of enactment of this paragraph. Thereafter, such powers and duties of the Commission shall be vested in the district court of the United States which has jurisdiction of the estate of any such railroad in reorganization at the time of such conveyance. Such court shall proceed to reorganize or liquidate such railroad in reorganization pursuant to such section 77 on such terms as the court deems just and reasonable, or pursuant to any other provisions of the Bankruptcy Act, if the court finds that such action would be in the best interests of such estate. This paragraph does not affect any obligation of any carrier by railroad subject to regulation under the Interstate Commerce Act. The powers and duties of the Commission under section 77 of the Bankruptcy Act shall continue in effect only to the extent that the railroad in reorganization continues to operate any line of railroad.”.

(c) Section 601(c) of such Act (45 U.S.C. 791(c)) is amended to read as follows:

“(c) **ENVIRONMENT.**—The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply with respect to any action taken under authority of this Act before, and including, the conveyance of rail properties ordered by the special court under section 303(b)(1) of this Act, and shall not apply thereafter to any action taken in compliance with the requirements of the final system plan.”.

APPLICATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 619. Nothing in this title shall affect the application of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to actions of the Commission. 45 USC 791 note.

TITLE VII—NORTHEAST CORRIDOR PROJECT
IMPLEMENTATION

NATIONAL RAILROAD PASSENGER CORPORATION

SEC. 701. (a) GENERAL.—To carry out the purposes of this title, the Rail Passenger Service Act, and the Regional Rail Reorganization Act of 1973, the National Railroad Passenger Corporation is authorized to— 45 USC 851.
45 USC 501 note.
45 USC 701 note.

(1) acquire by purchase, lease, exchange, gift, or otherwise, and to hold, maintain, sell, lease or otherwise dispose of, any real or personal property or interest therein which is necessary or useful in establishing and maintaining improved high-speed rail services, as specified in section 703 of this title;

(2) enter into and implement such contracts and agreements as are necessary or appropriate in the conduct of its functions;

(3) provide for the continuous operation and maintenance of rail freight, intercity rail passenger, and commuter rail passenger service over the properties acquired pursuant to this section: *Provided*, That any provision of rail freight or rail commuter service shall be effectuated by a compensatory contract with the responsible carrier;

(4) improve railroad rights-of-way between Boston, Massachusetts, and Washington, District of Columbia (including at its option, the route through Springfield, Massachusetts, and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line) to enable improved high-speed rail passenger service to be provided between Boston, Massachusetts, and Washington, District of Columbia, and intermediate intercity markets, in accordance with the goals set forth in section 703 of this title;

(5) acquire, construct, improve, and install passenger stations; communications, electric power, and other facilities and equipment; public and private highway and pedestrian crossings; other safety facilities or equipment; and any other facilities or equipment which it determines are necessary to enable improved high-speed rail passenger service to be provided over the railroad rights-of-way to be improved under paragraph (4) of this subsection;

(6) enter into agreements with other railroads, other carriers, and commuter agencies, for the purpose of granting, acquiring, or entering into trackage rights, contract services, and other appropriate arrangements for freight and commuter services over the rights-of-way acquired under this title, with such agreement to be on such terms and conditions as are necessary to reimbursement for costs on an equitable and fair basis, except that cross subsidization among intercity, commuter, or rail freight services is prohibited;

(7) appoint a qualified individual to serve as the General Manager of the Northeast Corridor improvement project; and

(8) enter into agreements with telecommunications common carriers on a basis which is consistent with, and subject to, the

47 USC 609.

Communications Act of 1934, for the purpose of continuing existing, and creating new and improved, rail passenger radio mobile telephone service in the high-speed rail passenger service area specified in section 703(1) of this title.

(b) **TRANSFER OF RAIL PROPERTIES.**—The Corporation, on the date of conveyance pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743), shall, by purchase or lease, transfer to the National Railroad Passenger Corporation all rail properties designated pursuant to sections 206(c)(1)(C) and 601(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and 791(d)), and it shall, within 180 days after the date of enactment of this title, execute agreements providing for the National Railroad Passenger Corporation to assume (1) all operational responsibility for intercity rail passenger services with respect to such properties, and (2) control and maintenance of the properties transferred. Such parties may agree to retaining or transferring, in whole or in part, operational responsibility for rail freight or commuter rail services in the area specified.

(c) **DEFINITION.**—As used in this title, the term “Northeast Corridor” means the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland, and the District of Columbia.

OPERATIONS REVIEW PANEL

45 USC 852.

SEC. 702. (a) ESTABLISHMENT.—There is established an entity which shall be representative of the various users of Northeast Corridor rail transportation facilities, to be known as the Operations Review Panel (hereafter in this section referred to as the “Panel”). The Panel shall have the authority to take such actions as are necessary to resolve differences of opinion concerning operations (among or between the National Railroad Passenger Corporation, other railroads, and State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)).

(b) **MEMBERSHIP.**—The Panel shall consist of 5 members, as follows:

(1) one member who shall be selected by the chief executive officer of the National Railroad Passenger Corporation;

(2) one member who shall be selected by majority vote of the commuter rail authorities which are subject to the jurisdiction of the Panel;

(3) one member who shall be selected by the chief executive officer of the Corporation; and

(4) two neutral members who shall be selected by the Chairman of the National Mediation Board.

The members shall each serve a term of 4 years from the date of such selection, or until a successor has been selected. If, within 45 days after the date of enactment of this Act, the National Railroad Passenger Corporation, the commuter authorities, or the Corporation fails to select the member who it is authorized to select under this subsection, the Chairman of the National Mediation Board shall, within 30 days after the expiration of such 45-day period, appoint a member on behalf of such party. Any member so appointed shall serve until such time as the party so represented selects a successor.

(c) **DECISIONS AND REVIEW.**—All decisions of the Panel shall be final and binding on the parties. All costs and expenses of the Panel shall be paid by (1) the National Railroad Passenger Corporation, (2) the

commuter rail authorities which are subject to such Panel, and (3) the Corporation, each of which shall pay one-third of such costs and expenses, unless otherwise determined by a majority of the members of such Panel. The Panel may adopt such rules of procedure and may employ such resources as it considers appropriate. It may issue preliminary and final orders, which shall have the force and effect of law, with respect to any difference of opinion concerning any operational matter which is the subject of such an order. No order of the Panel shall be subject to review by any court. Upon petition by any party subject to the Panel, the United States District Court for the District of Columbia shall enforce any final order issued by the Panel.

REQUIRED GOALS

SEC. 703. The Northeast Corridor improvement project shall be implemented by the Secretary in order to achieve the following goals: 45 USC 853.

(1) INTERCITY RAIL PASSENGER SERVICES.—(A) (i) Within 5 years after the date of enactment of this Act, the establishment of regularly scheduled and dependable intercity rail passenger service between Boston, Massachusetts, and New York, New York, operating on a 3-hour-and-40-minute schedule, including appropriate intermediate stops; and regularly scheduled and dependable intercity rail passenger service between New York, New York, and Washington, District of Columbia, operating on a 2-hour-and-40-minute schedule, including appropriate intermediate stops.

(ii) Improvements in facilities in accordance with route criteria approved by the Congress, on routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line, and from Springfield, Massachusetts, to Boston, Massachusetts, and New Haven, Connecticut, in order to facilitate compatibility with improved high-speed rail service operated on the Northeast Corridor main line.

(B) The improvement of nonoperational portions of stations (as determined by the Secretary in consultation with the National Railroad Passenger Corporation) used in intercity rail passenger service and of related facilities and fencing. Fifty percent of the cost of such improvements shall be borne by States (or local or regional transportation authorities), except that the Secretary may, in his sole discretion, fund entirely any safety-related improvement.

(C) The improvements required by this section shall be accomplished in a manner which is compatible with the accomplishment in the future of additional improvements in service levels, and which will produce the maximum labor benefit in terms of hiring persons who are presently unemployed.

(D) The submission by the Secretary and the National Railroad Passenger Corporation to the Congress of annual reports on progress achieved and work in progress and planned (including the need for further improvements) with respect to the completion of this program, including an up-to-date accounting of intercity passenger ridership, revenues from such ridership, expenses, and on-time dependability of intercity passenger trains in the Northeast Corridor.

(E) Within 2 years after the date of enactment of this Act, the submission by the Secretary to the Congress of a report on the financial and operating results of the intercity rail passenger service established under this section, on the rail freight service improved and maintained pursuant to this section, and on the

Report to
Congress.

practicability, considering engineering and financial feasibility and market demand, of the establishment of regularly scheduled and dependable intercity rail passenger service between Boston, Massachusetts, and New York, New York, operating on a 3-hour schedule, including appropriate intermediate stops, and regularly scheduled and dependable intercity rail passenger service between New York, New York, and Washington, District of Columbia, operating on a 2½-hour schedule, including appropriate intermediate stops. Such report shall include a full and complete accounting of the need for improvements in intercity passenger transportation within the Northeast Corridor and a full accounting of the public costs and benefits of improving various modes of transportation to meet those needs. If such report shows (i) that further improvements are needed in intercity passenger transportation in the Northeast Corridor, and (ii) that improvements (in addition to those required by subparagraph (A)(i) of this paragraph) in the rail system in such area would return the most public benefits for the public costs involved, the Secretary shall make appropriate recommendations to the Congress. Within 6 years after the date of enactment of this Act, the Secretary shall submit an updated comprehensive report on the matters referred to in this subparagraph. Thereafter, if it is practicable, the Secretary shall facilitate the establishment of intercity rail passenger service in the Corridor which achieves the service goals specified in this subparagraph.

(2) **RAIL COMMUTER SERVICES, RAIL RAPID TRANSIT, AND LOCAL TRANSPORTATION.**—To the extent compatible with the goals contained in paragraph (1) of this section, the facilitation of improvements in and usage of rail commuter services, rail rapid transit, and local public transportation.

(3) **RAIL FREIGHT SERVICE.**—The maintenance and improvement of rail freight service to all users of rail freight service located on or adjacent to the Northeast Corridor and the maintenance and improvement of all through-freight services which remain in the Northeast Corridor, to the extent compatible with the goals contained in paragraphs (1) and (2) of this section.

(4) **PASSENGER RADIO TELEPHONE SERVICE.**—To the extent compatible with the goals contained in paragraph (1) of this section, the continuation of and improvement in passenger radio telephone service aboard trains operated in high-speed rail service between Washington, District of Columbia, and Boston, Massachusetts. The President and relevant Federal agencies, including the Federal Communications Commission, shall take such actions as are necessary to achieve this goal, subject to the provisions of the Communications Act of 1934 (47 U.S.C. 151 et seq.), including necessary licensing, construction, operation, and maintenance standards for the radio service, as determined by the Federal Communications Commission to be in the public interest, convenience, and necessity.

FUNDING

45 USC 854.

SEC. 704. (a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary—

(1) \$1,600,000,000 to remain available until expended in order to effectuate the goals of section 703(1)(A)(i) of this title and after such goals have been achieved, the goals of section 703(1)(A)(ii);

(2) \$150,000,000 to remain available until expended in order to effectuate the goal of section 703 (1) (B) ;

(3) for payment to the National Railroad Passenger Corporation—

(A) \$10,000,000 to remain available until expended for nonrecurring costs related to the initial assumption of control and responsibility for maintaining rail operations on the Northeast Corridor;

(B) \$85,182,956 to acquire the properties of the Northeast Corridor;

(C) \$650,000 to remain available until expended, for the development and utilization of mobile radio frequencies for high-speed rail passenger radio telephone service; and

(D) \$20,000,000, to remain available until expended, for acquiring and improving properties designated in accordance with section 206 (c) (1) (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (c) (1) (D)).

(b) **LIMITATION.**—No funds appropriated under this section or pursuant to section 601 of the Rail Passenger Service Act may be used to subsidize any operating losses of commuter rail or rail freight services. 45 USC 601.

(c) **COORDINATION.**—The Secretary shall take all steps necessary to coordinate all transportation programs related to the Northeast Corridor to assure that all such programs are integrated and consistent with implementation of the Northeast Corridor improvement project under this title, including, if the Secretary finds any significant non-compliance with the implementation of the goals of section 703 of this title, the denial of funding to any noncomplying program until such noncompliance is corrected.

(d) **EMERGENCY MAINTENANCE CONTINUATION.**—After the conveyance of rail properties, pursuant to section 303 (b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743 (b)) and section 701 (b) of this title, not to exceed \$25,000,000 of the funds appropriated pursuant to Public Law 94-6 (89 Stat. 11) shall remain available to be utilized by the Secretary for the purpose of performing emergency maintenance on the rail properties designated in accordance with section 206 (c) (1) (C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (c) (1) (C)).

CONFORMING AMENDMENTS

SEC. 705. (a) Section 402 (a) of the Rail Passenger Service Act (45 U.S.C. 562 (a)) is amended by adding at the end thereof the following three new sentences: "Notwithstanding any other provision of this Act, the Corporation may enter into agreements with any other railroads and with any State (or local or regional transportation agency) responsible for providing commuter rail or rail freight services over tracks, rights-of-way, and other facilities acquired by the Corporation pursuant to authority granted by the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976. In the event of a failure to agree, the Commission shall order that rail services continue to be provided, and it shall, consistent with equitable and fair compensation principles, decide, within 180 days after the date of submission of a dispute to the Commission, the proper amount of compensation for the provision of such services. The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter, and rail freight services."

45 USC 701 note.
Ante, p. 31.

(b) Section 601 (d) (1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791 (d) (1)) is amended to read as follows:

45 USC 716.

“(d) NORTHEAST CORRIDOR.—(1) Rail properties designated in accordance with section 206(c)(1)(C) of this Act shall be purchased or leased by the National Railroad Passenger Corporation. The Corporation shall negotiate an appropriate sale or lease agreement with the National Railroad Passenger Corporation for the properties designated for transfer pursuant to section 206(c)(1)(C) of this Act (45 U.S.C. 716(c)(1)(C)), which shall take effect on the date of conveyance of such properties to the Corporation.”

(c) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended (1) by inserting “(1)” immediately after “(b)”, and (2) by striking out the second sentence thereof and inserting in lieu thereof the following: “The Corporation shall institute such service under an agreement if the State, regional, or local agency agrees to reimburse the Corporation for 50 percent of total operating losses and associated capital costs of such service if service can be provided with the resources available to the Corporation and if it is consistent with the following requirements:

“(A) The State or agency must make an adequate assurance to the Corporation that it has sufficient resources to meet its share of the costs of such service for the period such service is to be provided under this section.

“(B) The State or agency has conducted a market analysis acceptable to the Corporation to insure that there is adequate demand to warrant such service.

An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years.

“(2) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the Board of Directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation, except that a proposal for State support of a service deleted from the basic system shall be given preference.

“(3) The Board of Directors shall establish the basis for determining the total costs and the total revenue of the service provided pursuant to this subsection.”

(d) Section 404(b)(4) of the Rail Passenger Service Act (45 U.S.C. 564(b)) is amended by striking out the first sentence thereof and inserting in lieu thereof the following: “For purposes of paragraph (3) of this subsection, the reasonable portion of such losses to be assumed by the State, regional, or local agency shall be equal to 50 percent of the total operating losses and associated capital costs of such service.”

(e) Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsection:

“(i) The provisions of section 361 of the Public Health Service Act (42 U.S.C. 264) shall not apply to railroad conveyances operated in intercity rail passenger service.”

(f) Section 303(a)(5) of the Rail Passenger Service Act (45 U.S.C. 543(a)(5)) is amended by (1) striking out “for each meeting of the board he attends.” and inserting in lieu thereof “per diem when engaged in the actual performance of duties.”, and (2) inserting “, secretarial or professional staff support which is reasonably required” immediately after “necessary travel”.

(g) Section 305(d)(1)(B) of the Rail Passenger Service Act (45 U.S.C. 545(d)(1)(B)) is amended by striking out "for the construction of tracks or other facilities necessary to provide".

(h) Section 402(d)(1) of the Rail Passenger Service Act (45 U.S.C. 562(d)(1)) is amended by striking out "the construction of tracks or other facilities necessary to provide".

(i) Section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)) is amended by adding the following sentence at the end thereof: "After January 1, 1977, all route additions shall be in accordance with the Criteria and Procedures for Making Route and Service Decisions approved by the Congress pursuant to section 404(c)(3), and this subsection shall no longer apply to route additions."

FACILITIES WITH HISTORICAL OR ARCHITECTURAL SIGNIFICANCE

SEC. 706. Section 4(i) of the Department of Transportation Act (49 U.S.C. 1653) is amended by—

(1) redesignating paragraph (1)(C) thereof and all references thereto as paragraph (1)(D) thereof;

(2) inserting immediately after paragraph (1)(B) thereof the following new subparagraph: "(C) acquiring and utilizing space in suitable buildings of historic or architectural significance, unless the use of such space would not prove feasible and prudent compared with available alternatives;"

(3) redesignating paragraph (4), (5), (6), (7), (8), (9), and (10) thereof as paragraphs (5), (6), (7), (8), (9), (10), and (11) thereof, respectively;

(4) inserting after paragraph (3) thereof the following new paragraph:

"(4) Acquisitions made for the purpose set forth in paragraph (1)(C) of this subsection shall be made only after consultation with the chairman of the National Endowment for the Arts and the Advisory Council on Historic Preservation."; and

(5) amending paragraph (9) thereof, as redesignated by this section, to read as follows:

"(9)(A) There is authorized to be appropriated for the purpose set forth—

Appropriation
authorization.

"(i) in paragraphs (1)(A) and (1)(C) of this subsection, not to exceed \$15,000,000;

"(ii) in paragraph (1)(B) of this subsection, not to exceed \$5,000,000; and

"(iii) in paragraph (1)(D) of this subsection, not to exceed \$5,000,000.

"(B) There shall be available to the National Endowment for the Arts, from the sums available under subparagraphs (A)(ii) and (A)(iii) of this paragraph, not to exceed \$2,500,000 for planning pursuant to paragraph (1)(D) of this subsection, and not to exceed \$2,500,000 for interim maintenance pursuant to paragraph (1)(B) of this subsection.

"(C) Sums appropriated for the purposes of this subsection are authorized to remain available until expended."

TITLE VIII—LOCAL RAIL SERVICE CONTINUATION

EXTENSION OF SERVICE

SEC. 801. (a) Section 1(18) of the Interstate Commerce Act (49 U.S.C. 1(18)) is amended to read as follows:

"(18)(a) No carrier by railroad subject to this part shall—

“(i) undertake the extension of any of its lines of railroad or the construction of any additional line of railroad;

“(ii) acquire or operate any such extension or any such additional line; or

“(iii) engage in transportation over, or by means of, any such extended or additional line of railroad,

unless such extension or additional line of railroad is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or will be enhanced by the construction and operation of such extended or additional line of railroad. Upon receipt of an application for such a certificate, the Commission shall (A) send a copy of the application to the chief executive officer of each State that would be directly affected by the construction or operation of such extended or additional line, (B) send an accurate and understandable summary of such application to a newspaper of general circulation in such affected area or areas with a request that such information be made available to the general public, (C) cause a copy of such summary to be published in the Federal Register, (D) take such other steps as it deems reasonable and effective to publicize such application, and (E) indicate in such transmissions and publications that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Publication in
newspaper.

Publication in
Federal Register.

Rules and
regulations.

“(b) The Commission shall establish, and may from time to time amend, rules and regulations (as to hearings and other matters) to govern applications for, and the issuance of, any certificate required by subdivision (a). An application for such a certificate shall be submitted to the Commission in such form and manner and with such documentation as the Commission shall prescribe. The Commission may—

“(i) issue such a certificate in the form requested by the applicant;

“(ii) issue such a certificate with modifications in such form and subject to such terms and conditions as are necessary in the public interest; or

“(iii) refuse to issue such a certificate.

“(c) Upon petition or upon its own initiative, the Commission may authorize any carrier by railroad subject to this part to extend any of its lines of railroad or to take any other action necessary for the provision of adequate, efficient, and safe facilities for the performance of such carrier's obligations under this part. No authorization shall be made unless the Commission finds that the expense thereof will not impair the ability of such carrier to perform its obligations to the public.

“(d) Carriers by railroad subject to this part may, notwithstanding this paragraph and section 5 of this part, and without the approval of the Commission, enter into contracts, agreements, or other arrangements for the point ownership or joint use of spur, industrial, team, switching, or side tracks. The authority granted to the Commission under this paragraph shall not extend to the construction, acquisition, or operation of spur, industrial, team, switching, or side tracks if such tracks are located or intended to be located entirely within one State, and shall not apply to any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.

“(e) Any construction or operation which is contrary to any provision of this paragraph, of any regulations promulgated under this

paragraph, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed \$5,000 on each person who knowingly authorizes, consents to, or permits any violation of this paragraph or of the conditions of a certificate issued under this paragraph."

Penalty.

(b) Paragraphs (19), (20), (21), and (22) of section 1 of the Interstate Commerce Act (49 U.S.C. 1(19) through 1(22)) are repealed.

Repeal.

DISCONTINUANCE OR ABANDONMENT

SEC. 802. The Interstate Commerce Act is amended by inserting after section 1 thereof the following new section:

"DISCONTINUANCE AND ABANDONMENT OF RAIL SERVICE

"SEC. 1a. (1) No carrier by railroad subject to this part shall abandon all or any portion of any of its lines of railroad (hereafter in this section referred to as 'abandonment') and no such carrier shall discontinue the operation of all rail service over all or any portion of any such line (hereafter referred to as 'discontinuance'), unless such abandonment or discontinuance is described in and covered by a certificate which is issued by the Commission and which declares that the present or future public convenience and necessity require or permit such abandonment or discontinuance. An application for such a certificate shall be submitted to the Commission, together with a notice of intent to abandon or discontinue, not less than 60 days prior to the proposed effective date of such abandonment or discontinuance, and shall be in accordance with such rules and regulations as to form, manner, content, and documentation as the Commission may from time to time prescribe. Abandonments and discontinuances shall be governed by the provisions of this section or by the provisions of any other applicable Federal statute, notwithstanding any inconsistent or contrary provision in any State law or constitution, or any decision, order, or procedure of any State administrative or judicial body.

49 USC 1a.

"(2) (a) Whenever a carrier submits to the Commission a notice of intent to abandon or discontinue, pursuant to paragraph (1), such carrier shall attach thereto an affidavit certifying that a copy of such notice (i) has been sent by certified mail to the chief executive officer of each State that would be directly affected by such abandonment or discontinuance, (ii) has been posted in each terminal and station on any line of railroad proposed to be so abandoned or discontinued, (iii) has been published for 3 consecutive weeks in a newspaper of general circulation in each county in which all or any part of such line of railroad is located, and (iv) has been mailed, to the extent practicable, to all shippers who have made significant use (as determined by the Commission in its discretion) of such line of railroad during the 12 months preceding such submission.

Notice.

"(b) The notice required under subdivision (a) shall include (i) an accurate and understandable summary of the carrier's application for a certificate of abandonment or discontinuance, together with the reasons therefor, and (ii) a statement indicating that each interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Publication in newspapers.

"(3) During the 60-day period between the submission of a completed application for a certificate of abandonment or discontinuance pursuant to paragraph (1) and the proposed effective date of an abandonment or discontinuance, the Commission shall, upon petition, or may, upon its own initiative, cause an investigation to be conducted to assist it in determining what disposition to make of such application. An order to the Commission to implement the preceding sentence must be issued and served upon any affected carrier not less than 5 days prior to the end of such 60-day period. If no such investigation is ordered, the Commission shall issue such a certificate, in accordance with this section, at the end of such 60-day period. If such an investigation is ordered, the Commission shall order a postponement, in whole or in part, in the proposed effective date of the abandonment or discontinuance. Such postponement shall be for such reasonable period of time as is necessary to complete such investigation. Such an investigation may include, but need not be limited to, public hearings at any location reasonably adjacent to the line of railroad involved in the abandonment or discontinuance application, pursuant to rules and regulations of the Commission. Such a hearing may be held upon the request of any interested party or upon the Commission's own initiative. The burden of proof as to public convenience and necessity shall be upon the applicant for a certificate of abandonment or discontinuance.

Hearings.

"(4) The Commission shall, upon an order with respect to each application for a certificate of abandonment or discontinuance—

"(a) issue such certificate in the form requested by the applicant if it finds that such abandonment or discontinuance is consistent with the public convenience and necessity. In determining whether the proposed abandonment is consistent with the public convenience and necessity, the Commission shall consider whether there will be a serious adverse impact on rural and community development by such abandonment or discontinuance;

"(b) issue such certificate with modifications in such form and subject to such terms and conditions as are required, in the judgment of the Commission, by the public convenience and necessity; or

"(c) refuse to issue such certificate.

Each such certificate which is issued by the Commission shall contain provisions for the protection of the interests of employees. Such provisions shall be at least as beneficial to such interests as provisions established pursuant to section 5(2)(f) of this Act and pursuant to section 405 of the Rail Passenger Service Act (45 U.S.C. 565). If such a certificate is issued, actual abandonment or discontinuance may take effect, in accordance with such certificate, 120 days after the date of issuance thereof.

49 USC 5.

Transportation
system diagram.

"(5) (a) Each carrier by railroad subject to this part shall, within 180 days after the date of promulgation of regulations by the Commission pursuant to this section, prepare, submit to the Commission, and publish, a full and complete diagram of the transportation system operated, directly or indirectly, by such carrier. Each such diagram which shall include a detailed description of each line of railroad which is 'potentially subject to abandonment', as such term is defined by the Commission. Such term shall be defined by the Commission by rules and such rules may include standards which vary by region of the Nation and by railroad or group of railroads. Each such diagram shall also identify any line of railroad as to which such carrier plans to submit an application for a certificate of abandonment or discontinuance in accordance with this section. Each such carrier shall sub-

mit to the Commission and publish, in accordance with regulations of the Commission, such amendments to such diagram as are necessary to maintain the accuracy of such diagram.

“(b) The Commission shall not issue a certificate of abandonment or discontinuance with respect to a line of railroad if such abandonment or discontinuance is opposed by—

“(i) a shipper or any other person who has made significant use (as determined by the Commission in its discretion) of such line of railroad during the 12-month period preceding the submission of an applicable application under paragraph (1); or

“(ii) a State, or any political subdivision of a State, if such line of railroad is located, in whole or in part, within such State or political subdivision;

unless such line or railroad has been identified and described in a diagram or in an amended diagram which was submitted to the Commission under subdivision (a) at least 4 months prior to the date of submission of an application for such certificate.

“(6) (a) Whenever the Commission makes a finding, in accordance with this section, that the public convenience and necessity permit the abandonment or discontinuance of a line or railroad, it shall cause such finding to be published in the Federal Register. If, within 30 days of such publication, the Commission further finds that—

Publication in
Federal Register.

“(i) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

“(ii) it is likely that such proffered assistance would—

“(A) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line; or

“(B) cover the acquisition cost of all or any portion of such line of railroad;

the Commission shall postpone the issuance of a certificate of abandonment or discontinuance for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment or discontinuance, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

“(b) A carrier by railroad subject to this part shall promptly make available, to any party considering offering financial assistance in accordance with subdivision (a), its most recent reports on the physical condition of any line of railroad with respect to which it seeks a certificate of abandonment or discontinuance, together with such traffic, revenue, and other data as is necessary to determine the amount of assistance that would be required to continue rail service.

“(7) Whenever the Commission finds, under paragraph (6) (a) of this section, that an offer of financial assistance has been made, the Commission shall determine the extent to which the avoidable cost of providing rail service plus a reasonable return on the value of the rail properties involved exceed the revenues attributable to the line of railroad or the rail service involved.

“(8) Petitions for abandonment or discontinuance which were filed and pending before the Commission as of the date of enactment of this section or prior to the promulgation by the Commission of regulations required under this section shall be governed by the provisions of section 1 of this Act which were in effect on such date of enactment, except that paragraphs (6) and (7) of this section shall be applicable to such petitions.

Penalty.

“(9) Any abandonment or discontinuance which is contrary to any provision of this section, of any regulation promulgated under this section, or of any terms and conditions of an applicable certificate, may be enjoined by an appropriate district court of the United States in a civil action commenced and maintained by the United States, the Commission, or the attorney general or the transportation regulatory body of an affected State or area. Such a court may impose a civil penalty of not to exceed \$5,000 on each person who knowingly authorizes, consents to, or permits any violation of this section or of any regulation under this section.

“Avoidable cost.”

“(10) As used in this section:

“(a) The term ‘avoidable cost’ means all expenses which would be incurred by a carrier in providing a service which would not be incurred, in the case of discontinuance, if such service were discontinued or, in the case of abandonment, if the line over which such service was provided were abandoned. Such expenses shall include but are not limited to all cash inflows which are foregone and all cash outflows which are incurred by such carrier as a result of not discontinuing or not abandoning such service. Such foregone cash inflows and incurred outflows shall include (i) working capital and required capital expenditures, (ii) expenditures to eliminate deferred maintenance, (iii) the current cost of freight cars, locomotives and other equipment, and (iv) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

“Reasonable return.”

“(b) The term ‘reasonable return’ shall, in the case of a railroad not in reorganization, be the cost of capital to such railroad (as determined by the Commission), and, in the case of a railroad in reorganization, shall be the mean cost of capital of railroads not in reorganization, as determined by the Commission.”.

LOCAL RAIL SERVICE ASSISTANCE

SEC. 803. Section 5 of the Department of Transportation Act, as added by section 401 of this Act (49 U.S.C. 1654), is amended by adding at the end thereof the following 10 new subsections:

“(f) The Secretary shall, in accordance with this section, provide financial assistance to States for rail freight assistance programs that are designed to cover—

“(1) the cost of rail service continuation payments;

“(2) the cost of purchasing a line of railroad or other rail properties to maintain existing or provide for future rail service;

“(3) the cost of rehabilitating and improving rail properties on a line of railroad to the extent necessary to permit adequate and efficient rail freight service on such line; and

“(4) the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service.

Federal share.

“(g) The Federal share of the costs of any rail service assistance program shall be as follows: (1) 100 percent for the period from July 1, 1976 to June 30, 1977; (2) 90 percent for the period from July 1, 1977 to June 30, 1978; (3) 80 percent for the period from

July 1, 1978 to June 30, 1979; and (4) 70 percent for the period from July 1, 1979 to June 30, 1981. For the period from July 1, 1979 to June 30, 1981, the Secretary may make such adjustments in the percentage level of the Federal share as may be necessary and appropriate so as not to exceed the maximum amount of funds authorized under subsection (o) of this section. The Secretary shall, within 1 year after the date of enactment of this subsection, promulgate standards and procedures under which the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided.

Standards and
procedures.

“(h) Each State which is, pursuant to subsection (j) of this section, eligible to receive rail service assistance is entitled to an amount equal to the total amount authorized and appropriated for such purpose, multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service assistance under this section and whose denominator is the rail mileage in all of the States which are eligible for rail service assistance under this section. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated. For purposes of this subsection, rail mileage shall be measured by the Secretary, in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any such sums which are not used or committed by a State shall be reallocated immediately, to the extent practicable, among the other States, in accordance with the formula set forth in the first sentence of this subsection.

“(i) Rail service assistance to which a State is entitled under this section may be allocated by such State to meet the cost of establishing and implementing the State rail plan required by subsection (j) of this section or by section 402(c)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(1)). Such grants shall be made available by the Secretary during the course of the State rail planning process, and shall be distributed by the Secretary as needed by the States. The amount of State rail planning grants to which each State (including each State referred to in subsection (n)(1) of this section) is entitled shall be proportionate to the amount of rail service assistance to which such State is entitled under this Act.

“(j) A State is eligible to receive rail service assistance from the Secretary if—

Eligibility.

“(1) such State has established an adequate plan for rail services in such State as part of an overall planning process for all transportation services in such State, including a suitable process for updating, revising, and amending such plan;

“(2) such State plan is administered or coordinated by a designated State agency and provides for the equitable distribution of resources;

“(3) such State agency (A) has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail transportation services, (B) employs or will employ, directly or indirectly, sufficient trained and qualified personnel, (C) maintains or will maintain adequate programs of investigation, research, promotion, and development, with provisions for public participation, and (D) is designated and directed solely, or in cooperation with other State agencies to take all practicable steps to improve transportation safety and to reduce transportation-related energy utilization and pollution;

“(4) such State provides satisfactory assurance that it has or will adopt and maintain adequate procedures for financial control,

accounting, and performance evaluation in order to assure proper use of Federal funds; and

“(5) such State complies with regulations of the Secretary issued under this section and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection.

“(k) A project is eligible in any year for financial assistance from the applicable rail service assistance program only if—

“(1) (A) the Commission has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to such project, or (B) the line of railroad or related project was eligible for assistance under title IV of the Regional Rail Reorganization Act of 1973; and

“(2) such line, or related projects, has not previously been the subject of Federal rail service assistance under this section for more than 5 fiscal years.

“(1) The Secretary shall pay to each eligible State an amount equal to its entitlement under subsection (h) of this section, to be expended or committed to one or more projects which are eligible, pursuant to subsection (k) of this section.

45 USC 761.

Recordkeeping.

“(m) (1) Each recipient of financial assistance under subsections (e) through (o) of this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for 3 years after the completion of such a project or undertaking.

Audit.

“(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in paragraph (1) of this subsection.

“(3) The Secretary and the Comptroller General shall regularly conduct, or cause to be conducted—

“(A) a financial audit, in accordance with generally accepted auditing standards; and

“(B) a performance audit of the activities and transactions assisted under this section, in accordance with generally accepted management principles.

Rules and regulations.

Such audits may be conducted by independent certified or licensed public accountants and management consultants approved by the Secretary and the Comptroller General, and they shall be conducted in accordance with such rules and regulations as may be prescribed by the Comptroller General.

“State.”

“(n) As used in this section, the term ‘State’ means—

“(1) during the period from the date of enactment of this subsection through the second anniversary of the date on which rail properties are conveyed pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(1)), any State in which a carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad,

49 USC 1.

except that the term shall not include the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois, and the District of Columbia; and

“(2) during the period following the second anniversary of the date on which rail properties are conveyed pursuant to such section 303(b)(1), any State in which a carrier by railroad subject to part I of the Interstate Commerce Act maintains any line of railroad.” 45 USC 743.

“(o) There are authorized to be appropriated to the Secretary for the purposes of subsections (f) through (o) of this section not to exceed \$360,000,000, without fiscal year limitation. Of the foregoing sums, not to exceed \$5,000,000 shall be made available for planning grants during each of the 3 fiscal years ending June 30, 1976; September 30, 1977; and September 30, 1978. In addition, any appropriated sums remaining after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 are authorized to remain available to the Secretary for purposes of subsections (f) through (o) of this section. Such sums as are appropriated are authorized to remain available until expended.” Appropriation authorization. 45 USC 762.

TERMINATION AND CONTINUATION OF RAIL SERVICES

SEC. 804. Section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744) is amended to read as follows:

“TERMINATION AND CONTINUATION OF RAIL SERVICES

“SEC. 304. (a) DISCONTINUANCE.—(1) Except as provided in subsections (c) and (f) of this section, rail service on rail properties of a railroad in reorganization in the region, or of a person leased, operated, or controlled by such a railroad, which transfers to the Corporation or to profitable railroads operating in the region all or substantially all of its rail properties designated for such conveyance in the final system plan, and rail service on rail properties of a profitable railroad operating in the region which transfers substantially all of its rail properties to the Corporation or to other railroads pursuant to the final system plan, may be discontinued, to the extent such discontinuance is not precluded by the terms of the leases and agreements referred to in section 303(b)(2) of this title, if—

“(A) the final system plan does not designate rail service to be operated over such rail properties;

“(B) not sooner than 30 days following the effective date of the final system plan, the trustee or trustees of the applicable railroad in reorganization or a profitable railroad give notice in writing of intent to discontinue such service on a date certain which is not less than 60 days after the date of such notice or on the date of any conveyance ordered by the special court pursuant to section 303(b)(1) of this title, whichever is later; and

“(C) the notice required by subparagraph (B) of this paragraph is sent by certified mail to the Commission; to the chief executive officer, the transportation agencies, and the government of each political subdivision of each State in which such rail properties are located; and to each shipper who has used such rail service during the previous 12 months.

“(2) (A) If rail properties are not, in accordance with the designations in the final system plan, required to be operated, as a consequence of a recommended arrangement for joint use or operation of

- 45 USC 716. rail properties (under section 206(g) of this Act) or as part of a coordination project (under sections 206 (c) and (g) of this Act), rail service on such properties may be discontinued, subsequent to the date of conveyance of rail properties pursuant to such section 303(b) (1), if the Commission determines that such rail service on such rail properties is not compensatory and if—
- 45 USC 743. “(i) the petitioner and any other railroad involved in such arrangement or coordination project have, prior to filing an application for such discontinuance, entered into a binding agreement (effective on or before the effective date of such discontinuance) to carry out such arrangement or project;
- “(ii) such application is filed with the Commission not later than 1 year after the effective date of the final system plan; and
- “(iii) such discontinuance is not precluded by the terms of the leases and agreements referred to in such section 303(b) (2).
- “(B) For purposes of this paragraph, rail service on rail properties is compensatory if the revenue attributable to such properties from such service equals or exceeds the sum of the avoidable costs of providing such service on such properties plus a reasonable return on the value of such rail properties, as determined in accordance with the standards developed pursuant to section 205(d) (6) of this Act.
- 45 USC 715. “(C) The Commission shall make its final determination, with respect to any discontinuance requested under this paragraph, not later than 120 days after the date of filing of an application therefor. The applicant shall have the burden of proving that the service involved is not compensatory. If the Commission fails to make a final determination within such time, the application shall be deemed to be granted.
- Rules and regulations. “(D) The Commission may issue such rules, regulations, and procedures as it deems necessary for the conduct of its functions under this paragraph.
- Notice. “(b) ABANDONMENT.—(1) Except as provided in subsections (c) and (f) of this section, rail properties over which rail service has been discontinued under subsection (a) of this section may not be abandoned sooner than 120 days after the effective date of the discontinuance. Thereafter, except as provided in subsection (c) of this section, such rail properties may be abandoned upon 30 days’ notice in writing to any person (including a government entity) required to receive notice under subsection (a) (1) (C) of this section.
- “(2) In any case in which rail properties proposed to be abandoned under this section are designated by the final system plan as rail properties which are suitable for use for other public purposes (including roads or highways, other forms of mass transportation, conservation, and recreation), such rail properties shall not be sold, leased, exchanged, or otherwise disposed of during the 240-day period beginning on the date of notice of proposed abandonment under this section unless such rail properties have first been offered, upon reasonable terms, for acquisition for public purposes.
- “(3) Rail service may be discontinued, under subsection (a) of this section, and rail properties may be abandoned, under this section, notwithstanding any provision of the Interstate Commerce Act, the constitution or law of any State, or the decision of any court or administrative agency of the United States or of any State.
- “(c) CONTINUATION OF RAIL SERVICES.—No rail service may be discontinued and no rail properties may be abandoned, pursuant to this section—
- “(1) in the case of service and properties referred to in subsections (a) (1) and (b) (1) of this section, after 2 years from the

effective date of the final system plan or more than 2 years after the date on which the final rail service continuation payment is received, whichever is later; or

“(2) if a financially responsible person (including a government entity) offers—

“(A) to provide a rail service continuation payment which is designed to cover the difference between the revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties, together with a reasonable return on the value of such properties;

“(B) to provide a rail service continuation payment which is payable pursuant to a lease or agreement with a State or with a local or regional transportation authority under which financial support was being provided on January 2, 1974 for the continuation of rail passenger service; or

“(C) to purchase, pursuant to subsection (f) of this section, such rail properties in order to operate rail services thereon.

If a rail service continuation payment is offered, pursuant to paragraph (2)(A) of this subsection, for both freight and passenger service on the same rail properties, the owner of such properties may not be entitled to more than one payment of a reasonable return on the value of such properties.

“(d) RAIL FREIGHT SERVICE.—(1) If a rail service continuation payment is offered, pursuant to subsection (c)(2)(A) of this section, for rail freight service, the person offering such payment shall designate the operator of such service and enter into an operating agreement with such operator. The person offering such payment shall designate as the operator of such service—

“(A) the Corporation, if rail properties of the Corporation connect with the line of railroad involved, unless the Commission determines that such rail service continuation could be performed more efficiently and economically by another railroad;

“(B) any other railroad whose rail properties connect with such line, if the Corporation's rail properties do not so connect or if the Commission makes a determination in accordance with subparagraph (A) of this paragraph; or

“(C) any responsible person (including a government entity) which is willing to operate rail service over such rail properties.

A designated railroad may refuse to enter into such an operating agreement only if the Commission determines, on petition by any affected party, that the agreement would substantially impair such railroad's ability to serve adequately its own patrons or to meet its outstanding common carrier obligations. The designated operator shall, pursuant to each such operating agreement (i) be obligated to operate rail freight service on such rail properties, and (ii) be entitled to receive, from the person offering such payment, the difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties, together with a reasonable management fee, as determined by the Office.

“(2) The trustees of a railroad in reorganization shall permit rail service to be continued on any rail properties with respect to which a rail service continuation payment operating agreement has been entered into under this subsection. Such trustees shall receive a reasonable return on the value of such properties, as determined in accordance with the standards developed pursuant to section 205(d)(6) of this Act.

45 USC 743. “(3) If necessary to prevent any disruption or loss of rail service, at any time after the date of conveyance, pursuant to section 303(b)(1) of this title, the Commission—

“(A) shall take such action as may be appropriate under its existing authority (including the enforcement of common carrier requirements applicable to railroads in reorganization in the region) to ensure compliance with obligations imposed under this subsection; and

“(B) shall have authority, in accordance with the provisions of section 1(16)(b) of the Interstate Commerce Act (49 U.S.C. 1(16)(b)), to direct rail service to be provided by any designated railroad or by the trustees of a railroad in reorganization in the region, if a rail service continuation payment has been offered but an applicable operating or lease agreement is not in effect.

45 USC 715. Jurisdiction. For purposes of the preceding sentence, any compensation required as a result of such directed service shall be determined in accordance with the standards developed pursuant to section 205(d)(6) of this Act. The district courts of the United States shall have jurisdiction, upon petition by the Commission or any interested person (including a government entity), to enforce any order of the Commission issued pursuant to the exercise of its authority under this subsection, or to enjoin any designated entity or the trustees of a railroad in reorganization in the region from refusing to comply with the provisions of this subsection.

“(e) RAIL PASSENGER SERVICE.—(1) The Corporation (or a profitable railroad) shall provide rail passenger service for a period of 180 days immediately following the date of conveyance (pursuant to section 303(b)(1) of this title), with respect to any rail properties over which a railroad in reorganization in the region, or a person leased, operated, or controlled by such a railroad, was providing rail passenger service immediately prior to such date of conveyance. Such service shall be provided on such properties regardless of whether or not such properties are designated in the final system plan as rail properties over which rail service is required to be operated, except with respect to properties over which such service is provided by the National Railroad Passenger Corporation.

“(2) If a State (or a local or regional transportation authority) was providing financial assistance to support the operation of rail passenger service, pursuant to a lease or agreement which was in effect immediately prior to the date of conveyance (pursuant to such section 303(b)(1)), the Corporation (or a profitable railroad) shall be bound by the service provisions of such lease or agreement for the duration of the 180-day mandatory operation period specified in paragraph (1) of this subsection. If a State or such an authority was providing financial assistance for the continuation of rail passenger service on rail properties immediately prior to such date of conveyance, it shall provide the same level of financial assistance during such 180-day mandatory operation period. If no such financial assistance was being provided or if no such lease or agreement was in effect immediately prior to such date of conveyance, with respect to any such rail properties, the Corporation (or a profitable railroad) shall provide the same level of rail passenger service, for the duration of such 180-day mandatory operation period, that was provided prior to such date by the applicable railroad. If—

“(A) such financial assistance is not provided;

“(B) a State (or a local or regional transportation authority) has not, by the end of such 180-day mandatory operation period,

offered a rail service continuation payment pursuant to subsection (c) (2) (A) of this section;

“(C) an applicable rail service continuation payment pursuant to such subsection (c) (2) (A) is not paid when it is due; or

“(D) a payment required under a lease or agreement, pursuant to section 303(b) (2) of this title or subsection (c) (2) (B) of this section, is not paid when it is due, 45 USC 743.

the Corporation (or, where applicable, the National Railroad Passenger Corporation, a profitable railroad, or the trustee or trustees of a railroad in reorganization in the region) may (i) discontinue such rail passenger service, and (ii) with respect to rail properties not designated for inclusion in the final system plan, abandon such properties pursuant to subsections (a) and (b) of this section.

“(3) Nothing in this subsection shall be construed to affect the obligation of the Corporation (or a profitable railroad), or of the trustees of the railroads in reorganization in the region, to provide rail passenger service pursuant to section 303(b) (2) of this title or subsection (c) (2) (B) of this section.

“(4) If a State (or a local or regional transportation authority)—

“(A) offers a rail service continuation payment, pursuant to subsection (c) (2) (A) of the section and under regulations issued by the Office pursuant to section 205(d) (5) of this Act, for the operation of rail passenger service after the 180-day mandatory operation period, and 45 USC 715.

“(B) provides compensation, pursuant to paragraph (2) of this subsection, for operations conducted during the 180-day mandatory operation period,

the Corporation (or a profitable railroad) shall continue to provide such service after the end of such period, except as otherwise provided in this subsection.

“(5) (A) The Secretary shall reimburse the Corporation (or a profitable railroad) for any loss which is incurred by it during the 180-day mandatory operation period specified in paragraph (1) of this subsection which is not compensated for by a State (or a local or regional transportation authority). The amount of such reimbursement shall be determined pursuant to section 17(a) (1) of the Urban Mass Transportation Act of 1964 and under regulations issued by the Office pursuant to section 205(d) (5) of this Act.

Post, p. 143.

“(B) The Secretary shall reimburse States, local public bodies, and agencies thereof for additional costs incurred by such States, bodies, and agencies for rail service continuation payments for rail passenger service pursuant to section 17(a) (2) of the Urban Mass Transportation Act of 1964 and under regulations issued by the Office pursuant to section 205(d) (5) of this Act.

“(C) If a dispute arises with respect to the application of any such regulations, the parties to such dispute may submit such dispute to arbitration by a third party. If the parties are unable to agree upon the selection of an arbitrator, the Chairman of the Commission shall serve in that capacity (except as to matters required to be decided by the Commission, pursuant to section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a))).

“(6) Notwithstanding any other provision of this subsection, the Corporation is not obligated to provide rail passenger service on rail properties if a State (or a local or regional transportation authority) contracts for such service to be provided on such properties by an operator other than the Corporation, except that the Corporation shall, where appropriate, provide such operator with access to such properties for such purpose.

“(f) **PURCHASE.**—If an offer to purchase is made under subsection (c) (2) (C) of this section, such offer shall be accompanied by an offer of a rail service continuation payment. Such payment shall continue until the purchase transaction is completed, unless a railroad assumes operations over such rail properties of its own account pursuant to an order or authorization of the Commission. Whenever a railroad in reorganization in the region or a profitable railroad gives notice of intent to discontinue service pursuant to subsection (a) of this section, such railroad shall, upon the request of anyone apparently qualified to make an offer to purchase or to provide a rail service continuation payment, promptly make available its most recent reports on the physical condition of such property, together with such traffic and revenue data as would be required under subpart B of part 1121 of chapter X of title 49 of the Code of Federal Regulations and such other data as are necessary to ascertain the avoidable costs of providing service over such rail properties.

“(g) **ABANDONMENT BY CORPORATION.**—After the rail system to be operated by the Corporation or a subsidiary thereof under the final system plan has been in operation for 2 years, the Commission may authorize the Corporation or a subsidiary thereof to abandon any rail properties as to which it determines that rail service over such properties is not required by the public convenience and necessity, if the Corporation or a subsidiary thereof can demonstrate that no State (or local or regional transportation authority) is willing to offer a rail service continuation payment pursuant to subsection (c) of this section. The Commission may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by the Corporation or any subsidiary or affiliate thereof or by any other person. Determinations by the Commission under this subsection shall be made pursuant to applicable provisions of the Interstate Commerce Act.

45 USC 743.

“(h) **INTERIM ABANDONMENT.**—After the date of enactment of this section and prior to the date of conveyance (pursuant to section 303 (b) (1) of this title), no railroad in reorganization in the region may discontinue service or abandon any line of railroad other than in accordance with the provisions of this Act, unless (1) it is authorized to do so by the Association, and (2) no affected State (or local or regional transportation authority) reasonably opposes such action, notwithstanding any provision of any other Federal law, the constitution or law of any State, or the decision or order of, or the pendency of any proceeding before any Federal or State court, agency, or authority.

“(i) **DISPOSITION OF DESIGNATED RAIL PROPERTIES.**—No railroad in reorganization in the region and no person leased, operated or controlled by such a railroad shall sell, transfer, encumber, or otherwise dispose of rail property, or any right or interest therein, designated for transfer to the Corporation or conveyance to a profitable railroad in the final system plan, except pursuant to section 303 (b) of this title. The provisions of this subsection shall not apply to any such sale, transfer, encumbrance, or other disposition—

“(1) as to which the Association generally or specifically consents in writing;

“(2) which, prior to enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, had been specifically approved by a United States district court having jurisdiction over the reorganization of a railroad in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); or

Ante, p. 31.

“(3) following certification to the special court, pursuant to section 209(c) of the Regional Rail Reorganization Act of 1973, of any such rail properties not previously so certified. 45 USC 719.

“(j) EXEMPTION.—(1) No local public body which provides mass transportation services and which is otherwise subject to the Interstate Commerce Act shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or to rules, regulations and orders promulgated under such Act, except that any such local public body shall continue to be subject to applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, and (C) employment retirement, annuity, and unemployment systems or any other provision pertaining to dealings between employees and employers. 49 USC 1.

“(2) For purposes of this subsection, the term—

“(A) ‘local public body’ has the meaning prescribed for such term in section 12(c)(2) of the Urban Mass Transportation Act (49 U.S.C. 1608(c)(2)) and includes any person or entity which contracts with a local public body to provide transportation services; and “Local public body.”

“(B) ‘mass transportation’ has the meaning prescribed for such term in section 12(c)(5) of the Urban Mass Transportation Act (49 U.S.C. 1608(c)(5)).” “Mass transportation.”

CONTINUATION ASSISTANCE

SEC. 805. (a) Section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) is amended to read as follows:

“RAIL SERVICE CONTINUATION ASSISTANCE

“SEC. 402. (a) GENERAL.—(1) The Secretary shall provide financial assistance in accordance with this section to assist in the provision of rail service continuation payments, the acquisition or modernization of rail properties, including the preservation of rights-of-way for future rail service, the construction or improvement of facilities necessary to accommodate the transportation of freight previously moved by rail service, and the cost of operating and maintaining rail service facilities such as yards, shops, docks, or other facilities useful in facilitating and maintaining main line or local rail service. The Federal share of the costs of any such assistance shall be as follows: (A) 100 percent for the 12-month period following the date that rail properties are conveyed pursuant to section 303(b)(1) of this Act; and (B) 90 percent for the succeeding 12-month period. 45 USC 743.

“(2) The Secretary shall, within one year after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, promulgate standards and procedures under which the State share of such cost may be provided through in-kind benefits such as forgiveness of taxes, trackage rights, and facilities which would not otherwise be provided. Standards and procedures. Ante, p. 31.

“(3) The Secretary, in cooperation with the Secretary of Labor, the Association, and the Commission, shall assist States and local or regional transportation authorities in negotiating initial operating or lease agreements and shall report to the Congress not later than 30 days after the date of enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 on the progress of such negotiations. The Secretary may, with the concurrence of a State, enter directly into operating or lease agreements with railroads designated to provide service under section 304(d) of this Act, and with the trustees of rail- Report to Congress. 45 USC 744.

roads in reorganization in the region over whose rail properties such service will be provided, to assure the uninterrupted continuation of rail service after such date of conveyance. Such agreements may be entered into only during the period when the Federal share is 100 percent. Payments shall be made from the funds to which a State would otherwise be entitled under this section.

“(b) ENTITLEMENT.—(1) Each State in the region which is, pursuant to subsection (c) of this section, eligible to receive rail service continuation assistance is entitled to an amount equal to the total amount authorized and appropriated for such purpose multiplied by a fraction whose numerator is the rail mileage in such State which is eligible for rail service continuation assistance under this section and whose denominator is the rail mileage in all of the States in the region which are eligible for rail service continuation assistance under this section. Notwithstanding the preceding sentence, the entitlement of each State shall not be less than 3 percent of the funds appropriated. Not more than 5 percent of a State's entitlement may be used for rail planning activities. For purposes of this subsection, rail mileage shall be measured by the Secretary in consultation with the Interstate Commerce Commission. Any portion of the entitlement of any State which is withheld, in accordance with this section, and any such sums which are not used or committed by a State shall be reallocated immediately, to the extent practicable, among the other States in accordance with the formula set forth in this subsection. In addition to amounts provided pursuant to such rail mileage formula, funds shall also be made available to each State for the cost of operating and maintaining rail service facilities such as yards, shops, and docks which are useful in facilitating and maintaining mainline or local rail services and which are contained in each State's rail plan, except that (A) any such assistance shall extend for a period of only 12 months following the date rail properties are conveyed under section 303(b)(1) of this Act, and (B) no railroad shall be required to operate such facilities. With respect to the limitation on assistance for rail service facilities under the preceding sentence, the Secretary shall, not later than 90 days prior to the end of such 12-month period, submit a report to the Congress in conjunction with a designated State agency, recommending future action with respect to such facilities.

“(2) For a period of not more than 1 year following the date rail properties are conveyed pursuant to section 303(b)(1) of this Act, the Secretary is authorized to provide financial assistance, from the funds to which a State would otherwise be entitled under this section for the continuation of local rail services, to any person determined by the Secretary to be financially responsible who will enter into any operating and lease agreements with railroads designated to provide service under section 304(d) of this Act, regardless of the eligibility of the State, where the applicable rail properties are located, to receive assistance under subsection (c) of this section. In any case in which a State is eligible to receive rail service continuation assistance under subsection (c) of this section, States shall have priority to receive such payments over any other person eligible under this paragraph and no other person eligible under this paragraph shall receive such payments unless his application therefor has been approved by the State agency designated under subsection (c) to administer the State plan.

“(c) ELIGIBILITY.—(1) A State in the region is eligible to receive financial assistance pursuant to subsection (b) of this section if, in any fiscal year—

“(A) the State has established a State plan for rail transportation and local rail services (herein referred to as the ‘State rail

Rail mileage,
measurement.

45 USC 743.

Financial
assistance.

45 USC 744.

plan') which is administered or coordinated by a designated State agency and such plan includes a suitable process for updating, revising, and amending such plan and provides for the equitable distribution of such financial assistance among State, local, and regional transportation authorities;

"(B) the State agency (i) has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail services, (ii) employs or will employ, directly or indirectly, sufficient trained and qualified personnel, and (iii) maintains or will maintain adequate programs of investigation, research, promotion, and development with provision for public participation;

"(C) the State provides satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State; and

"(D) the State complies with the regulations of the Secretary issued under this section.

"(2) The rail freight services which are eligible for rail service continuation assistance pursuant to this section are—

"(A) those rail services of railroads in reorganization in the region, or persons leased, operated, or controlled by any such railroad, which the final system plan does not designate to be continued;

"(B) those rail services on rail properties referred to in section 304(a)(2) of this Act;

"(C) those rail services in the region which have been, at any time during the 5-year period prior to the date of enactment of this Act, or which, are subsequent to the date of enactment of this Act, owned, leased, or operated by a State agency or by a local or regional transportation authority, or with respect to which a State, a political subdivision thereof, or a local or regional transportation authority has invested (at any time during the 5-year period prior to the date of enactment of this Act), or invests (subsequent to the date of enactment of this Act), substantial sums for improvement or maintenance of rail service; or

"(D) those rail services in the region with respect to which the Commission authorizes the discontinuance of rail services or the abandonment of rail properties, effective on or after the date of enactment of this Act.

"(3) The rail freight properties which are eligible to be acquired or modernized with financial assistance pursuant to subsection (b) of this section are those rail properties which are used for services eligible for rail service continuation assistance, pursuant to paragraph (2) of this subsection, including those properties which are identified, in the applicable State rail plan as having potential for future use for rail freight service.

"(4) The facilities which are eligible to be constructed or improved with financial assistance pursuant to subsection (b) of this section are those facilities in the region (including intermodal terminals and highways or bridges) which are needed in order to provide rail freight service which will no longer be available because of the discontinuance of rail freight service under section 304 of this Act or other lawful authority. No funds provided under this paragraph may be used to pay the State share of any highway projects under title 23, United States Code.

"(5) Rail properties are eligible to be acquired with financial assistance pursuant to subsection (b) of this section if (A) they are

45 USC 716. to be used for intercity or commuter rail passenger service, and (B) they pertain to a line in the region (other than rail properties designated in accordance with section 206(c)(1)(C) of this Act) which, if so acquired (i) would enable the National Railroad Passenger Corporation to serve, more efficiently, a route which it operated on November 1, 1975, (ii) would provide intercity rail passenger service designated by the Secretary under title II of the Rail Passenger Service Act, or (iii) would provide such service over a route designated for service pursuant to section 403(c) of the Rail Passenger Service Act (45 U.S.C. 563(c)).

45 USC 521.

“(d) REGULATIONS.—Within 90 days after the date of enactment of this Act, the Secretary shall issue, and may from time to time amend, regulations with respect to the provision of financial assistance under this title.

“(e) PAYMENT.—The Secretary shall pay to each eligible State in the region an amount equal to its entitlement under subsection (b) of this section.

“(f) RECORDS, AUDIT, AND EXAMINATION.—(1) Each recipient of financial assistance under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for 3 years after the completion of such a project or undertaking.

“(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, contracts, or other arrangements referred to in such paragraph.

Notice and
hearing.

“(g) WITHHOLDING.—If the Secretary, after reasonable notice and an opportunity for a hearing to any State agency, finds that a State is not eligible for financial assistance under subsections (c) and (d) of this section, payment to such State shall not be made until there is no longer any failure to comply.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the purposes of this section an amount not to exceed \$180,000,000 without fiscal year limitation. Such sums as are appropriated shall remain available until expended.

“(i) DEFINITION.—As used in this section, the term ‘rail service continuation assistance’ includes expenditures made by a State (or a local or regional transportation authority), at any time during a 1-year period preceding the date of enactment of this Act, or subsequent to the date of enactment of this Act, for acquisition, rehabilitation, or modernization of rail facilities on which rail freight services would have been curtailed or abandoned but for such expenditures.”

(b) Section 403(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763), is amended by striking the colon and the proviso and inserting in lieu thereof a period.

(c) Section 403(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 763(b)) is amended by striking the last sentence thereof and inserting in lieu thereof the following: “Notwithstanding any other provision of this title, a State may expend sums received by it under paragraphs (1) and (2) of section 402(b) of this title for

acquisition and modernization pursuant to this section, or for any project designated pursuant to a State rail plan.”.

REPEAL

SEC. 806. Effective on the date of the second anniversary of the date on which rail properties are conveyed, pursuant to section 303(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743), title IV of such Act is repealed.

Effective date.

45 USC
761-763.

RAIL PASSENGER SERVICE

SEC. 807. Section 206(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)) is amended to read as follows:

“(5) All properties—

“(A) transferred by the Corporation pursuant to sections 206(c)(1)(C) and 601(d) of this Act;

45 USC 716,
791.

“(B) transferred by the Corporation to any State (or local or regional transportation authority), pursuant to subsection (c)(1)(D) of this section, or

“(C) transferred by the Corporation to any State, local or regional transportation authority, or the National Railroad Passenger Corporation, within 900 days after the date of conveyance, pursuant to section 303(b)(1) of this Act, to meet the needs of commuter or intercity rail passenger service,

45 USC 743.

shall be transferred at a value related to the value received from the Corporation pursuant to the final system plan for the transfer to such Corporation of such properties. The value of any such properties, which are transferred pursuant to subparagraph (B) or (C) of this paragraph, shall be adjusted to reflect the value attributable to any applicable maintenance and improvement provided by the Corporation (to the extent the Corporation has not been released from the obligation to pay for such improvements) and the cost to the Corporation of transferring such properties.”.

EMERGENCY OPERATING ASSISTANCE

SEC. 808. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

“EMERGENCY OPERATING ASSISTANCE

“SEC. 17. (a) The Secretary shall provide financial assistance for the purpose of reimbursing— 49 USC 1613.

“(1) the Consolidated Rail Corporation, the National Railroad Passenger Corporation, other railroads, and, if applicable, the trustee or trustees of a railroad in reorganization in the region (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702)) for the costs of rail passenger service operations conducted at a loss during the 180-day mandatory operation period, as required under section 304(e) of such Act (45 U.S.C. 744(e)). Such reimbursement shall cover all costs not otherwise paid by a State or a local or regional transportation authority which would have been payable by such State or authority, pursuant to regulations issued by the Office under section 205(d)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 715) if such regulations had been in effect on the date of conveyance of rail properties under section 303(b)(1) of such Act; and

“(2) States, local public bodies, and agencies thereof for additional costs incurred by such States, bodies, and agencies with respect to rail passenger service required by section 304(e)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744 (e)(4)).

“(b) Financial assistance under subsection (a) of this section shall not apply to intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation which was in effect immediately prior to such date of conveyance.

“(c) Financial assistance provided pursuant to subsection (a) of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate with such reasonable exceptions to requirements and provisions otherwise applicable under this Act as the Secretary may deem required by the emergency nature of the assistance authorized by this section. Nothing in this section shall authorize the Secretary to waive the provisions of section 13(c) of this Act.

49 USC 1609.
Federal share.

“(d) The Federal share of the costs of any rail passenger service required by subsections (c) and (e) of section 304 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744 (c) and (e)) shall be as follows:

“(1) 100 percent of the costs eligible under subsections (a)(1) or (a)(2) of this section for the 180-day mandatory operation period required by section 304(e) of such Act;

“(2) 100 percent for the 180-day period following the 180-day mandatory operation period;

“(3) 90 percent for the 12-month period succeeding the period specified in subparagraph (2) of this subsection; and

“(4) 50 percent for the 180-day period succeeding the period specified in subparagraph (3) of this subsection.

No assistance may be provided beyond the time specified in subsection (d)(3) of this section, unless the applicant for such assistance provides satisfactory assurances to the Secretary that the service for which such assistance is sought will be continued after the termination of the assistance authorized by this section.

49 USC 1604.

“(e) The terms and provisions which are applicable to assistance provided pursuant to this section shall be consistent, insofar as is practicable, with the terms and provisions which are applicable to operating assistance under section 5 of this Act.

Appropriation
authorization.

“(f) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate amount not to exceed \$125,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed \$40,000,000 by September 30, 1976, \$95,000,000 by September 30, 1977, and \$125,000,000 by September 30, 1978, such sums to remain available until expended.”

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

Report to
President and
Congress.
49 USC 1a note.

SEC. 809. (a) STUDY.—The Secretary shall, within 360 days after the date of enactment of this Act, and in consultation with the Secretary of the Interior, the Office, the Association, the Environmental Protection Agency, any other appropriate Federal agency, any appropriate State and regional transportation agency, any other appropriate State and local governmental entities, and any appropriate private groups and individuals, prepare and submit to the Congress and the President a report on the conversion of railroad rights-of-way. This

report shall evaluate and make suggestions concerning potential alternate uses of, and public policy with respect to the conversion of, railroad rights-of-way on which service has been discontinued or is likely to be discontinued. This report shall include—

(1) an inventory statement developed by the Secretary as to all abandoned railroad rights-of-way and significant segments of such rights-of-way which retain their linear characteristics, including, as to each, identification of the owner of record and an evaluation of its topography, characteristics, condition, approximate value, and alternate use suitability;

(2) an evaluation of the advantages of establishing a rail bank consisting of selected such rights-of-way, as a means of assuring their availability for potential railroad use in the future, a discussion of interim uses for such rights-of-way, the development of conveyancing and leasing forms, conditions, and practices to assure such availability, a projection as to the costs of such a program, and recommendations regarding the administration of such a program;

(3) a survey of existing Federal, State, and local programs utilizing or attempting to utilize abandoned railroad rights-of-way for public purposes, including an assessment of the benefits and costs of each; and

(4) an assessment and evaluation of suggestions for more effective public utilization of abandoned railroad rights-of-way, including recommendations for legislative, administrative, and regulatory action, if any, and proposals as to the optimum level of funding therefor.

(b) **INFORMATION AND FUNDING.**—The Secretary of the Interior, after consultation with the Secretary, shall, in accordance with this subsection, provide financial, educational, and technical assistance to local, State, and Federal governmental entities for programs involving the conversion of abandoned railroad rights-of-way to recreational and conservation uses, in such manner as to coordinate and accelerate such conversion, where appropriate. Such assistance shall include—

(1) encouraging and facilitating exchanges of information dealing with the availability of railroad rights-of-way, the technology involved in converting such properties to such public purposes, and related matters;

(2) making grants, in consultation with the Bureau of Outdoor Recreation of the Department of the Interior, to State and local governmental entities to enable them to plan, acquire, and develop recreational or conservation facilities on abandoned railroad rights-of-way, which grants shall cover not more than 90 percent of the cost of the planning, acquisition, or development activity of the particular project for which funds are sought;

(3) allocating funds to other Federal programs concerned with recreation or conservation in order to enable abandoned railroad rights-of-way, where appropriate, to be included in or made into national parks, national trails, national recreational areas, wildlife refuges, or other national areas dedicated to recreational or conservation uses; and

(4) providing technical assistance to other Federal agencies, States, local agencies, and private groups for the purpose of enhancing conversion projects. To increase the available information and expertise, the Secretary may contract for special studies or projects and may otherwise collect, evaluate, and disseminate information dealing with the utilization of such rights-of-way.

49 USC 1a. (c) CONFORMING AMENDMENT.—Section 1a of the Interstate Commerce Act, as inserted by this Act, is amended by redesignating paragraph (10) thereof as paragraph (11), and by inserting immediately after paragraph (9) the following new paragraph:

“(10) In any instance in which the Commission finds that the present or future public convenience and necessity permit abandonment or discontinuance, the Commission shall make a further finding whether such properties are suitable for use for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Commission finds that the properties proposed to be abandoned are suitable for other public purposes, it shall order that such rail properties not be sold, leased, exchanged, or otherwise disposed of except in accordance with such reasonable terms and conditions as are prescribed by the Commission, including, but not limited to, a prohibition on any such disposal, for a period not to exceed 180 days after the effective date of the order permitting abandonment unless such properties have first been offered, upon reasonable terms, for acquisition for public purposes.”

49 USC 1a note. (d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, not to exceed \$6,000,000 for the fiscal year and the transitional fiscal period ending September 30, 1976, not to exceed \$7,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$7,000,000 for the fiscal year ending September 30, 1978. Sums appropriated pursuant to this authorization are authorized to remain available until expended. Of the funds appropriated, at least four-fifths are to be made available to the Secretary of the Interior to carry out subsection (b) of this section.

RAIL BANK

49 USC 1653a. SEC. 810. (a) ESTABLISHMENT.—The Secretary shall, within 180 days after the date of enactment of this Act, and after consultation with the Secretary of the Interior and the Secretary of Commerce, in accordance with this section, establish a rail bank to consist of rail trackage and other rail properties eligible under this subsection, for purposes of preserving existing service in certain areas of the United States in which fossil fuel natural resources or agricultural production is located. The Secretary may include in such rail bank any railroad trackage or other rail properties which are listed for consideration for inclusion in a rail bank under part III, section C, of the final system plan.

(b) POWERS.—(1) The Secretary may acquire, by lease, purchase, or in such other manner as he considers appropriate, rail properties or any interests therein eligible for inclusion in the rail bank established under this section. Except as provided in paragraph (2) of this subsection, the Secretary may hold rail properties acquired for such rail bank, and may sell, lease, grant rights over, or otherwise dispose of interests or rights in connection with such rail properties.

(2) The Secretary may not dispose of any such rail properties pursuant to paragraph (1) of this subsection if he determines, after consultation with the Secretary of the Interior and the Secretary of Commerce, that such disposition would adversely affect the availability of such properties for any continued necessary access to, and egress by rail from, facilities in which fossil fuels are being or can be extracted or processed.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out the

provisions of this section such sums as are necessary, not to exceed \$6,000,000. Sums appropriated pursuant to this section are authorized to remain available until expended.

TITLE IX—MISCELLANEOUS PROVISIONS

COMPREHENSIVE STUDY OF RAIL SYSTEM

SEC. 901. The Secretary shall conduct a comprehensive study of the American railway system. Such study shall commence not later than 45 days after the date of enactment of this Act. Such study shall include—

49 USC 1654
note.

(1) a showing of the potential cost savings and of possible improvements in service quality which could result from restructuring the railroads in the United States;

(2) an identification of the potential economies and improvements in performance which could result from the improvement of local and terminal operations;

(3) estimates as to potential savings in the cost of rehabilitating the United States railway system if rehabilitation is limited to those portions of such system which are essential to interstate commerce or national defense;

(4) an assessment of the extent to which common or public ownership of fixed facilities could improve the national rail transportation system;

(5) an assessment of the potential effects of alternative rail corporate structures upon the national rail transportation system;

(6) a listing, in order of descending priority, of the rail properties which should be improved to the extent necessary to permit high-speed rail passenger or freight service over such properties, in terms of the costs and benefits of such improvements and the reasons therefor; and

(7) an estimate of the potential benefits of railroad electrification for high density rail lines in the United States, and an evaluation of the costs and benefits of electrifying rail lines in the United States with a high density of traffic, including—

(A) the capital costs of such electrification and the oil fuel economies which would be derived therefrom, the ability of existing power facilities to supply the additional power required, and the amount of coal or other fossil fuels required to generate the power necessary for railroad electrification; and

(B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution, and the disadvantages to the environment from increased use of fuels such as coal; and

(8) a survey and analysis of the financial and physical condition of the facilities, rolling stock, and equipment of the various railroads in the United States.

Within 540 days after the date of enactment of this Act, the Secretary shall submit a report to the Congress setting forth the results of the study conducted pursuant to this section.

Report to
Congress.

STUDY OF AID TO RAIL TRANSPORTATION

SEC. 902. (a) STUDY.—Within 30 days after the date of the enactment of this Act, the Secretary shall initiate a comprehensive study and analysis of (1) past and present policies and methods of providing Federal aid for the construction, improvement, operation, and

49 USC 1654
note.

maintenance of rail transportation facilities and services, (2) the relationship of such policies and methods to the policies and methods of providing Federal aid for other modes of transportation, and (3) whether common carriers by railroad have been or are disadvantaged by reason of such policies and methods, and, if such carriers have been or are disadvantaged, the extent of such disadvantage. The Secretary shall examine ways and means by which future policy respecting Federal aid to rail transportation may be so determined and developed as to encourage the establishment and maintenance of an open and competitive market in which rail transportation competes on equal terms with other modes of transportation, and in which market shares are governed by customer preference based upon the service and full economic costs.

(b) COOPERATION.—The Commission and the Secretary of the Army are authorized and directed to cooperate fully with the Secretary in carrying out the purposes of this section, and also to submit such independent and separate reports, comments, and recommendations as they consider appropriate.

(c) INFORMATION.—In carrying out the purposes of this section, the Secretary may require all common carriers by railroad to file such reports containing such information as the Secretary considers necessary. The Secretary shall have the power to require by subpoena the production of such books, papers, tariffs, contracts, agreements, or other documents or data of a common carrier by railroad related to the study and analysis as he considers relevant. The Secretary may treat as confidential and privileged any document, data, or information received for such study and analysis, notwithstanding the provisions of section 552 of title 5, United States Code.

(d) REPORT TO CONGRESS.—Within 1 year after the date of enactment of this Act, the Secretary shall complete the study and analysis authorized and directed by this section, and shall transmit a report to the Congress containing his findings and conclusions, together with his recommendations for a sound and rational policy with respect to Federal aid to rail transportation.

STUDY OF CONGLOMERATES

49 USC 5c note.

SEC. 903. The Commission shall undertake a study of conglomerates and of such other corporate structures as are presently found within the rail transportation industry. The Commission shall determine what effects, if any, such diverse structures have on effective transportation, on intermodal competition, on revenue levels, and on such other aspects of national transportation as the Commission considers to be legitimate subjects of study. The Commission shall prepare a report with appropriate recommendations and shall submit its report to the Congress within 1 year after the date of enactment of this Act.

Report to
Congress.

RAIL ABANDONMENT REPORT

Report to
Congress.

45 USC 745 note.

SEC. 904. The Secretary shall submit to the Congress, within 90 days after the date of enactment of this Act, a comprehensive report on the anticipated effect, including the environmental impact, of any abandonments of lines of railroad and any discontinuances of rail service in States outside the region, as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702).

NONDISCRIMINATION

45 USC 803.

SEC. 905. (a) GENERAL.—No person in the United States shall on the ground of race, color, national origin, or sex be excluded from

participation in, or denied the benefits of, or be subjected to discrimination under, any project, program, or activity funded in whole or in part through financial assistance under this Act.

(b) COMPLIANCE.—(1) Whenever the Secretary determines that any person receiving financial assistance, directly or indirectly, under this Act, or under any provision of law amended by this Act, has failed to comply with subsection (a) of this section, with any Federal civil rights statute, or with any order or regulation issued under such a statute, the Secretary shall notify such person of such determination and shall direct such person to take such action as may be necessary to assure compliance with such subsection.

(2) If, within a reasonable period of time after receiving notification pursuant to paragraph (1) of this subsection, such person fails or refuses to comply with subsection (a) of this section, the Secretary shall—

(A) direct that no further Federal financial assistance be provided to such person;

(B) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(C) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and/or

(D) take such other actions as may be provided by law.

(c) CIVIL ACTION.—Whenever a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever the Attorney General has reason to believe that any person is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may commence a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) REGULATIONS.—The Secretary may prescribe such regulations and take such actions as are necessary to monitor, enforce, and affirmatively carry out the purposes of this section.

(e) JUDICIAL REVIEW.—Any determinations made or actions taken by the Secretary pursuant to this section shall be subject to judicial review.

(f) DEFINITION.—For purposes of this section, the term “financial assistance” includes obligation guarantees.

MINORITY RESOURCE CENTER

SEC. 906. The Department of Transportation Act (49 U.S.C. 1651 et seq.) is amended (1) by redesignating sections 11 through 15 thereof as sections 12 through 16 thereof, and (2) by inserting a new section 11 as follows:

49 USC 1651
notes, 1658,
1659.

“MINORITY RESOURCE CENTER

“SEC. 11. (a) The Secretary shall, within 180 days after the date of enactment of this section, establish a Minority Resource Center (hereafter in this section referred to as the ‘Center’). Establishment.
49 USC 1657a.

“(b) The Center shall have an Advisory Committee, which shall consist of 5 individuals appointed by the Secretary from lists of 3 qualified individuals recommended by minority-dominated trade associations in the minority business community.

“(c) The Center is authorized to—

“(1) establish and maintain, and disseminate information from, a national information clearinghouse for minority entrepreneurs and businesses, for purposes of furnishing, to such entrepreneurs and businesses, information with respect to business opportunities

involving the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation's railroads;

"(2) assist minority entrepreneurs and businesses in obtaining investment capital and debt financing;

"(3) conduct market research, planning, economic and business analyses, and feasibility studies to identify such opportunities;

"(4) design and conduct programs to encourage, promote, and assist minority entrepreneurs and businesses to secure contracts, subcontracts, and projects related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation's railroads;

"(5) enter into such contracts, cooperative agreements, or other transactions as may be necessary in the conduct of its functions and duties;

"(6) develop support mechanisms, including venture capital, surety and bonding organizations, and management and technical services, which will enable minority entrepreneurs and businesses to take advantage of business opportunities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation's railroads; and

"(7) participate in, and cooperate with, all Federal programs and other programs designed to provide financial, management, and other forms of support and assistance to minority entrepreneurs and businesses.

"(d) The United States Railway Association, the Consolidated Rail Corporation, and the Secretary shall provide the Center with such relevant information, including procurement schedules, bids, and specifications with respect to particular maintenance, rehabilitation, restructuring, improvement, and revitalization projects, as may be requested by the Center in connection with the performance of its functions.

"Minority."

"(e) As used in this section, the term 'minority' includes women."

Approved February 5, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-725 accompanying H.R. 10979 (Comm. on Interstate and Foreign Commerce) and Nos. 94-768 and 94-781 (Comm. of Conference).

SENATE REPORTS: No. 94-499 (Comm. on Commerce) and Nos. 94-585 and 94-595 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 2, 4, considered and passed Senate.

Dec. 17, considered and passed House, amended, in lieu of H.R. 10979.

Dec. 19, Senate and House agreed to conference report.

Vol. 122 (1975): Jan. 20, House vacated certain actions and recommitted the bill to committee of conference.

Jan. 21, Senate vacated certain actions and recommitted the bill to committee of conference.

Jan. 28, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 6 (1976): Feb. 5, Presidential statement.

Public Law 94-211
94th Congress

An Act

To authorize the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia or its environs.

Feb. 6, 1976
[S. 1847]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the One Hundred and First Airborne Division Association is authorized to erect a memorial on public grounds in the District of Columbia or its environs in honor and in commemoration of the men of the "Screaming Eagles" of the One Hundred and First Airborne Division, United States Army, who have served their country in World War II, Vietnam, and maintaining peace.

SEC. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia, or its environs, upon which may be erected the memorial authorized in the first section of this Act: *Provided*, That the site selected is on public grounds belonging to or under the jurisdiction of the government of the District of Columbia, the approval of the Mayor of the District of Columbia shall also be obtained.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the National Commission of Fine Arts and the National Capital Planning Commission, and the United States or the District of Columbia shall be put to no expense in the erection thereof.

SEC. 3. The authority conferred pursuant to this Act shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this Act, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior to insure completion of the memorial.

SEC. 4. The maintenance and care of the memorial erected under the provisions of this Act shall be the responsibility of the Secretary of the Interior, or, if the memorial is erected upon public grounds belonging to or under the jurisdiction of the District of Columbia, the government of the District of Columbia.

D.C.
One Hundred and
First Airborne
Division
Association.
"Screaming
Eagles",
memorial.
Site selection.

Design.

Authority.

Maintenance.

Approved February 6, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-740 accompanying H.R. 3710 (Comm. on House Administration).

SENATE REPORT No. 94-494 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 1, considered and passed Senate.

Vol. 122 (1976): Jan. 20, considered and passed House, in lieu of H.R. 3710.

Public Law 94-212
94th Congress

An Act

Making appropriations for the Department of Defense for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, and for other purposes.

Feb. 9, 1976

[H.R. 9861]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, for military functions administered by the Department of Defense, and for other purposes, namely:

Department of
Defense
Appropriation
Act, 1976.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere); \$8,180,347,000.

For "Military personnel, Army" for the period July 1, 1976, through September 30, 1976; \$2,064,635,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; \$5,722,300,000.

For "Military personnel, Navy" for the period July 1, 1976, through September 30, 1976; \$1,451,668,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); \$1,806,377,000.

For "Military personnel, Marine Corps" for the period July 1, 1976, through September 30, 1976; \$460,117,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including

all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; \$7,251,524,000.

For "Military personnel, Air Force" for the period July 1, 1976, through September 30, 1976; \$1,776,677,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while undergoing reserve training or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, as authorized by law; \$468,879,000.

For "Reserve personnel, Army" for the period July 1, 1976, through September 30, 1976; \$165,299,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, as authorized by law; \$200,035,000.

For "Reserve personnel, Navy" for the period July 1, 1976 through September 30, 1976; \$59,525,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, as authorized by law; \$70,652,000.

For "Reserve personnel, Marine Corps" for the period July 1, 1976, through September 30, 1976; \$28,082,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Air Reserve Officers' Training Corps, as authorized by law; \$157,500,000.

For "Reserve personnel, Air Force" for the period July 1, 1976, through September 30, 1976; \$48,260,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under sections 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while undergoing training or while

performing drills or equivalent duty, as authorized by law; \$696,900,000.

For "National Guard personnel, Army" for the period July 1, 1976, through September 30, 1976; \$209,050,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under sections 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while undergoing training or while performing drills or equivalent duty, as authorized by law; \$212,318,000.

For "National Guard personnel, Air Force" for the period July 1, 1976, through September 30, 1976; \$60,924,000.

TITLE II

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

For retired pay and retirement pay, as authorized by law, of military personnel on the retired lists of the Army, Navy, Marine Corps, and the Air Force, including the reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve, and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code; \$6,885,200,000.

For "Retired pay, Defense" for the period July 1, 1976, through September 30, 1976; \$1,775,100,000.

10 USC 1448
note, 1431 *et seq.*

TITLE III

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$2,629,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; \$7,052,000,000, of which not less than \$400,000,000 shall be available only for the maintenance of real property facilities: *Provided*, That not to exceed \$42,214,000, in the aggregate of the unobligated balances of appropriations made under this head for prior fiscal years, and subsequently withdrawn under the Act of July 25, 1956, as amended (31 U.S.C. 701), may be restored to the appropriation account under this head for the fiscal year 1972: *Provided further*, That funds provided in this Act for the operation and the maintenance of the anti-ballistic-missile facility (other than funds provided for operation and maintenance of the Perimeter Acquisition Radar) may be used only for the purpose of the expeditious termination and deactivation of all operations of that facility.

For "Operation and maintenance, Army" for the period July 1, 1976, through September 30, 1976; \$1,779,000,000, of which not to exceed \$658,000 can be used for emergencies and extraordinary expenses.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$4,239,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; \$8,069,400,000, of which not less than \$200,000,000 shall be available only for the maintenance of real property facilities: *Provided*, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than \$1,335,500,000 shall be available for the performance of such work in Navy shipyards: *Provided further*, That not to exceed \$54,000,000, in the aggregate of the unobligated balances of appropriations made under this head for prior fiscal years, and subsequently withdrawn under the Act of July 25, 1956, as amended (31 U.S.C. 701), may be restored to the appropriation account under this head for the fiscal year 1972.

For "Operation and maintenance, Navy" for the period July 1, 1976, through September 30, 1976; \$2,133,557,000, of which not to exceed \$1,060,000 can be used for emergencies and extraordinary expenses.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; \$497,110,000, of which not less than \$55,000,000 shall be available only for the maintenance of real property facilities.

For "Operation and maintenance, Marine Corps" for the period July 1, 1976, through September 30, 1976; \$125,506,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$2,333,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; \$7,498,679,000, of which not less than \$340,000,000 shall be available only for the maintenance of real property facilities: *Provided*, That not to exceed \$67,000,000, in the aggregate of the unobligated balances of appropriations made under this head for prior fiscal years, and subsequently withdrawn under the Act of July 25, 1956, as amended (31 U.S.C. 701), may be restored to the appropriation account under this head for the fiscal year 1972.

For "Operation and maintenance, Air Force" for the period July 1, 1976, through September 30, 1976; \$1,897,495,000, of which not to exceed \$527,000 can be used for emergencies and extraordinary expenses.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil

Preparedness Agency), as authorized by law; as follows: for the Secretary of Defense activities, \$787,753,000, of which \$515,041,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services, and \$211,391,000 shall be available only for Overseas Dependents Education; for the organization of the Joint Chiefs of Staff, \$11,599,000; for the Office of Information for the Armed Forces, \$16,242,000; for the Defense Contract Audit Agency, \$68,123,000; for the Defense Investigative Service, \$25,397,000; for the Defense Mapping Agency, \$185,032,000; for the Defense Nuclear Agency, \$22,509,000; for the Uniformed Services University of the Health Sciences, \$3,981,000; for the Defense Supply Agency, \$789,654,000; and for intelligence and communications activities, \$565,141,000; in all: \$2,475,431,000: *Provided*, That of the total amount of this appropriation, not to exceed \$9,208,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That not less than \$26,000,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities: *Provided further*, That the Secretary of Defense may transfer up to 3 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 5 per centum and the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

For "Operation and maintenance, Defense agencies" for the period July 1, 1976, through September 30, 1976, as follows: for the Secretary of Defense activities, \$195,365,000, of which \$130,358,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services, and \$50,018,000 shall be available only for Overseas Dependents Education; for the organization of the Joint Chiefs of Staff, \$3,057,000; for the Office of Information for the Armed Forces, \$4,097,000; for the Defense Contract Audit Agency, \$17,342,000; for the Defense Investigative Service, \$6,144,000; for the Defense Mapping Agency, \$46,160,000; for the Defense Nuclear Agency, \$5,603,000; for the Uniformed Services University of the Health Sciences, \$1,254,000; for the Defense Supply Agency, \$201,555,000; for intelligence and communications activities, \$147,148,000; in all: \$627,725,000, of which not to exceed \$1,964,500 can be used for emergencies and extraordinary expenses: *Provided*, That the Secretary of Defense may transfer up to 3 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 5 per centum and the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

Notice to
Congress.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$310,710,000, of which not less than \$20,000,000 shall be available only for the maintenance of real property facilities.

For "Operation and maintenance, Army Reserve" for the period July 1, 1976, through September 30, 1976; \$91,100,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$284,425,000, of which not less than \$11,500,000 shall be available only for the maintenance of real property facilities.

For "Operation and maintenance, Navy Reserve" for the period July 1, 1976, through September 30, 1976; \$73,250,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$12,000,000, of which not less than \$500,000 shall be available only for the maintenance of real property facilities.

For "Operation and maintenance, Marine Corps Reserve" for the period July 1, 1976, through September 30, 1976; \$3,400,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$322,430,000, of which not less than \$10,500,000 shall be available only for the maintenance of real property facilities.

For "Operation and maintenance, Air Force Reserve" for the period July 1, 1976, through September 30, 1976; \$81,190,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); \$649,930,000, of which not less than \$12,500,000 shall be available only for the maintenance of real property facilities.

For "Operation and maintenance, Army National Guard" for the period July 1, 1976, through September 30, 1976; \$173,285,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; \$697,100,000, of which not less than \$8,500,000 shall be available only for the maintenance of real property facilities.

For "Operation and maintenance, Air National Guard" for the period July 1, 1976, through September 30, 1976; \$181,200,000.

ARMY STOCK FUND

For the Army stock fund, \$20,000,000.

NAVY STOCK FUND

For the Navy stock fund, \$10,000,000.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund, \$2,000,000.

AIR FORCE STOCK FUND

For the Air Force stock fund, \$15,000,000.

DEFENSE STOCK FUND

For the Defense stock fund, \$88,000,000.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; \$233,000, of which amount not to exceed \$7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed \$280,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311.

For "National Board for the Promotion of Rifle Practice, Army" for the period July 1, 1976, through September 30, 1976; \$93,000.

NAVAL PETROLEUM RESERVE

For expenses of exploration, prospecting, conservation, development, production, use and operation of the naval petroleum and oil shale reserves as authorized by law, \$117,700,000.

For "Naval petroleum reserve" for the period July 1, 1976, through September 30, 1976; \$47,500,000.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; \$71,600,000.

For "Claims, Defense" for the period July 1, 1976, through September 30, 1976; \$15,500,000.

CONTINGENCIES, DEFENSE

For emergency and extraordinary expenses arising in the Department of Defense, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes; \$2,500,000.

For "Contingencies, Defense" for the period July 1, 1976, through September 30, 1976; \$725,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; \$1,134,000.

For "Court of Military Appeals, Defense" for the period July 1, 1976, through September 30, 1976; \$285,000.

TITLE IV

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$333,500,000 to remain available for obligation until September 30, 1978.

For "Aircraft procurement, Army" for the period July 1, 1976, through September 30, 1976; \$59,400,000, to remain available for obligation until September 30, 1978.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owner equipment layaway; and other expenses necessary for the foregoing purposes; \$422,600,000, to remain available for obligation until September 30, 1978.

40 USC 255.

For "Missile procurement, Army" for the period July 1, 1976, through September 30, 1976; \$42,600,000, to remain available for obligation until September 30, 1978.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$881,400,000, of which \$365,600,000 shall be available only for the production of M60A1 tanks, to remain available for obligation until September 30, 1978.

For "Procurement of weapons and tracked combat vehicles, Army" for the period July 1, 1976, through September 30, 1976; \$255,000,000, of which \$150,900,000 shall be available only for the production of M60A1 tanks, to remain available for obligation until September 30, 1978.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equip-

ment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes: *Provided*, That none of the funds provided in this Act may be obligated for construction or modernization of Government-owned contractor-operated Army Ammunition Plants for the production of 105mm artillery projectile metal parts until a new study is made of such requirements by the Department of the Army; the Secretary of the Army certifies to Congress that such obligations are essential to national defense; and until approval is received from the Appropriations and Armed Services Committees of the House and the Senate, \$637,200,000, to remain available for obligation until September 30, 1978.

For "Procurement of ammunition, Army" for the period July 1, 1976, through September 30, 1976; \$252,800,000, to remain available for obligation until September 30, 1978.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed two thousand three hundred and fifty-six passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$912,300,000, to remain available for obligation until September 30, 1978.

40 USC 255.

For "Other procurement, Army" for the period July 1, 1976, through September 30, 1976; \$197,700,000, to remain available for obligation until September 30, 1978.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment, expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public or private plants; reserve plant and Government and contractor-owned equipment layaway; \$2,972,800,000, to remain available for obligation until September 30, 1978.

For "Aircraft procurement, Navy" for the period July 1, 1976, through September 30, 1976; \$605,500,000, to remain available for obligation until September 30, 1978.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public or private plants; reserve plant and Government and contractor-owned equipment layaway; \$1,172,600,000, of which no more than \$15,000,000 shall be available for the Condor missile program until the Secretary of Defense determines and advises the Congress that the Condor missile system has successfully completed testing and can be released for production, to remain available for obligation until September 30, 1978. 40 USC 255.

For "Weapons procurement, Navy" for the period July 1, 1976, through September 30, 1976; \$321,700,000, to remain available for obligation until September 30, 1978.

SHIPBUILDING AND CONVERSION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; as follows: for the Trident submarine program, \$641,300,000; for the SSN-688 nuclear attack submarine program, \$541,000,000; for completion of the second PHM patrol hydrofoil missile ship, \$39,000,000; for nine PF patrol frigates, \$802,500,000; for one AD destroyer tender, \$201,900,000; for two AO fleet oilers, \$239,400,000; for three T-ATF fleet ocean tugs, \$41,400,000; for ship waste off loading barges, \$11,500,000; for service craft, \$1,400,000; for outfitting, \$36,200,000; for post delivery, \$19,700,000; for cost growth, \$932,400,000; and for escalation on prior year programs, \$345,300,000, and in addition, \$75,000,000 which shall be derived by transfer from "Shipbuilding and conversion, Navy, 1975/1979"; in all: \$3,853,000,000, and in addition \$75,000,000 in transfers as hereinbefore provided, to remain available for obligation until September 30, 1980: *Provided*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

For "Shipbuilding and conversion, Navy" for the period July 1, 1976, through September 30, 1976; as follows: for the Trident submarine program, \$253,000,000; for the SSN-688 nuclear attack submarine

program, \$189,000,000; for the PHM patrol hydrofoil missile ship program, \$24,200,000; and for outfitting, \$5,000,000; in all: \$471,200,000, to remain available for obligation until September 30, 1980.

OTHER PROCUREMENT, NAVY

40 USC 255.

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion), purchase of not to exceed one thousand and eighty-eight passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public or private plants; reserve plant and Government and contractor-owned equipment layaway; \$1,829,700,000, to remain available for obligation until September 30, 1978.

For "Other procurement, Navy" for the period July 1, 1976, through September 30, 1976; \$464,500,000, including purchase of not to exceed one hundred and fourteen passenger motor vehicles for replacement only; to remain available for obligation until September 30, 1978.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public or private plants; reserve plant and Government and contractor-owned equipment layaway; and vehicles for the Marine Corps, including purchase of not to exceed one hundred and fifty-seven passenger motor vehicles for replacement only; \$281,000,000, to remain available for obligation until September 30, 1978.

For "Procurement, Marine Corps" for the period July 1, 1976, through September 30, 1976; \$40,400,000, to remain available for obligation until September 30, 1978.

AIRCRAFT PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$3,933,700,000, of which \$251,200,000 shall be available to fully fund only four E-3A Airborne Warning and Control

System (AWACS) aircraft, and in addition, \$24,300,000 which shall be derived by transfer from "Aircraft procurement, Air Force, 1975/1977", to remain available for obligation until September 30, 1978.

For "Aircraft procurement, Air Force" for the period July 1, 1976, through September 30, 1976; \$818,400,000, to remain available for obligation until September 30, 1978.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$1,723,900,000, to remain available for obligation until September 30, 1978.

40 USC 255.

For "Missile procurement, Air Force" for the period July 1, 1976, through September 30, 1976; \$233,000,000, to remain available for obligation until September 30, 1978.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed six hundred and twelve passenger motor vehicles for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; \$2,046,400,000, to remain available for obligation until September 30, 1978.

For "Other procurement, Air Force" for the period July 1, 1976, through September 30, 1976; \$353,000,000, to remain available for obligation until September 30, 1978.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; purchase of five hundred and four passenger motor vehicles for replacement only; expansion of public and private plants, equipment and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such

40 USC 255.
Angola, funds,
limitation.

lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; \$205,600,000, none of which, nor any other funds appropriated in this Act may be used for any activities involving Angola other than intelligence gathering, and which funds are to remain available for obligation until September 30, 1978.

For "Procurement, Defense agencies" for the period July 1, 1976, through September 30, 1976; \$39,600,000, including purchase of not to exceed seven passenger motor vehicles for replacement only; to remain available for obligation until September 30, 1978.

TITLE V

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$1,948,823,000, to remain available for obligation until September 30, 1977.

For "Research, development, test, and evaluation, Army" for the period July 1, 1976, through September 30, 1976; \$504,452,000, to remain available for obligation until September 30, 1977.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$3,238,390,000, to remain available for obligation until September 30, 1977.

For "Research, development, test, and evaluation, Navy" for the period July 1, 1976, through September 30, 1976; \$818,722,000, to remain available for obligation until September 30, 1977.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$3,591,266,000, to remain available for obligation until September 30, 1977.

For "Research, development, test, and evaluation, Air Force" for the period July 1, 1976, through September 30, 1976; \$901,014,000, to remain available for obligation until September 30, 1977.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$604,400,000, to remain available for

obligation until September 30, 1977: *Provided*, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: *Provided further*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

Transfer and
merger of funds.

For "Research, development, test, and evaluation, Defense agencies" for the period July 1, 1976, through September 30, 1976; \$146,550,000, to remain available for obligation until September 30, 1977.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; \$25,000,000, to remain available for obligation until September 30, 1977.

For "Director of test and evaluation, Defense" for the period July 1, 1976, through September 30, 1976; \$5,000,000, to remain available for obligation until September 30, 1977.

TITLE VI

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses of carrying out programs of the Department of Defense, as authorized by law; \$2,668,000, to remain available for obligation until September 30, 1977: *Provided*, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

For "Special foreign currency program" for the period July 1, 1976, through September 30, 1976; \$37,000, to remain available for obligation until September 30, 1977.

TITLE VII

GENERAL PROVISIONS

SEC. 701. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Publicity or
propaganda.

SEC. 702. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense; and to pay in connection there-

Experts or
consultants.

with travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty station and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

Employment of
noncitizens.
31 USC 700.

SEC. 703. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

Appropriations,
availability.

SEC. 704. Appropriations contained in this Act shall be available for insurance of official motor vehicles in foreign countries, when required by laws of such countries; payments in advance of expenses determined by the investigating officer to be necessary and in accord with local custom for conducting investigations in foreign countries incident to matters relating to the activities of the department concerned; reimbursement of General Services Administration for security guard services for protection of confidential files; reimbursement of the Federal Bureau of Investigation for expenses in connection with investigation of defense contractor personnel; and all necessary expenses, at the seat of government of the United States of America or elsewhere, in connection with communication and other services and supplies as may be necessary to carry out the purposes of this Act.

Prisoners of war.
31 USC 649a.

SEC. 705. Any appropriation available to the Army, Navy, or the Air Force may, under such regulations as the Secretary concerned may prescribe, be used for expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status is determined by the Secretary concerned to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamations.

Land acquisition.

SEC. 706. Appropriations available to the Department of Defense for the current fiscal year for maintenance or construction shall be available for acquisition of land or interest therein as authorized by section 2672 or 2675 of title 10, United States Code.

Dependents'
schooling.

SEC. 707. Appropriations for the Department of Defense for the current fiscal year shall be available, (a) except as authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for primary and secondary schooling for minor dependents of military and civilian personnel of the Department of Defense residing on military or naval installations or stationed in foreign countries, as authorized for the Navy by section 7204 of title 10, United States Code, in an amount not exceeding \$211,391,000 for fiscal year 1976 and in an amount not exceeding \$50,018,000 for the period July 1, 1976, through September 30, 1976, when the Secretary of the Department concerned finds that schools, if any, available in the locality, are unable to provide adequately for the education of such dependents: *Provided*, That under such regulations as may be issued by the Secretary of Defense, such schooling in a school operated by the Department of Defense under this section may be provided without tuition for minor dependents of civilian and military personnel of the Department of Defense who died while entitled to compensation or active duty pay: *Provided further*, That where such personnel die subsequent to January 11, 1971, such schooling must be continued or commenced within one year after the date of death; (b) for expenses in connection with administration of occupied areas; (c) for payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the

recovery thereof; (d) for payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (e) for leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers, or in administering the provisions of title 43, United States Code, section 315q, rentals may be paid in advance; (f) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (g) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (h) for the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 1446a, title 7, United States Code, and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (i) transporting civilian clothing to the home of record of selective service inductees and recruits on entering the military services; (j) payments under leases for real or personal property for twelve months beginning at any time during the fiscal year; and (k) pay and allowances of not to exceed nine persons, including personnel detailed to International Military Headquarters and Organizations, at rates provided for under section 625(d)(1) of the Foreign Assistance Act of 1961, as amended.

Deficiency judgments.
Leasing.

Tools, maintenance.
Access roads.

Milk program.

22 USC 2385.

Incidental expenses, payment.
10 USC 858 note.

10 USC 807 note.

Small business assistance.

SEC. 708. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed \$25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment, and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in hospitals; (e) expenses of prisoners confined in nonmilitary facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin America cooperation as authorized for the Navy by law (10 U.S.C. 7208); and (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed \$25 in any one case.

SEC. 709. Insofar as practicable, the Secretary of Defense shall assist American small business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by making available or causing to be made available to suppliers in the United States, and particularly to small independent enterprises, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by making available or causing to be made available to purchasing and contracting agencies of the Department of Defense information as to commodities and services produced and furnished by small independent enterprises in the United States, and by otherwise helping to give small business an opportunity to par-

ticipate in the furnishing of commodities and services financed with funds appropriated by this Act.

Mess operations.

SEC. 710. No appropriation contained in this Act shall be available for expenses of operation of messes (other than organized messes the operating expenses of which are financed principally from nonappropriated funds) at which meals are sold to officers or civilians, except under regulations approved by the Secretary of Defense, which shall (except under unusual or extraordinary circumstances) establish rates for such meals sufficient to provide reimbursements of operating expenses and food costs to the appropriations concerned: *Provided*, That officers and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at the rate of not less than \$2.50 per day: *Provided further*, That for the purposes of this section payments for meals at the rates established hereunder may be made in cash or by deduction from the pay of civilian employees: *Provided further*, That members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.

Limitation.

SEC. 711. Unless otherwise expressly provided, appropriations contained in this Act shall remain available for obligation until September 30, 1976.

Reimbursable appropriations.

SEC. 712. Appropriations of the Department of Defense available for operation and maintenance may be reimbursed during the current fiscal year for all expenses involved in the preparation for disposal and for the disposal of military supplies, equipment, and material, and for all expenses of production of lumber or timber products pursuant to section 2665 of title 10, United States Code, from amounts received as proceeds from the sale of any such property: *Provided*, That a report of receipts and disbursements under this limitation shall be made quarterly to Congress: *Provided further*, That no funds available to agencies of the Department of Defense shall be used for the operation, acquisition, or construction of new facilities or equipment for new facilities in the continental limits of the United States for metal scrap baling or shearing or for melting or sweating aluminum scrap unless the Secretary of Defense or an Assistant Secretary of Defense designated by him determines, with respect to each facility involved, that the operation of such facility is in the national interest.

Funds, apportionment exemption.

SEC. 713. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense.

31 USC 665.

Airborne alert expenses.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of Revised Statutes 3732 (41 U.S.C. 11):

Military personnel increase, expenses.

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of Revised Statutes 3732 (41 U.S.C. 11).

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

Report to
Congress.

SEC. 714. No appropriation contained in this Act shall be available in connection with the operation of commissary stores of the agencies of the Department of Defense for the cost of purchase (including commercial transportation in the United States to the place of sale but excluding all transportation outside the United States) and maintenance of operating equipment and supplies, and for the actual or estimated cost of utilities as may be furnished by the Government and of shrinkage, spoilage, and pilferage of merchandise under the control of such commissary stores, except as authorized under regulations promulgated by the Secretaries of the military departments concerned with the approval of the Secretary of Defense, which regulations shall provide for reimbursement therefor to the appropriations concerned and, notwithstanding any other provision of law, shall provide for the adjustment of the sales prices in such commissary stores to the extent necessary to furnish sufficient gross revenue from sales of commissary stores to make such reimbursement: *Provided*, That under such regulations as may be issued pursuant to this section all utilities may be furnished without cost to the commissary stores outside the continental United States and in Alaska: *Provided further*, That no appropriation contained in this Act shall be available in connection with the operation of commissary stores within the continental United States unless the Secretary of Defense has certified that items normally procured from commissary stores are not otherwise available at a reasonable distance and a reasonable price in satisfactory quality and quantity to the military and civilian employees of the Department of Defense.

Commissary
stores.

Free utilities
outside U.S. and
in Alaska.

SEC. 715. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

Proficiency
flying.

SEC. 716. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of thirteen thousand five hundred pounds.

Household goods.

SEC. 717. Vessels under the jurisdiction of the Department of Commerce, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

Vessels, transfer.
40 USC 483a.

SEC. 718. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the fiscal year 1976, shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer-camp training of the Reserve Officers' Training Corps.

Obligated funds,
1976, limitation.

Foreign real
property, use.

SEC. 719. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

31 USC 700a.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

Report to
Congress and
Office of
Management and
Budget.

Research and
development
funds.

SEC. 720. During the current fiscal year, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the service concerned.

Education
expenses,
restriction.

SEC. 721. No appropriation contained in this Act shall be available for the payment of more than 75 per centum of charges of educational institutions for tuition or expenses of off-duty training of military personnel, nor for the payment of any part of tuition or expenses for such training for commissioned personnel who do not agree to remain on active duty for two years after completion of such training.

ROTC, loyalty
requirements.
10 USC 2103
note.

SEC. 722. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

Procurement
restrictions.

SEC. 723. No part of any appropriation contained in this Act shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto:

Provided, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 724. None of the funds appropriated in this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories or possessions, as to which the Secretary of Defense does not certify in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Service facilities.

SEC. 725. During the current fiscal year, appropriations of the Department of Defense shall be available for reimbursement to the United States Postal Service for payment of costs of commercial air transportation of military mail between the United States and foreign countries.

Airmail reimbursement.

SEC. 726. Appropriations contained in this Act shall be available for the purchase of household furnishings, and automobiles from military and civilian personnel on duty outside the continental United States, for the purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of the Department of Defense on duty outside the continental United States or in Alaska, upon a determination, under regulations approved by the Secretary of Defense, that such action is advantageous to the Government.

Furnishings and automobiles, purchase.

SEC. 727. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901; 80 Stat. 508).

Uniforms.

SEC. 728. Funds provided in this Act for congressional liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed \$1,500,000 for fiscal year 1976, and \$375,000 for the period July 1, 1976, through September 30, 1976: *Provided*, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense.

Congressional liaison activities.

SEC. 729. Of the funds made available by this Act for the services of the Military Airlift Command, \$100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

Civil reserve air fleet

SEC. 730. During the current fiscal year, appropriations available to the Department of Defense for operation may be used for civilian clothing, not to exceed \$40 in cost for enlisted personnel: (1) discharged for misconduct, unfitness, unsuitability, or otherwise than

Civilian clothing.

honorably; (2) sentenced by a civil court to confinement in a civil prison or interned or discharged as an alien enemy; (3) discharged prior to completion of recruit training under honorable conditions for dependency, hardship, minority, disability, or for the convenience of the Government.

Defense
contractors,
advertising costs,
restrictions.

SEC. 731. No part of the funds appropriated herein shall be available for paying the costs of advertising by any defense contractor, except advertising for which payment is made from profits, and such advertising shall not be considered a part of any defense contract cost. The prohibition contained in this section shall not apply with respect to advertising conducted by any such contractor, in compliance with regulations which shall be promulgated by the Secretary of Defense, solely for (1) the recruitment by the contractor of personnel required for the performance by the contractor of obligations under a defense contract, (2) the procurement of scarce items required by the contractor for the performance of a defense contract, or (3) the disposal of scrap or surplus materials acquired by the contractor in the performance of a defense contract.

New facilities,
restriction.

SEC. 732. Funds appropriated in this Act for maintenance and repair of facilities and installations shall not be available for acquisition of new facilities, or alteration, expansion, extension, or addition of existing facilities, as defined in Department of Defense Directive 7040.2, dated January 18, 1961, in excess of \$75,000: *Provided*, That the Secretary of Defense may amend or change the said directive during the current fiscal year, consistent with the purpose of this section.

Transfer of funds.

SEC. 733. Upon determination by the Secretary of Defense, that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$750,000,000 during the fiscal year 1976, and \$185,000,000 during the period July 1, 1976, through September 30, 1976, of the appropriations or funds available to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated, and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

Notice to
Congress.

Contract
payments in
foreign countries.

SEC. 734. None of the funds appropriated in this Act may be used to make payments under contracts for any program, project, or activity in a foreign country unless the Secretary of Defense or his designee, after consultation with the Secretary of the Treasury or his designee, certifies to the Congress that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law is not feasible for the purpose, stating the reason therefor.

Working capital
funds.

SEC. 735. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by

the Secretary of Defense, with the approval of the Office of Management and Budget.

SEC. 736. No part of the funds appropriated under this Act shall be used to pay salaries of any Federal employee who is convicted in any Federal, State, or local court of competent jurisdiction, of inciting, promoting, or carrying on a riot, or any group activity resulting in material damage to property or injury to persons, found to be in violation of Federal, State, or local laws designed to protect persons or property in the community concerned.

Convicted rioters.

SEC. 737. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

Campus disrupters.

SEC. 738. None of the funds herein appropriated may be obligated or expended to finance directly or indirectly combat activities by United States military forces in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia.

Vietnam, Laos, or Cambodia, combat activities.

SEC. 739. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

Heating plant conversion.

SEC. 740. None of the funds appropriated by this Act shall be available for any research involving uninformed or nonvoluntary human beings as experimental subjects.

Involuntary experimental subjects.

SEC. 741. Appropriations for the current fiscal year for operation and maintenance of the active forces shall be available for medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment); welfare and recreation; hire of passenger motor vehicles; repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public or private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions.

SEC. 742. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for the reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

Reprogramming of funds.

SEC. 743. None of the funds contained in this Act shall be used to furnish petroleum fuels produced in the continental United States to Southeast Asia for use by non-United States nationals.

Petroleum fuels to Southeast Asia.

SEC. 744. Obligations hereafter incurred for advance payments of pay and allowances pursuant to section 1006 of title 37, United States Code, shall be recorded as obligations only in the fiscal year in which such payments are earned.

37 USC 1006 note.

SEC. 745. None of the funds appropriated by this Act may be used to support more than three hundred and ninety-six enlisted aides in the United States Armed Forces.

Enlisted aides, limitation.

SEC. 746. Funds made available for the period July 1, 1976, through September 30, 1976, shall be available for the same purposes as the corresponding appropriation for fiscal year 1976, and shall be subject to the provisions of this title applicable to fiscal year 1976, unless otherwise specifically provided.

Household
effects,
transportation,
monetary
allowance.
37 USC 406 note.

SEC. 747. Appropriations available to the Department of Defense for providing transportation of household effects of members of the armed forces pursuant to section 406(b) of title 37, United States Code, shall be available hereafter to pay a monetary allowance in place of such transportation, to a member who, under regulations prescribed by the Secretary of the military department concerned, participates in a program designated by the Secretaries in which his baggage and household effects are moved by privately owned or rental vehicle. Such allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of said baggage and household effects. However, the monetary allowance shall be in an amount which will provide savings to the government when the total cost of such movement is compared with the cost which otherwise would have been incurred under section 406(b).

Unused accrued
leave.

SEC. 748. None of the funds appropriated by this Act shall be available to pay any member of the uniformed service for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than 60 days of such leave, less the number of days for which payment was previously made under section 501 after the effective date of this Act.

Space and
services
furnished by
GSA, charges.

SEC. 749. No part of any appropriation, funds, or other authority contained in this Act shall be available for paying to the Administrator of the General Services Administration in excess of 90 per centum of the standard level user charge established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, for space and services.

Health program,
restrictions.

SEC. 750. No funds appropriated in this Act shall be available to pay claims for non-emergency inpatient hospital care provided on or after January 1, 1976, under the Civilian Health and Medical Program of the Uniformed Services for services available at a facility of the uniformed services within a 40-mile radius of the patient's residence.

SEC. 751. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors, except when these services are certified as not being available on the military base to which the member is assigned, or when the recipient resides within 40 miles of a military medical facility which certifies that these services are not available; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) reconstructive surgery justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts, and sex gender changes; or (f) any other service or supply which is not medically or psychologically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by a physician, dentist, or a clinical psychologist.

SEC. 752. None of the funds appropriated in this Act may be expended by the Department of the Army for the design, procurement of plant equipment, or construction of new ammunition plant facilities except in areas in which existing ammunition plant facilities are being closed, placed in layaway, or at which production has been curtailed.

Ammunition
plants,
restriction.

SEC. 753. Unless otherwise specified and during the current fiscal year, and the period July 1, 1976, through September 30, 1976, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided*, That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than \$4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal-clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

Compensation.
31 USC 699b.

TITLE VIII

RELATED AGENCIES

DEFENSE MANPOWER COMMISSION

For necessary expenses of the Defense Manpower Commission in carrying out the provisions of title VII of the Department of Defense Appropriation Authorization Act, 1974, including services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and hire of passenger motor vehicles, \$1,300,000.

Short title. This Act may be cited as the "Department of Defense Appropriation Act, 1976".

Approved February 9, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-517 (Comm. on Appropriations) and No. 94-710 (Comm. of Conference).

SENATE REPORT No. 94-446 (Comm. on Appropriations).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Sept. 30, Oct. 1, 2, considered and passed House.

Nov. 13, 14, 18, considered and passed Senate, amended.

Dec. 12, House agreed to conference report; receded and concurred in Senate amendments with an amendment.

Dec. 15, 17-19, Senate agreed to conference report; concurred in House amendment with an amendment.

Vol. 122 (1976): Jan. 27, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 7 (1976): Feb. 10, Presidential statement.

Public Law 94-213
94th Congress

An Act

To amend title 5, United States Code, to authorize civilians employed by the Department of Defense to administer oaths while conducting official investigations.

Feb. 13, 1976
[H.R. 508]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303 of title 5, United States Code, is amended by inserting "(a)" immediately before "An employee" and by adding at the end thereof the following new subsection:

Department of
Defense civilian
employees, oaths.

"(b) An employee of the Department of Defense lawfully assigned to investigative duties may administer oaths to witnesses in connection with an official investigation."

Approved February 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-241 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 94-541 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD:

Vol. 121 (1975): July 21, considered and passed House.

Vol. 122 (1976): Jan. 26, considered and passed Senate, amended.

Jan. 29, House concurred in Senate amendment.

Public Law 94-214
94th Congress

An Act

To establish improved programs for the benefit of producers and consumers of rice.

Feb. 16, 1976

[H.R. 8529]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rice Production
Act of 1975.

SHORT TITLE

SECTION 1. This Act may be cited as the “Rice Production Act of 1975”. 7 USC 428c note.

TITLE I—RICE ALLOTMENTS AND PRICE SUPPORT

NATIONAL ACREAGE ALLOTMENT AND ALLOCATION

SEC. 101. Effective for the 1976 and 1977 crops of rice, section 352 of the Agricultural Adjustment Act of 1938 is amended to read as follows: 7 USC 1352 note. 7 USC 1352.

“SEC. 352. (a) The Secretary shall establish for each of the 1976 and 1977 crops of rice a national acreage allotment in the amount of one million eight hundred thousand acres.

“(b) The national acreage allotment for each such crop of rice shall be apportioned by the Secretary to farms, and in producer States and administrative areas, to producers on the basis of the rice allotments established for the 1975 crop as adjusted in accordance with subsection (c) of this section: *Provided*, That not to exceed 1 per centum of the national acreage allotment apportioned within each State may be reserved by the State committee for (1) apportionment to new rice farms and new rice producers on the basis of the following factors: suitability of the land for the production of rice, the extent to which the farm operator (or produced in the case of a producer allotment) is dependent on income from farming for his livelihood, the production of rice on other farms owned, operated, or controlled by such person, and such other factors as the State committee determines should be considered for the purpose of establishing fair and equitable rice allotments; (2) making adjustments in farm allotments to correct inequities or to prevent hardship; and (3) making corrections in farm or producer allotments.

“(c) (1) If for any crop the total acreage planted to rice on a farm is less than the rice allotment for the farm (or in producer administrative areas, the producer allotments allocated to the farm), the farm or producer allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than the allotment for the farm, but such reduction shall not exceed 20 per centum of the farm or producer allotment for the preceding crop; except that if not less than 90 per centum of the farm acreage allotment is planted to rice, the farm shall be considered to have an acreage planted to rice equal to 100 per centum of such allotment. For purposes of this paragraph, an acreage on the farm which the Secretary determines was not planted to rice because of drought, flood, other natural disaster, or a condition beyond the control of the producer shall be

considered to be an acreage planted to rice. For the purpose of this paragraph, the Secretary may permit producers of rice to have acreage devoted to soybeans, wheat, feed grains, sugar, castor beans, triticale, oats, cotton, rye, or such other crops as the Secretary may deem appropriate, considered as devoted to the production of rice to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the rice program.

“(2) If no acreage is planted (or regarded as planted) to rice for two consecutive crop years on any farm which had a farm acreage allotment for such years or for any producer which had a producer allotment for such years, such farm or producer shall lose it allotment.

“(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, no farm or producer allotment shall be reduced or lost through failure to plant, if the cooperator elects not to receive payments for the portion of the farm or producer allotment not planted to which he would otherwise be entitled under the provisions of section 101(g) of the Agricultural Act of 1949.

7 USC 1441.

“(d) Notwithstanding any other provision of this Act, if the Secretary determines for any year that, because of drought, flood, other natural disaster, or a condition beyond the control of the person involved in the production of rice, none or only part of the acres of an allotment can be timely planted or replanted by or for such person in such year, the Secretary may authorize for such year the transfer of the total number of such acres which are so affected to another farm in the same or any nearby county, but within the same administrative area, on which one or more persons on the farm from which the transfer is made will be engaged in the production of rice and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any allotment, or portion thereof, transferred under this subsection shall be regarded as planted to rice on the farm from which the transfer is made for purposes of establishing future farm allotments. For the purpose of determining the amount of payments and loans made under section 101(g) of the Agricultural Act of 1949 with regard to farms to which allotments, or portions thereof, are transferred under this subsection, the Secretary shall establish a farm yield for any such farm for which there is no established yield.

“(e)(1) The Secretary shall permit the owner and operator of any farm for which a farm acreage allotment has been established to sell or lease all or any part, or the right to all or any part of such allotment, to any other owner or operator of a farm in the same administrative area, or to transfer all or any part of such allotment to any other farm owned or controlled by him in the same administrative area. The Secretary shall also permit the person for whom a producer allotment has been established to sell or lease all or any part of such allotment to any other person in the same administrative area.

“(2)(A) If a producer in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm dies, his history of rice production shall be apportioned in the whole or in part among his heirs or devisees according to the extent to which they may continue, or have continued, his farming operations, if satisfactory proof of such succession of farming operations is furnished the Secretary.

“(B) Upon dissolution of a partnership in a State in which farm rice acreage allotments are determined on the basis of past production of rice by the producer on the farm, the partnership’s history of rice production shall be divided among the partners in such proportion as agreed upon in writing by the partners.

“(C) Any part of the farm rice acreage allotment on which rice will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county in amounts determined by the county committee to be fair and reasonable. Any allotment surrendered under this subparagraph shall be regarded for purposes of this subsection as having been planted on the farm from which it was surrendered.

“(f) Any acreage planted to rice in excess of the farm or producer acreage allotment in the crop years 1976 and 1977 shall not be taken into account in establishing farm, or producer acreage allotments in any year following such period.”

PAYMENTS AND LOANS

SEC. 102. Effective for the 1976 and 1977 crops of rice, section 101 of the Agricultural Act of 1949 is amended by adding the following new subsection at the end thereof: 7 USC 1441 note.
7 USC 1441.

“(g) Notwithstanding any other provision of law—

“(1) The established price for the purpose of making payments on rice under this subsection shall be \$8 per hundredweight in the case of the 1976 crop, adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning on the date of enactment of the Rice Production Act of 1975, and ending July 31, 1976; for the 1977 crop the established price shall be the established price for the 1976 crop adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the twelve-month period immediately preceding July 31, 1977: *Provided*, That any increase that would otherwise be made in the established price for the 1976 and 1977 crops to reflect a change in the index of prices paid by farmers may be further adjusted to reflect any change in (i) the national average yield per acre of rice for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre for the three calendar years preceding the year previous to the one for which the determination is made.

“(2) The Secretary shall make available, to cooperators in the several States of the United States, loans and purchases on the 1976 crop of rice at a rate equal to \$6 per hundredweight, adjusted to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning on the date of enactment of the Rice Production Act of 1975 and ending July 31, 1976: *Provided*, That any increase in the rate of loans and purchases for the 1976 crop to reflect a change in the index of prices paid by farmers may be further adjusted to reflect the change described in the proviso in paragraph (1) of this subsection. Loans and purchases for the 1977 crop shall be established at such rate as bears the same ratio to the loan rate for the 1976 crop as the established price for the 1977 crop bears to the established price for the 1976

crops. The loans and purchases for the 1976 and 1977 crops shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment by the yield established for the farm, as determined in the manner described in the second sentence of paragraph (4) of this subsection.

“(3) The Secretary shall make available to cooperators payments for each of the 1976 and 1977 crops of rice grown in the several States of the United States at a rate equal to the amount by which the established price for the crop of rice exceeds the higher of—

“(A) the national average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary; or

“(B) the loan level determined under paragraph (2) for such crop.

“(4) The payments for the 1976 and 1977 crops shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment by the yield established for the farm. The yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, other natural disaster, or condition beyond the control of the cooperator. If the Secretary determines that the persons involved in producing rice on a farm are prevented from planting all or any portion of the acreage allotments of producers on the farm or farm acreage allotment to rice or other nonconserving crop, because of droughts, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment with regard to such acres so affected shall be the larger of (A) the foregoing rate, or (B) one-third of the established price, except that the Secretary shall make no payment pursuant to this sentence on a farm from which acres were transferred under section 352(d) of the Agricultural Adjustment Act of 1938 with respect to the transferred acreage. If the Secretary determines that, because of such disaster or condition, the total quantity of rice which the persons involved in producing rice are able to harvest on any farm is less than 66⅔ per centum of the acreage allotments of producers on the farm or of the farm acreage allotment times the yield of rice established for the farm, the rate of payment for the deficiency in production below 100 per centum shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. Any payment made under the previous two sentences with regard to acres transferred under section 352(d) of the Agricultural Adjustment Act of 1938 shall be calculated with respect to the farm yield established on the farm to which such acres were transferred.

7 USC 1352.

Set-aside of
cropland.

“(5) (A) The Secretary may provide for a set-aside of cropland for a crop of rice if he estimates (without taking into consideration the effect of a set-aside), that the carryover of rice for the marketing year beginning in the calendar year immediately following the calendar year in which such crop will be grown will exceed 15 per centum of the total supply of rice for the marketing year beginning in the calendar year in which such crop will be grown. The Secretary shall make a preliminary determination prior to the beginning of the calendar year in which such crop will be grown and a final determination not later than April 1 of the calendar year in which such crop is grown of whether a set-aside shall be in effect and, if so, the acreage of crop-

land required to be set aside. The determinations and estimates on which they are based shall be published in the Federal Register at the time they are made. If a set-aside of cropland is in effect under this paragraph then, as a condition of eligibility for payments, loans and purchases under this subsection, the cooperators must set aside and devote to conservation uses an acreage of cropland equal to (i) such percentage of the farm acreage allotment as may be specified by the Secretary (not to exceed 30 per centum of the farm acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The Secretary shall permit cooperators to plant and graze sweet sorghum on set-aside acreage. The Secretary may permit, subject to such terms and conditions as he may prescribe, all or any part of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

Publication in
Federal Register.

“(B) To assist in adjusting the acreage of rice to desirable goals, the Secretary may make land diversion payments, in addition to the payments authorized in paragraph (3) of this subsection, to cooperators on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be devoted under subparagraph (A) of this paragraph. The land diversion payments for a farm shall be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the cooperator and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

Land diversion
payments.

“(6) The rice program formulated under this subsection shall require the cooperators to take such measures as the Secretary may deem appropriate to protect the set-aside acreage and the additional diverted acreage from erosion, insects, weeds, and rodents. Such acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences. The Secretary may provide for an additional payment on such acreage in the amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the cooperator agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

“(7) If the operator of the farm desires to participate in the program formulated under this subsection, he shall file his agreement to do so no later than such date as the Secretary may prescribe. Payments under this subsection shall be made available to cooperators on such farm only if such cooperators set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres

which the operator of the farm agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the cooperators on the farm, terminate or modify any such agreement entered into pursuant to this subsection if he determines such action necessary because of any emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of rice.

“(8) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers including provision for sharing, on a fair and equitable basis, in payments under this subsection.

“(9) In the case in which the failure of a cooperator to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

Regulations.

“(10) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this subsection.

“(11) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

16 USC 590h.

“(12) The provisions of subsection 8(g) of the Soil Conservation and Domestic Allotment Act (relating to assignment of payments) shall apply to payments under this subsection.

“(13) Notwithstanding any other provision of law—

“(A) The total amount of payments which a person shall be entitled to receive during a crop year under the rice program shall not exceed \$55,000.

“Payments.”

“(B) The term ‘payments’ as used in this paragraph shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation.

“(C) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such persons will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

Rules and regulations.

“(D) The Secretary shall issue regulations defining the term ‘person’ and prescribing such rules as he determines necessary to assure a fair and reasonable application of such limitation: *Provided*, That the provisions of this paragraph which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970.”

SUSPENSION OF MARKETING QUOTAS AND OTHER PROVISIONS

7 USC 1353 note.
7 USC 1353,
1354, 1355,
1356.

SEC. 103. Sections 353, 354, 355, and 356 of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1976 and 1977 crops of rice.

TITLE II—RICE RESEARCH

SEC. 201. (a) The Secretary of Agriculture may, under rules prescribed by such Secretary, carry out regional and national research programs with regard to rice for the following purposes:

Rules.
7 USC 428c.

- (1) to reduce fertilizer and herbicide usage in excess of production needs;
 - (2) to develop varieties of rice more susceptible to complete fertilizer utilization;
 - (3) to improve the resistance of rice plants to disease and to enhance their conservation and environmental qualities;
 - (4) to increase the usage of rice and its processing byproducts;
 - (5) to develop better husbandry practices in production and conservation of rice;
 - (6) to develop more efficient rice storage practices;
 - (7) to improve domestic and international marketing of rice;
- and
- (8) to benefit the general welfare.

(b) The Secretary shall, in implementing the program authorized in subsection (a), utilize the technical and related services of appropriate Federal, State, local governmental, and private agencies, with priority consideration for land grant universities, State experiment stations, and other agricultural institutions of higher learning.

(c) There is authorized to be appropriated not more than \$1,000,000 for the period ending September 30, 1976, to carry out the provisions of this section. No funds authorized by this section shall be used for advertising or promotional activities.

Appropriation
authorization.

TITLE III—MISCELLANEOUS

UNUSED ACREAGE ALLOTMENTS

SEC. 301. Section 377 of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1976 and 1977 crops of rice.

7 USC 1377 note.
7 USC 1377.

FINALITY OF FARMERS' PAYMENTS AND LOANS

SEC. 302. Effective only with respect to the 1976 and 1977 crops of rice, section 385 of the Agricultural Adjustment Act of 1938 is amended in the first sentence thereof by inserting immediately after "cotton set-aside program," the following: "payments under the rice program authorized by section 101(g) of the Agricultural Act of 1949,".

7 USC 1385 note.
7 USC 1385.

7 USC 1441.

DEFINITION OF COOPERATOR

SEC. 303. Section 408(b) of the Agricultural Act of 1949 is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: " : *Provided further*, That for the 1976 and 1977 crops of rice, a cooperator shall be a person who produces rice on a farm for which a farm acreage allotment has been established or to which a producer acreage allotment has been allocated and, if a set-aside is in effect, who has set aside any acreage required under section 101(g)." .

7 USC 1428.

CONFORMING AMENDMENT

7 USC 1428 note. SEC. 304. Effective only with respect to the 1976 and 1977 crops of
7 USC 1428. rice, section 408 of the Agricultural Act of 1949 is amended by adding
at the end thereof the following new subsection:

“Reference to Terms Made Available to Rice

7 USC 1422, “(m) Reference made in sections 402, 403, 406, 407, and 416 to terms
1423, 1426, ‘support price’, ‘level of support’, and ‘level of price support’ shall be
1427, 1431. considered to apply as well to the level of loans and purchases for rice
under this Act, and references made to the terms ‘price support’, ‘price
support operation’, and ‘price support program’ in such sections and
7 USC 1421. in section 401(a) shall be considered as applying as well to the loan
and purchase operations for such rice in this Act.”.

Approved February 16, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-618 (Comm. on Agriculture).

SENATE REPORT No. 94-557 accompanying S. 2260 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 10, 16, considered and passed House.

Vol. 122 (1976): Jan. 28-30, Feb. 2, 3, considered and passed Senate, in lieu of S. 2260.

Public Law 94-215
94th Congress

An Act

To extend until the close of 1983 the period in which appropriations are authorized to be appropriated for the acquisition of wetlands, to increase the maximum amount of such authorization, and for other purposes.

Feb. 17, 1976

[H.R. 5608]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wetlands Loan Extension Act of 1976".

Wetlands Loan
Extension Act of
1976.
16 USC 715k-8
note.

SEC. 2. (a) The first section of the Act entitled "An Act to promote the conservation of migratory waterfowl by the acquisition of wetlands and other essential waterfowl habitat, and for other purposes", approved October 4, 1961 (16 U.S.C. 715k-3) is amended by striking out "fifteen-year period beginning with fiscal year 1962, not to exceed \$105,000,000." and inserting in lieu thereof the following: "period beginning on July 1, 1961, and ending at the close of September 30, 1983, not to exceed \$200,000,000."

(b) Section 3 of such Act of October 4, 1961 (16 U.S.C. 715k-5) is amended—

(1) by striking out "with fiscal year 1977," and inserting in lieu thereof "on October 1, 1983,";

(2) by striking out "prior to the end of the aforesaid fifteen-year period," and inserting in lieu thereof "before October 1, 1983,"; and

(3) by striking out "year: *Provided further*, That no" and inserting in lieu thereof "year. No".

SEC. 3. (a) The first section of the Act entitled "An Act to supplement and support the Migratory Bird Conservation Act by providing funds for the acquisition of areas for use as migratory-bird sanctuaries, refuges, and breeding grounds, for developing and administering such areas, for the protection of certain migratory birds, for the enforcement of the Migratory Bird Treaty Act and regulations thereunder, and for other purposes", approved March 16, 1934 (16 U.S.C. 718a; commonly known as the "Migratory Bird Hunting Stamp Act") is amended by inserting after "hunting" in the first sentence the words "and conservation".

Migratory bird
hunting and
conservation
stamp.

(b) The first sentence of section 2 of such Act of March 16, 1934 (16 U.S.C. 718b) is amended to read as follows: "The stamps required by section 1 of this Act shall be issued and sold by the Postal Service and may be sold by the Department of the Interior, pursuant to regulations prescribed jointly by the Postal Service and the Secretary of the Interior, at (1) each post office of the first- and second-class, and (2) any establishment, facility, or location as the Postal Service and the Secretary of the Interior shall direct or authorize. The funds received from the sale of such stamps by the Department of the Interior shall be deposited in the migratory bird conservation fund in accordance with the provisions of section 4 of this Act."

(c) The fifth sentence of section 2 of such Act of March 16, 1934 (16 U.S.C. 718b), is amended to read as follows: "The Postal Service, pursuant to regulations prescribed by it, shall provide for the redemption, on or before the 30th day of September of each fiscal year, of blocks composed of two or more attached unused stamps issued for such year (A) that were sold on consignment to any person, including,

but not limited to, retail dealers for resale to their customers, and (B) that have not been resold by any such person.”

(d) The first sentence of section 4 of such Act of March 16, 1934 (16 U.S.C. 718d), is amended by inserting immediately after “Postal Service” the following: “or the Department of the Interior, whichever is appropriate.”

Land and water,
rental or
purchase.

SEC. 4. Section 2 of the Migratory Bird Conservation Act (16 U.S.C. 715a) is amended by adding at the end thereof the following new sentence: “For purposes of this Act, the purchase or rental of any area of land, water, or land and water includes the purchase or rental of any interest in any such area of land, water, or land and water.”

Property,
exchange or cash
equalization.

SEC. 5. Paragraph (3) of section 4(b) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(b)(3)) is amended to read as follows:

“(3) to acquire lands or interests therein by exchange (A) for acquired lands or public lands, or for interests in acquired or public lands, under his jurisdiction which he finds to be suitable for disposition, or (B) for the right to remove, in accordance with such terms and conditions as he may prescribe, products from the acquired or public lands within the System. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.”

Approved February 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-335 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-594 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 8, considered and passed House.

Vol. 122 (1976): Jan. 29, considered and passed Senate, amended.

Feb. 3, House concurred in Senate amendments with amendments.

Feb. 4, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 8 (1976): Feb. 17, Presidential statement.

Public Law 94-216
94th Congress

Joint Resolution

To amend the Railroad Revitalization and Regulatory Reform Act of 1976.

Feb. 17, 1976
[S.J. Res. 167]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 612(m) of the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94-210, is amended by striking “(h)” and inserting in lieu thereof “(i)” and by striking “(i)” and inserting in lieu thereof “(j)”.

Railroad
Revitalization
and Regulatory
Reform Act of
1976,
amendments.
Ante, p. 107.

SEC. 2. Section 209(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(c)(4)), is amended by striking “February 10, 1976” and inserting in lieu thereof “February 17, 1976”.

SEC. 3. Section 301(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(i)) is amended by striking “in his capacity as a director of the Corporation” and inserting in lieu thereof “in his capacity as a director of the Association”.

Approved February 17, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 6, considered and passed Senate.

Feb. 9, considered and passed House.

Public Law 94-217
94th Congress

An Act

Feb. 27, 1976
[H.R. 6184]

To amend section 40 of the Bankruptcy Act to fix the salaries of referees in bankruptcy.

Bankruptcy
referees.
Salary-fixing.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the portion of section 40 (11 U.S.C. 68) of the Bankruptcy Act which appears before subsection (c) of such section is amended to read as follows:

“a. The compensation of referees in bankruptcy shall be as follows:

2 USC 358 note.

“(1) Each full-time referee in bankruptcy shall receive a salary of \$37,800 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of title 28 of the United States Code.

“(2) Each part-time referee in bankruptcy shall receive a salary of not more than \$18,900 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of title 28 of the United States Code, and subject to further adjustment by the conference, in the light of recommendations of the councils, made after advising with the district judges of their respective circuits, and the Director. In fixing the amount of the salary to be paid to a part-time referee, consideration shall be given to the average number and types of, and the average amount of gross assets realized from, cases closed and pending in the territory which the part-time referee is to serve, during the last preceding period of ten years, and to such other factors as may be material.

“(3) Disbursement of salaries of referees shall be made monthly by or pursuant to order of the Director.

“b. The conference, in light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, may increase or decrease the salary of any part-time referee, within the limit prescribed in subdivision a(2) of this section, if there has been a material increase or decrease in the volume of business or other change in the factors which may be considered material in fixing salaries.”.

Retired referees,
compensation.
11 USC 68.

SEC. 2. The next to final sentence of section 40d(2) of the Bankruptcy Act is amended by striking out “However, the rate of compensation” and all that follows down through the end of the sentence and inserting in lieu thereof the following: “However, the rate of compensation of a retired referee assigned to serve on a full-time basis in the territory of a part-time referee shall be the rate of full-time service.”.

Approved February 27, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-467 (Comm. on the Judiciary).

SENATE REPORT No. 94-626 accompanying S. 582 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 23, considered and passed House.

Vol. 122 (1976): Feb. 5, considered and passed Senate, in lieu of S. 582.

Public Law 94-218
94th Congress

An Act

To make the film "Wilma Rudolph Olympic Champion", which was produced by the United States Information Agency, available for certain limited use within the United States in conjunction with promotion of the 1976 Olympic Games.

Feb. 27, 1976

[H.R. 6949]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency shall, upon satisfaction of the conditions established by section 2 of this Act, make available to Cappy Productions, Incorporated, of New York, New York, a master copy of the film entitled "Wilma Rudolph Olympic Champion", produced in 1961 by the United States Information Agency, in order that portions of such film may be used in a television program entitled "Women Gold Medal Winners" which is being produced by Cappy Productions, Incorporated, and which will be shown in the United States and elsewhere to promote the 1976 Olympic Games.

"Wilma Rudolph Olympic Champion", film. U.S. promotion of 1976 Olympic Games.

SEC. 2. The Director of the United States Information Agency may not make available to Cappy Productions, Incorporated, a master copy of the film entitled "Wilma Rudolph Olympic Champion" unless—

- (1) Cappy Productions, Incorporated, pays to the United States the amount necessary to reimburse the United States for its expenditures in connection with the production of such film; and
- (2) the Director receives assurances satisfactory to him that—
 - (A) such film will be used solely for purposes of the television program described in the first section of this Act, and
 - (B) such television program will be used solely to promote the 1976 Olympic Games.

Approved February 27, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-671 (Comm. on International Relations).

SENATE REPORT No. 94-627 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 1, considered and passed House.

Vol. 122 (1976): Feb. 5, considered and passed Senate.

Public Law 94-219
94th Congress

An Act

Feb. 27, 1976
[H.R. 11645]

To amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

Library of
Congress
James Madison
Memorial
Building.
Additional
authorization.
2 USC 141 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the joint resolution entitled "Joint resolution to authorize the Architect of the Capitol to construct the third Library of Congress building in square 732 in the District of Columbia to be named the James Madison Memorial Building and to contain a Madison Memorial Hall, and for other purposes", approved October 19, 1965 (79 Stat. 986; Public Law 89-260), is amended by striking out "\$90,000,000" and inserting in lieu thereof "\$123,000,000".

Approved February 27, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-807 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Feb. 17, considered and passed House.
Feb. 18, considered and passed Senate.

Public Law 94-220
94th Congress

Joint Resolution

To amend the effective date of certain provisions of the Defense Production Act Amendments of 1975.

Feb. 27, 1976

[H.J. Res. 784]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Defense Production Act Amendments of 1975 is amended by striking out section 9 and inserting in lieu thereof the following section:

“SEC. 9. This Act and the amendments made by it shall take effect at the close of November 30, 1975, except that the amendment made by section 3 shall take effect upon the one hundred and twentieth day beginning after the date of its enactment.”.

Defense
Production Act
Amendments of
1975,
amendment.
50 USC app.
2158 note.
Effective date.

Approved February 27, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 2, considered and passed House.

Feb. 16, considered and passed Senate.

Public Law 94-221
94th Congress

An Act

Feb. 27, 1976

[S. 270]

Elkhart, Kans.
Airport property
restrictions,
release.
49 USC 1716.

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kansas, for airport purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 16 of the Federal Airport Act (as in effect on March 11, 1958), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated March 11, 1958, under which the United States conveyed certain property to the city of Elkhart, Kansas, for airport purposes.

SEC. 2. Any release granted by the Secretary of Transportation under the first section of this Act shall be subject to the following conditions:

(1) The city of Elkhart, Kansas, shall agree that in conveying any interest in the property which the United States conveyed to the city by deed dated March 11, 1958, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

Approved February 27, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-826 accompanying H.R. 2740 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-257 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 26, considered and passed Senate.

Vol. 122 (1976): Feb. 17, considered and passed House, amended, in lieu of H.R. 2740.

Feb. 18, Senate concurred in House amendment.

Public Law 94-222
94th Congress

An Act

To extend the State Taxation of Depositories Act.

Feb. 27, 1976

[S. 2672]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of the State Taxation of Depositories Act (section 7(c) of Public Law 93-100) is amended by striking out "January 1, 1976" and inserting in lieu thereof "September 12, 1976".

State taxation of
depositories.
Extension.
12 USC 548 note.

SEC. 2. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended by inserting after "Massachusetts" a comma and the following: "Connecticut, Rhode Island, Maine, Vermont,".

SEC. 3. (a) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by redesignating subsections (p), (q), and (r) as subsections (r), (s), and (t), respectively, and by adding after subsection (o) the following:

"(p) The term 'discount' as used in section 167 means a reduction made from the regular price. The term 'discount' as used in section 167 shall not mean a surcharge.

"Discount."
15 USC 1666f.

"(q) The term 'surcharge' as used in section 103 and section 167 means any means of increasing the regular price to a cardholder which is not imposed upon customers paying by cash, check, or similar means."

"Surcharge."

(b) Section 130(f) of the Truth in Lending Act (15 U.S.C. 1640(f)) is amended to read as follows:

"(f) No provision of this section or section 112 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

15 USC 1611.

(c) (1) Section 167(a) of the Truth in Lending Act (15 U.S.C. 1666f) is amended by inserting "(1)" immediately after "(a)" and by adding at the end thereof the following new paragraph:

"(2) No seller in any sales transaction may impose a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means."

Credit card
surcharge,
prohibition.

(2) The amendment made by paragraph (1) shall cease to be effective upon the expiration of three years after the date of enactment of this Act.

Expiration date.
15 USC 1666f
note.

(d) Section 171 of the Truth in Lending Act (15 U.S.C. 1666j) is amended by adding at the end thereof the following new subsection:

“(c) Notwithstanding any other provisions of this title, any discount offered under section 167(b) of this title shall not be considered a finance charge or other charge for credit under the usury laws of any State or under the laws of any State relating to disclosure of information in connection with credit transactions, or relating to the types, amounts or rates of charges, or to any element or elements of charges permissible under such laws in connection with the extension or use of credit.”.

Effective date.
12 USC 548 note.

SEC. 4. The first section of the Act takes effect on January 1, 1976.

Approved February 27, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-472 (Comm. on Banking, Housing and Urban Affairs).
CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 8, considered and passed Senate.

Dec. 16, considered and passed House, amended.

Vol. 122 (1976): Feb. 6, Senate concurred in House amendment with amendments.

Feb. 9, House agreed to Senate amendments.

Public Law 94-223
94th Congress

An Act

To amend the National Wildlife Refuge System Administration Act of 1966,
and for other purposes.

Feb. 27, 1976
[H.R. 5512]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)) is amended to read as follows:

National Wildlife
Refuge System
Administration
Act of 1966,
amendments.

“(a) (1) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary of the Interior for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the ‘National Wildlife Refuge System’ (referred to herein as the ‘System’), which shall be subject to the provisions of this section, and shall be administered by the Secretary through the United States Fish and Wildlife Service. With respect to refuge lands in the State of Alaska, those programs relating to the management of resources for which any other agency of the Federal Government exercises administrative responsibility through cooperative agreement shall remain in effect, subject to the direct supervision of the United States Fish and Wildlife Service, as long as such agency agrees to exercise such responsibility.

“(2) No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b) (3) of this section) unless—

Transfer or
disposal of lands,
restriction.

“(A) the Secretary of the Interior determines with the approval of the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established; and

“(B) such lands are transferred or otherwise disposed of for an amount not less than—

“(i) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or fair market value, whichever is greater; or

“(ii) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System.

The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.

“(3) Each area which is included within the System on January 1, 1975, or thereafter, and which was or is—

“(A) designated as an area within such System by law, Executive order, or secretarial order; or

“(B) so included by public land withdrawal, donation, purchase, exchange, or pursuant to a cooperative agreement with any State or local government, any Federal department or agency, or any other governmental entity, shall continue to be a part of the System until otherwise specified by Act of Congress, except that nothing in this paragraph shall be construed as precluding—

“(i) the transfer or disposal of acquired lands within any such area pursuant to paragraph (2) of this subsection;

“(ii) the exchange of lands within any such area pursuant to subsection (b) (3) of this section; or

“(iii) the disposal of any lands within any such area pursuant to the terms of any cooperative agreement referred to in subparagraph (B) of this paragraph.”.

Approved February 27, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-334 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-593 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 14, considered and passed House.

Vol. 122 (1976): Feb. 4, considered and passed Senate, amended.

Feb. 17, House concurred in Senate amendment.

Public Law 94-224
94th Congress

Joint Resolution

To extend the time period during which the President is authorized to call a White House Conference on Handicapped Individuals, and to extend the time period during which appropriated funds may be expended.

Feb. 27, 1976
[S.J. Res. 154]

Whereas the White House Conference on Handicapped Individuals Act (Public Law 93-516) authorized the President to call a White House Conference on Handicapped Individuals not later than two years after the date of enactment of such Act; and

Whereas that Act authorized funds appropriated to carry out the White House Conference to remain available for expenditure until June 30, 1977; and

Whereas that Act provided that the White House Conference be planned and conducted under the direction of a National Planning and Advisory Council, appointed by the Secretary of the Department of Health, Education, and Welfare; and

Whereas the National Planning and Advisory Council has recommended that the convening of the White House Conference be postponed in order to assure sufficient time to develop and convene required State conferences, to assure ease in travel to the Conference by individuals with handicaps, and to assure more effective mobilization of national awareness regarding the problems faced by individuals with handicaps: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 302(a) of the White House Conference on Handicapped Individuals Act (Public Law 93-516) is amended to read as follows: "The President is authorized to call a White House Conference on Handicapped Individuals not later than three years from the date of enactment of this title in order to develop recommendations and stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps."

White House
Conference on
Handicapped
Individuals Act,
amendments.
Time extension.
29 USC 701 note.

SEC. 2. Section 306 of the White House Conference on Handicapped Individuals Act (Public Law 93-516) is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1978".

29 USC 701 note.

Approved February 27, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-822 (Comm. on Education and Labor).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 17, considered and passed Senate.

Vol. 122 (1976): Feb. 17, considered and passed House.

Public Law 94-225
94th Congress

An Act

Mar. 4, 1976
[S. 2117]

To amend section 5202 of title 10, United States Code, relating to the detail, pay, and succession to duties of the Assistant Commandant of the Marine Corps and to amend title 10 of the United States Code in order to make certain disability retirement determinations by the Secretaries of the military departments subject to review by the Secretary of Defense.

Armed Forces.
Marine Corps,
Assistant
Commandant.

Repeal.

Disability
retirement,
review.

10 USC 1201.

10 USC 1202.

10 USC 1203.

10 USC 1216
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (d) of section 5202 of title 10, United States Code, is amended by striking out the colon after the word "Senate" and all that follows down through the word "appointment".

(b) Subsection (e) of section 5202 of such title is repealed.

SEC. 2. (a) Section 1216 of title 10, United States Code, is amended—

(1) by striking out "The Secretary" in subsection (b) and inserting in lieu thereof "Except as provided in subsection (d) of this section, the Secretary"; and

(2) by adding at the end thereof the following new subsection:

"(d) The Secretary concerned may not, with respect to any member who is in pay grade O-7 or higher or is a Medical Corps officer or medical officer of the Air Force being processed for retirement under any provisions of this title by reason of age or length of service—

"(1) retire such member under section 1201 of this title;

"(2) place such member on the temporary disability retired list pursuant to section 1202 of this title; or

"(3) separate such member from an armed force pursuant to section 1203 of this title

by reason of unfitness to perform the duties of his office, grade, rank, or rating unless the determination of the Secretary concerned with respect to unfitness is first approved by the Secretary of Defense on the recommendation of the Assistant Secretary of Defense for Health and Environment."

(b) The amendments made by subsection (a) of this section shall apply with respect to unfitness determinations made on or after the date of the enactment of this Act by the Secretaries of the military departments concerned for purposes of sections 1201, 1202, and 1203 of title 10, United States Code.

Approved March 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-819 (Comm. on Armed Services).

SENATE REPORT No. 94-561 (Comm. on Armed Services).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 17, considered and passed Senate.

Vol. 122 (1976): Feb. 17, considered and passed House, amended.

Feb. 23, Senate concurred in House amendments.

Public Law 94-226
94th Congress

Joint Resolution

Making supplemental appropriations for the Legislative Branch for the fiscal year ending June 30, 1976, and for other purposes.

Mar. 9, 1976
[H.J. Res. 811]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1976, and for other purposes, namely:

Legislative
Branch.
Supplemental
appropriations.

SENATE

ADMINISTRATIVE PROVISION

(a) The Sergeant at Arms and Doorkeeper may fix the compensation of the Procurement Officer, Auditor, and Deputy Sergeant at Arms at not to exceed \$39,909 per annum. This subsection does not supersede (1) any provision of an order of the President pro tempore of the Senate authorizing a higher rate of compensation, and (2) any authority of the President pro tempore to adjust the rate of compensation referred to in this subsection under section 4 of the Federal Pay Comparability Act of 1970.

2 USC 61e-1.

2 USC 61e-1
note.

2 USC 60a note.
2 USC 61e-1
note.

(b) Subsection (a) shall take effect on January 1, 1976, and, notwithstanding any other provision of law, any increase in compensation made under authority of such subsection may take effect on that date or any date thereafter as prescribed by the Sergeant at Arms and Doorkeeper at the time of making such increase.

(c) Effective on the date of the enactment of this resolution the title of the Procurement Officer, Auditor, and Deputy Sergeant at Arms is changed to Deputy Sergeant at Arms and Doorkeeper.

2 USC 61e-1
note.

ARCHITECT OF THE CAPITOL

LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING

For an additional amount for "Library of Congress James Madison Memorial Building", \$33,000,000, as authorized by the Act of October 19, 1965 (79 Stat. 986-987), as amended, to remain available until expended.

2 USC 141 note.

Approved March 9, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-836 (Comm. on Appropriations).
SENATE REPORT No. 94-676 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 24, considered and passed House.

Mar. 2, considered and passed Senate, amended.

Mar. 3, House concurred in Senate amendment.

Public Law 94-227
94th Congress

Joint Resolution

Mar. 11, 1976

[S.J. Res. 59]

Authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from May 16, 1976, through May 22, 1976.

International
Petroleum
Exposition,
Tulsa, Okla.
Participation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to invite by proclamation, or in such other manner as he may deem proper, the States of the Union and foreign nations to participate in the International Petroleum Exposition, to be held at Tulsa, Oklahoma, from May 16, 1976, through May 22, 1976, for the purpose of exhibiting machinery, equipment, supplies, and other products used in the production and marketing of oil and gas, and bringing together buyers and sellers for the promotion of foreign and domestic trade and commerce in such products.

Approved March 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-854 accompanying H.J. Res. 296 (Comm. on International Relations).

SENATE REPORT No. 94-118 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): May 13, considered and passed Senate.

Vol. 122 (1976): Mar. 1, considered and passed House, in lieu of H.J. Res. 296.

Public Law 94-228
94th Congress

An Act

To authorize and modify various Federal reclamation projects and programs,
and for other purposes.

Mar. 11, 1976

[S. 151]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the Reclamation Authorization Act of 1975.

Reclamation
Authorization Act
of 1975.

TITLE I

POLECAT BENCH, WYOMING

SEC. 101. The Polecat Bench area of the Shoshone extensions unit, heretofore authorized as an integral part of the Pick-Sloan Missouri Basin program by the Act of December 22, 1944 (58 Stat. 887, 891), is hereby reauthorized as a part of that project. The construction, operation, and maintenance of the Polecat Bench area for the purposes of providing irrigation water for approximately nineteen thousand two hundred acres of land, municipal and industrial water supply, fish and wildlife conservation and development, public outdoor recreation, and other purposes shall be prosecuted by the Secretary of the Interior in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal features of the Polecat Bench area shall include the Holden Reservoir, related canals, pumping plants, laterals, drains, and necessary facilities to effect the aforesaid purposes of the area. For a period of not more than two years after the initial availability of irrigation water up to two thousand two hundred and seventeen acres of public lands in the Polecat Bench area determined to be suitable for settlement purposes shall be made available, on a preference basis for exchange or amendment, to resident landowners on the Heart Mountain Division of the Shoshone project, who, on or before December 1, 1968, were determined by the Secretary to be eligible for such exchange or amendment of their farm units under provisions of the Act of August 13, 1953 (67 Stat. 566).

43 USC
615kkk.
33 USC 701-1.

SEC. 102. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Polecat Bench area shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

43 USC 451.
43 USC
615kkkk-1.

SEC. 103. The Polecat Bench area of the Shoshone extensions unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Repayment contracts for the return of construction costs allocated to irrigation will be based on the water users' ability to repay as determined by the Secretary of the Interior; and the terms of such contracts shall not exceed fifty years following the permissible development period.

16 USC 460/-12.
43 USC
615kkkk-2.

43 USC
615kkkk-3.
43 USC 423e.

SEC. 104. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Polecat Bench area of the Shoshone extensions unit are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of area works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

43 USC
615kkkk-4.

SEC. 105. For a period of ten years from the date of enactment of this title no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (52 Stat. 31, 41), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

7 USC 1421 note.

7 USC 1301.

Interest rate.
43 USC
615kkkk-5.

SEC. 106. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Polecat Bench area shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the Polecat Bench area is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

Appropriation
authorization.
43 USC
615kkkk-6.

SEC. 107. There is hereby authorized to be appropriated for construction of the Polecat Bench area of the Shoshone extensions unit the sum of \$46,000,000 (January 1975 price levels), plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved and, in addition thereto, such sums as may be required for operation and maintenance of the works of said area.

TITLE II

DICKINSON DAM, NORTH DAKOTA

SEC. 201. The Secretary of the Interior is authorized to modify the spillway of Dickinson Dam on the Heart River in the State of North Dakota, to increase conservation storage by installing gates on the existing spillway. The Secretary is also authorized to construct a new spillway to assure the safety of Dickinson Dam from floods currently estimated to be capable of occurrence.

SEC. 202. The Secretary is authorized to enter into an amendatory repayment contract with the city of Dickinson, North Dakota, to accomplish the repayment of that portion of the cost of the work authorized herein properly allocable to municipal and industrial water supplies in not to exceed forty years from completion of construction: *Provided*, That the total cost of the new spillway and related works incurred for the safety of the structure shall be nonreimbursable and nonreturnable.

SEC. 203. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance of the capital costs allocated to interest-bearing features of the works authorized herein shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

Interest rate.

SEC. 204. There is hereby authorized to be appropriated for construction of works authorized by this title the sum of \$4,000,000 (January 1975 price levels) plus or minus such amounts as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.

Appropriation authorization.

TITLE III

MCKAY DAM AND RESERVOIR, OREGON

SEC. 301. McKay Dam and Reservoir, Umatilla project, Oregon, is hereby reauthorized for the purposes of irrigation, flood control, fish and wildlife, recreation, and safety of dams, and the costs thereof shall be reallocated among these purposes by the Secretary of the Interior (hereinafter referred to as the "Secretary"), in a manner consistent with the provisions of this title.

43 USC 616ww.

SEC. 302. The Secretary is authorized to perform modifications to the spillway structure at McKay Dam as he determines to be reasonably required for safety of the dam from failure due to overtopping by potential flood inflows to the reservoir.

43 USC
616ww-1.

SEC. 303. Not to exceed six thousand acre-feet of storage capacity in McKay Reservoir shall be allocated for the primary purpose of retaining and regulating flood flows.

43 USC
616ww-2.

SEC. 304. Costs incurred in the modification of McKay Dam to insure its safety from failure shall be nonreimbursable and nonreturnable. All other costs of McKay Dam and Reservoir, heretofore or hereinafter incurred, shall be allocated among the authorized purposes served by the dam and reservoir in accordance with standard cost allocation procedures, and the joint costs allocated to flood control, recreation, and fish and wildlife shall be nonreimbursable.

43 USC
616ww-3.

SEC. 305. The Secretary is authorized to enter into amendatory repayment contracts with the Stanfield and Westland Irrigation Districts, or other water users, if appropriate, to secure the return of reimbursable irrigation construction and operation and maintenance costs arising from the modification and reallocation of McKay Dam and Reservoir.

43 USC
616ww-4.

SEC. 306. There is hereby authorized to be appropriated for modification of McKay Dam the sum of \$1,300,000 (based on July 1975 prices), plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved, and, in addition thereto sums as may be required for operation and maintenance of McKay Dam and Reservoir.

Appropriation authorization.
43 USC
616ww-5.

TITLE IV

POLLOCK-HERREID UNIT, SOUTH DAKOTA

43 USC 615*uuu*.

SEC. 401. The Secretary of the Interior is hereby authorized to construct, operate, and maintain in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri Basin program, South Dakota, for the purposes of providing irrigation water service for approximately fifteen thousand acres of land, municipal and industrial water supply, and fish and wildlife conservation and development. The principal works of the project would include the main pumping plant located at Lake Oahe, the storage reservoir created by the existing Oahe Dam on the Missouri River, to lift water into Lake Pocasse, a subimpoundment on tributary Spring Creek, which would serve as a regulating reservoir; a system of main canals and laterals; relief pumping plants; drains; and the necessary facilities to effect the aforesaid purposes of the area.

43 USC
615*uuu*-1.

SEC. 402. The conservation and development of the fish and wildlife resources in connection with the Pollock-Herreid unit shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213) as amended.

16 USC 460*l*-12
note.43 USC
615*uuu*-2.

SEC. 403. The Pollock-Herreid unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented.

43 USC
615*uuu*-3.

SEC. 404. For a period of ten years from the date of enactment of this title no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such a commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (52 Stat. 31, 41), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

7 USC 1421 note.

7 USC 1301.

Interest rate.
43 USC
615*uuu*-4.

SEC. 405. The interest rate used for computing interest during construction and interest on the unpaid balance of the interest bearing reimbursable costs of the unit shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due or callable for fifteen years from date of issue.

43 USC
615*uuu*-5.
43 USC 423e.

SEC. 406. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Pollock-Herreid unit, South Dakota pumping division, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of unit works shall be limited to one hundred and sixty acres of Class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

SEC. 407. There is hereby authorized to be appropriated for construction of the Pollock-Herreid unit, as authorized in this title, the sum of \$26,000,000 (January 1975 price levels), plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation and maintenance of the works of said unit.

Appropriation
authorization.
43 USC
615llll-6.

Approved March 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-694 accompanying H.R. 10537 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-350 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Aug. 1, considered and passed Senate.

Vol. 122 (1976): Jan. 20, considered and passed House, amended, in lieu of H.R. 10537

Feb. 25, Senate agreed to House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 11 (1976): Mar. 11, Presidential statement.

Public Law 94-229
94th Congress

An Act

Mar. 15, 1976
[H.R. 7824]

To amend section 142 of title 13, United States Code, to change the date for taking censuses of agriculture, irrigation, and drainage, and for other purposes.

Agricultural
census.
13 USC 142.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 142 of title 13, United States Code, is amended to read as follows:

“§ 142. Agriculture, irrigation, and drainage

“(a) The Secretary shall in 1979, in 1983, and in every fifth year beginning after 1983, take a census of agriculture.

“(b) In conjunction with the census to be taken under subsection (a) of this section in 1979, in 1988, and every tenth year beginning after 1988, the Secretary shall take a census of irrigation and drainage.

“(c) The data collected in each of the censuses taken under this section shall relate to the year immediately preceding the year in which such census is taken.”.

13 USC 142 note.

SEC. 2. The statistical classification of farms in effect on January 1, 1975, with respect to censuses taken under section 142 of title 13, United States Code, shall be effective through June 30, 1976, and any statistical report issued on or before June 30, 1976, with respect to any such census shall reflect such classification, but may also include additional classifications as deemed appropriate by the Secretary.

Approved March 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-821 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 17, considered and passed House.

Mar. 1, considered and passed Senate.

Public Law 94-230
94th Congress

An Act

To amend the Rehabilitation Act of 1973 to extend the authorizations of appropriations contained in such Act.

Mar. 15, 1976
[H.R. 11045]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rehabilitation
Act Extension of
1976.

SHORT TITLE

SECTION 1. This Act may be cited as the "Rehabilitation Act Extension of 1976".

29 USC 701 note.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL
REHABILITATION SERVICES

SEC. 2. (a) (1) Section 100(b) (1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b) (1)) (hereinafter in this Act referred to as the "Act") is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and \$740,000,000 for the fiscal year ending September 30, 1977".

(2) Section 100(b) (2) of the Act (29 U.S.C. 720(b) (2)) is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and \$25,000,000 for the fiscal year ending September 30, 1977".

(b) Section 112(a) of the Act (29 U.S.C. 732(a)) is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976," the following: "and up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending September 30, 1977".

(c) Section 121(b) of the Act (29 U.S.C. 741(b)) is amended by striking out "June 30, 1977" and inserting in lieu thereof "September 30, 1979".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND
TRAINING

SEC. 3. (a) Section 201(a) (1) of the Act (29 U.S.C. 761(a) (1)) is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and \$30,000,000 for the fiscal year ending September 30, 1977".

(b) Section 201(a) (2) of the Act (29 U.S.C. 761(a) (2)) is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976" the following: ", and \$25,000,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR
CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 4. (a) Section 301(a) of the Act (29 U.S.C. 771(a)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and September 30, 1977".

(b) The last sentence of section 301(a) of the Act (29 U.S.C. 771 (a)) is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1980".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL
TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 5. Section 302(a) of the Act (29 U.S.C. 772(a)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS
AND DEMONSTRATIONS

SEC. 6. Section 304(a)(1) of the Act (29 U.S.C. 774(a)(1)) is amended by striking out "and" immediately after "1975" and by inserting immediately after "1976" the following: ", and such sums as may be necessary for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER
FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 7. Section 305(a) of the Act (29 U.S.C. 775(a)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAMS AND
PROJECT EVALUATION

SEC. 8. Section 403 of the Act (29 U.S.C. 783) is amended by striking out "and" immediately after "1975," and by inserting immediately after "1976," the following: "and September 30, 1977,".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL
RESPONSIBILITIES

SEC. 9. Section 405(d) of the Act (29 U.S.C. 785(d)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and \$600,000 for the fiscal year ending September 30, 1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL
AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 10. Section 502(h) of the Act (29 U.S.C. 792(h)) is amended by striking out "and" immediately after "1975," and by inserting immediately before the period at the end thereof the following: ", and \$1,500,000 for the fiscal year ending September 30, 1977".

CONTINGENT EXTENSION OF PROGRAMS

SEC. 11. (a) Unless the Congress, before April 15, 1977, has passed legislation which would have the effect of extending the authorization of each program and activity the authorization for which is extended through the fiscal year ending September 30, 1977, by the amendments made by section 2 through section 10, each such authorization shall be automatically extended through the fiscal year ending September 30, 1978, in accordance with the amendments made by subsection (b).

29 USC 720 note.

(b) (1) The amendments made by this subsection shall take effect at the close of April 15, 1977, unless the Congress has passed legislation in accordance with the provisions of subsection (a).

Effective date.

(2) Section 100(b) (1) of the Act (29 U.S.C. 720(b) (1)) is amended by striking out "and" immediately after "1976," and by inserting immediately before the period at the end thereof the following: ", and \$760,000,000 for the fiscal year ending September 30, 1978".

(3) Section 100(b) (2) of the Act (29 U.S.C. 720(b) (2)) is amended by striking out "year ending September 30, 1977" and inserting in lieu thereof "years ending September 30, 1977, and September 30, 1978".

(4) Section 112(a) of the Act (29 U.S.C. 732(a)) is amended by striking out "and" immediately after "1976," and by inserting immediately after "1977," the following: "and up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending September 30, 1978".

(5) Section 201(a) (1) of the Act (29 U.S.C. 761(a) (1)) is amended by striking out "year ending September 30, 1977" and inserting in lieu thereof "years ending September 30, 1977, and September 30, 1978".

(6) Section 201(a) (2) of the Act (29 U.S.C. 761(a) (2)) is amended by striking out "and" immediately after "1976," and by inserting immediately after "1977" the following: ", and \$30,000,000 for the fiscal year ending September 30, 1978".

(7) Section 301(a) of the Act (29 U.S.C. 771(a)) is amended by striking out "and" immediately after "1976," and by inserting immediately before the period at the end thereof the following: ", and September 30, 1978".

(8) Section 302(a) of the Act (29 U.S.C. 772(a)) is amended by striking out "and" immediately after "1976," and by inserting immediately before the period at the end thereof the following: ", and September 30, 1978".

(9) Section 304(a) (1) of the Act (29 U.S.C. 774(a) (1)) is amended by striking out "year ending September 30, 1977" and inserting in lieu thereof "years ending September 30, 1977, and September 30, 1978".

(10) Section 305(a) of the Act (29 U.S.C. 775(a)) is amended by striking out "and" immediately after "1976," and by inserting immediately before the period at the end thereof the following: ", and September 30, 1978".

(11) Section 403 of the Act (29 U.S.C. 783) is amended by striking out "and" immediately after "1976," and by inserting immediately after "1977," the following: "and September 30, 1978".

(12) Section 405(d) of the Act (29 U.S.C. 785(d)) is amended by striking out "year ending September 30, 1977" and inserting in lieu thereof "years ending September 30, 1977, and September 30, 1978".

(13) Section 502(h) of the Act (29 U.S.C. 792(h)) is amended by striking out "year ending September 30, 1977" and inserting in lieu thereof "years ending September 30, 1977, and September 30, 1978".

29 USC 720 note.

(c) For purposes of this section, the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

Approved March 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-721 (Comm. on Education and Labor) and No. 94-809 (Committee of Conference).

SENATE REPORT No. 94-630 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 15, considered and passed House.

Dec. 19, considered and passed Senate, amended, in lieu of S. 2807.

Vol. 122 (1976): Feb. 17, House agreed to conference report.

Mar. 2, Senate agreed to conference report.

Public Law 94-231
94th Congress

An Act

To clarify the authority of the Secretary of Agriculture to control and eradicate plant pests, and for other purposes.

Mar. 15, 1976

[S. 1617]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102 of the Act of September 21, 1944 (58 Stat. 735, as amended; 7 U.S.C. 147a), is amended to read as follows:

Plant pests,
control and
eradication.

“SEC. 102. (a) The Secretary of Agriculture, either independently or in cooperation with States or political subdivisions thereof, farmers’ associations and similar organizations, and individuals, is authorized to carry out operations or measures to detect, eradicate, suppress, control, or to prevent or retard the spread of plant pests.

“(b) The Secretary of Agriculture is further authorized to cooperate with the governments of all countries of the Western Hemisphere, or the local authorities thereof, and with international organizations or associations, in carrying out necessary surveys and control operations in those countries in connection with the detection, eradication, suppression, control, and prevention or retardation of the spread of plant pests.

“(c) In performing the operations or measures herein authorized, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

“(d) As used in this section—

Definitions.

“(1) ‘plant pest’ means any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants;

“(2) ‘living stage’ includes the egg, pupal, and larval stages as well as any other living stage; and

“(3) ‘State’ includes the District of Columbia and the territories and possessions of the United States.

“(e) The Secretary of Agriculture is authorized to promulgate such rules and regulations and use such means as he may deem necessary to provide for the inspection of plants and plant products offered for export or transiting the United States and to certify to shippers and interested parties as to the freedom of such products from plant pests according to the phytosanitary requirements of the foreign countries to which such products may be exported, or to the freedom from exposure to plant pests while in transit through the United States.

Rules and
regulations.

Appropriation
authorization.

“(f) There are hereby authorized to be appropriated such sums as the Congress may annually determine to be necessary to enable the Secretary of Agriculture to carry out the provisions of this section. Unless otherwise specifically authorized, or provided for in appropriations, no part of such sums shall be used to pay the cost or value of property injured or destroyed.”

Repeal.

SEC. 2. The material appearing under the head “FEDERAL HORTICULTURAL BOARD” in section 1 of the Act of October 6, 1917 (40 Stat. 374; 7 U.S.C. 145), is hereby repealed.

SEC. 3. Section 1 of the Act of February 28, 1947 (61 Stat. 7, as amended; 21 U.S.C. 114b), is amended by (1) inserting in the first sentence after the words “any communicable disease of animals” the words “or vectors thereof”; (2) inserting after “Canada” a comma and “the Bahama Islands, the Greater Antilles, and the Lesser Antilles, and with international organizations or associations”; and (3) by deleting “British Honduras” and inserting in lieu thereof “Belize”.

Approved March 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-613 (Comm. on Agriculture) and No. 94-813 (Comm. of Conference).

SENATE REPORT No. 94-370 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Sept. 16, considered and passed Senate.

Nov. 4, considered and passed House, amended.

Vol. 122 (1976): Feb. 18, House agreed to conference report.

Mar. 2, Senate agreed to conference report.

Public Law 94-232
94th Congress

An Act

To increase the temporary debt limit, and for other purposes.

Mar. 15, 1976

[H.R. 11893]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the period beginning on the date of the enactment of this Act and ending on June 30, 1976, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by \$227,000,000,000.

SEC. 2. Effective on the date of the enactment of this Act, the first section of the Act of November 14, 1975, entitled "An Act to increase the temporary debt limitation until March 15, 1976" (Public Law 94-132), is hereby repealed.

SEC. 3. (a) The last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "\$10,000,000,000" and inserting in lieu thereof "\$12,000,000,000".

(b) Section 18(a) of the Second Liberty Bond Act (31 U.S.C. 753) is amended by striking out "seven years" and inserting in lieu thereof "ten years".

SEC. 4. Section 22(b) (1) of the Second Liberty Bond Act (31 U.S.C. 757c(b)) is amended by adding at the end thereof the following new sentence: "The investment yield on series E savings bonds shall in no case be less than 4 per centum per annum compounded semiannually for the period beginning on the first day of the calendar month following the date of issuance (or, beginning on October 1, 1976, if later) and ending on the last day of the calendar month preceding the date of redemption."

Public debt limit.
Temporary
increase.
31 USC 757b
note.
Repeal; effective
date.
31 USC 757b
note.
89 Stat. 693.

U.S. savings
bonds, interest
rate.

Approved March 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-837 (Comm. on Ways and Means).

SENATE REPORT No. 94-687 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 25, considered and passed House.

Mar. 11, considered and passed Senate.

Public Law 94-233
94th Congress

An Act

To establish an independent and regionalized United States Parole Commission, to provide fair and equitable parole procedures, and for other purposes.

Mar. 15, 1976

[H.R. 5727]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Parole Commission and Reorganization Act”.

Parole
Commission and
Reorganization
Act.
18 USC 4201
note.
Repeal.

UNITED STATES PAROLE COMMISSION ; PAROLE PROCEDURES, CONDITIONS, ETC.

SEC. 2. Title 18 of the United States Code is amended by repealing chapter 311 (relating to parole) and inserting in lieu thereof the following new chapter to read as follows:

“Chapter 311—PAROLE

“Sec.

“4201. Definitions.

“4202. Parole Commission created.

“4203. Powers and duties of the Commission.

“4204. Powers and duties of the Chairman.

“4205. Time of eligibility for release on parole.

“4206. Parole determination criteria.

“4207. Information considered.

“4208. Parole determination proceeding; time.

“4209. Conditions of parole.

“4210. Jurisdiction of Commission.

“4211. Early termination of parole.

“4212. Aliens.

“4213. Summons to appear or warrant for retaking of parolee.

“4214. Revocation of parole.

“4215. Reconsideration and appeal.

“4216. Young adult offenders.

“4217. Warrants to retake Canal Zone parole violators.

“4218. Applicability of Administrative Procedure Act.

“§ 4201. Definitions

18 USC 4201.

“As used in this chapter—

“(1) ‘Commission’ means the United States Parole Commission;

“(2) ‘Commissioner’ means any member of the United States Parole Commission;

“(3) ‘Director’ means the Director of the Bureau of Prisons;

“(4) ‘Eligible prisoner’ means any Federal prisoner who is eligible for parole pursuant to this title or any other law including any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole;

“(5) ‘Parolee’ means any eligible prisoner who has been released on parole or deemed as if released on parole under section 4164 or section 4205(f); and

18 USC 4164.

“(6) ‘Rules and regulations’ means rules and regulations promulgated by the Commission pursuant to section 4203 and section 553 of title 5, United States Code.

“§ 4202. Parole Commission created

18 USC 4202.

“There is hereby established, as an independent agency in the Department of Justice, a United States Parole Commission which shall

Membership.

Term.

be comprised of nine members appointed by the President, by and with the advice and consent of the Senate. The President shall designate from among the Commissioners one to serve as Chairman. The term of office of a Commissioner shall be six years, except that the term of a person appointed as a Commissioner to fill a vacancy shall expire six years from the date upon which such person was appointed and qualified. Upon the expiration of a term of office of a Commissioner, the Commissioner shall continue to act until a successor has been appointed and qualified, except that no Commissioner may serve in excess of twelve years. Commissioners shall be compensated at the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

Compensation.

5 USC 5332 note.

18 USC 4203.

“§ 4203. Powers and duties of the Commission

“(a) The Commission shall meet at least quarterly, and by majority vote shall—

Rules and regulations.

“(1) promulgate rules and regulations establishing guidelines for the powers enumerated in subsection (b) of this section and such other rules and regulations as are necessary to carry out a national parole policy and the purposes of this chapter;

“(2) create such regions as are necessary to carry out the provisions of this chapter, but in no event less than five; and

“(3) ratify, revise, or deny any request for regular, supplemental, or deficiency appropriations, prior to the submission of the requests to the Office of Management and Budget by the Chairman, which requests shall be separate from those of any other agency of the Department of Justice.

“(b) The Commission, by majority vote, and pursuant to the procedures set out in this chapter, shall have the power to—

“(1) grant or deny an application or recommendation to parole any eligible prisoner;

“(2) impose reasonable conditions on an order granting parole;

“(3) modify or revoke an order paroling any eligible prisoner; and

“(4) request probation officers and other individuals, organizations, and public or private agencies to perform such duties with respect to any parolee as the Commission deems necessary for maintaining proper supervision of and assistance to such parolees; and so as to assure that no probation officers, individuals, organizations, or agencies shall bear excessive caseloads.

“(c) The Commission, by majority vote, and pursuant to rules and regulations—

“(1) may delegate to any Commissioner or commissioners powers enumerated in subsection (b) of this section;

“(2) may delegate to hearing examiners any powers necessary to conduct hearings and proceedings, take sworn testimony, obtain and make a record of pertinent information, make findings of probable cause and issue subpoenas for witnesses or evidence in parole revocation proceedings, and recommend disposition of any matters enumerated in subsection (b) of this section, except that any such findings or recommendations shall be based upon the concurrence of not less than two hearing examiners;

“(3) may delegate authority to conduct hearings held pursuant to section 4214 to any officer or employee of the executive or judicial branch of Federal or State government; and

Review.

“(4) may review, or may delegate to the National Appeals Board the power to review, any decision made pursuant to subparagraph (1) of this subsection except that any such decision

so reviewed must be reaffirmed, modified or reversed within thirty days of the date the decision is rendered, and, in case of such review, the individual to whom the decision applies shall be informed in writing of the Commission's actions with respect thereto and the reasons for such actions.

“(d) Except as otherwise provided by law, any action taken by the Commission pursuant to subsection (a) of this section shall be taken by a majority vote of all individuals currently holding office as members of the Commission which shall maintain and make available for public inspection a record of the final vote of each member on statements of policy and interpretations adopted by it. In so acting, each Commissioner shall have equal responsibility and authority, shall have full access to all information relating to the performance of such duties and responsibilities, and shall have one vote.

“§ 4204. Powers and duties of the Chairman

18 USC 4204.

“(a) The Chairman shall—

“(1) convene and preside at meetings of the Commission pursuant to section 4203 and such additional meetings of the Commission as the Chairman may call or as may be requested in writing by at least three Commissioners;

“(2) appoint, fix the compensation of, assign, and supervise all personnel employed by the Commission except that—

“(A) the appointment of any hearing examiner shall be subject to approval of the Commission within the first year of such hearing examiner's employment; and

“(B) regional Commissioners shall appoint and supervise such personnel employed regularly and full time in their respective regions as are compensated at a rate up to and including grade 9 of the General Schedule pay rates (5 U.S.C. 5332);

5 USC 5332 note.

“(3) assign duties among officers and employees of the Commission, including Commissioners, so as to balance the workload and provide for orderly administration;

“(4) direct the preparation of requests for appropriations for the Commission, and the use of funds made available to the Commission;

“(5) designate three Commissioners to serve on the National Appeals Board of whom one shall be so designated to serve as vice chairman of the Commission (who shall act as Chairman of the Commission in the absence or disability of the Chairman or in the event of the vacancy of the Chairmanship), and designate, for each such region established pursuant to section 4203, one Commissioner to serve as regional Commissioner in each such region; except that in each such designation the Chairman shall consider years of service, personal preference and fitness, and no such designation shall take effect unless concurred in by the President, or his designee;

“(6) serve as spokesman for the Commission and report annually to each House of Congress on the activities of the Commission; and

Report to Congress.

“(7) exercise such other powers and duties and perform such other functions as may be necessary to carry out the purposes of this chapter or as may be provided under any other provision of law.

“(b) The Chairman shall have the power to—

“(1) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform

such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

“(2) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b));

“(3) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

“(4) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the parole process;

“(5) carry out programs of research concerning the parole process to develop classification systems which describe types of offenders, and to develop theories and practices which can be applied to the different types of offenders;

“(6) publish data concerning the parole process;

“(7) devise and conduct, in various geographical locations, seminars, workshops and training programs providing continuing studies and instruction for personnel of Federal, State and local agencies and private and public organizations working with parolees and connected with the parole process; and

“(8) utilize the services, equipment, personnel, information, facilities, and instrumentalities with or without reimbursement therefor of other Federal, State, local, and private agencies with their consent.

“(c) In carrying out his functions under this section, the Chairman shall be governed by the national parole policies promulgated by the Commission.

18 USC 4205.

“§ 4205. Time of eligibility for release on parole

“(a) Whenever confined and serving a definite term or terms of more than one year, a prisoner shall be eligible for release on parole after serving one-third of such term or terms or after serving ten years of a life sentence or of a sentence of over thirty years, except to the extent otherwise provided by law.

“(b) Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interest of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may (1) designate in the sentence of imprisonment imposed a minimum term at the expiration of which the prisoner shall become eligible for parole, which term may be less than but shall not be more than one-third of the maximum sentence imposed by the court, or (2) the court may fix the maximum sentence of imprisonment to be served in which event the court may specify that the prisoner may be released on parole at such time as the Commission may determine.

“(c) If the court desires more detailed information as a basis for determining the sentence to be imposed, the court may commit the defendant to the custody of the Attorney General, which commitment shall be deemed to be for the maximum sentence of imprisonment prescribed by law, for a study as described in subsection (d) of this section. The results of such study, together with any recommendations which the Director of the Bureau of Prisons believes would be helpful in determining the disposition of the case, shall be furnished to the court within three months unless the court grants time, not to exceed

an additional three months, for further study. After receiving such reports and recommendations, the court may in its discretion: (1) place the offender on probation as authorized by section 3651; or (2) affirm the sentence of imprisonment originally imposed, or reduce the sentence of imprisonment, and commit the offender under any applicable provision of law. The term of the sentence shall run from the date of original commitment under this section. 18 USC 3651.

“(d) Upon commitment of a prisoner sentenced to imprisonment under the provisions of subsections (a) or (b) of this section, the Director, under such regulations as the Attorney General may prescribe, shall cause a complete study to be made of the prisoner and shall furnish to the Commission a summary report together with any recommendations which in his opinion would be helpful in determining the suitability of the prisoner for parole. This report may include but shall not be limited to data regarding the prisoner’s previous delinquency or criminal experience, pertinent circumstances of his social background, his capabilities, his mental and physical health, and such other factors as may be considered pertinent. The Commission may make such other investigation as it may deem necessary. Study and report.

“(e) Upon request of the Commission, it shall be the duty of the various probation officers and government bureaus and agencies to furnish the Commission information available to such officer, bureau, or agency, concerning any eligible prisoner or parolee and whenever not incompatible with the public interest, their views and recommendation with respect to any matter within the jurisdiction of the Commission.

“(f) Any prisoner sentenced to imprisonment for a term or terms of not less than six months but not more than one year shall be released at the expiration of such sentence less good time deductions provided by law, unless the court which imposed sentence, shall, at the time of sentencing, provide for the prisoner’s release as if on parole after service of one-third of such term or terms notwithstanding the provisions of section 4164. This subsection shall not prevent delivery of any person released on parole to the authorities of any State otherwise entitled to his custody. 18 USC 4164.

“(g) At any time upon motion of the Bureau of Prisons, the court may reduce any minimum term to the time the defendant has served. The court shall have jurisdiction to act upon the application at any time and no hearing shall be required.

“(h) Nothing in this chapter shall be construed to provide that any prisoner shall be eligible for release on parole if such prisoner is ineligible for such release under any other provision of law.

“§ 4206. Parole determination criteria

18 USC 4206.

“(a) If an eligible prisoner has substantially observed the rules of the institution or institutions to which he has been confined, and if the Commission, upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, determines:

“(1) that release would not depreciate the seriousness of his offense or promote disrespect for the law; and

“(2) that release would not jeopardize the public welfare; subject to the provisions of subsections (b) and (c) of this section, and pursuant to guidelines promulgated by the Commission pursuant to section 4203(a)(1), such prisoner shall be released.

“(b) The Commission shall furnish the eligible prisoner with a written notice of its determination not later than twenty-one days, Written notice.

excluding holidays, after the date of the parole determination proceeding. If parole is denied such notice shall state with particularity the reasons for such denial.

“(c) The Commission may grant or deny release on parole notwithstanding the guidelines referred to in subsection (a) of this section if it determines there is good cause for so doing: *Provided*, That the prisoner is furnished written notice stating with particularity the reasons for its determination, including a summary of the information relied upon.

“(d) Any prisoner, serving a sentence of five years or longer, who is not earlier released under this section or any other applicable provision of law, shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving thirty years of each consecutive term or terms of more than forty-five years including any life term, whichever is earlier: *Provided, however*, That the Commission shall not release such prisoner if it determines that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State, or local crime.

18 USC 4207.

“§ 4207. Information considered

“In making a determination under this chapter (relating to release on parole) the Commission shall consider, if available and relevant:

“(1) reports and recommendations which the staff of the facility in which such prisoner is confined may make;

“(2) official reports of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

“(3) presentence investigation reports;

“(4) recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge; and

“(5) reports of physical, mental, or psychiatric examination of the offender.

There shall also be taken into consideration such additional relevant information concerning the prisoner (including information submitted by the prisoner) as may be reasonably available.

18 USC 4208.

“§ 4208. Parole determination proceeding; time

“(a) In making a determination under this chapter (relating to parole) the Commission shall conduct a parole determination proceeding unless it determines on the basis of the prisoner's record that the prisoner will be released on parole. Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole pursuant to subsections (a) and (b) (1) of section 4205 shall be held not later than thirty days before the date of such eligibility for parole. Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole pursuant to subsection (b) (2) of section 4205 or released on parole and whose parole has been revoked shall be held not later than one hundred and twenty days following such prisoner's imprisonment or reimprisonment in a Federal institution, as the case may be. An eligible prisoner may knowingly and intelligently waive any proceeding.

“(b) At least thirty days prior to any parole determination proceeding, the prisoner shall be provided with (1) written notice of the time and place of the proceeding, and (2) reasonable access to a report or other document to be used by the Commission in making its determination. A prisoner may waive such notice, except that if notice is not waived the proceeding shall be held during the next regularly

Waiver.

Written notice;
report.

Waiver.

scheduled proceedings by the Commission at the institution in which the prisoner is confined.

“(c) Subparagraph (2) of subsection (b) shall not apply to—

“(1) diagnostic opinions which, if made known to the eligible prisoner, could lead to a serious disruption of his institutional program;

“(2) any document which reveals sources of information obtained upon a promise of confidentiality; or

“(3) any other information which, if disclosed, might result in harm, physical or otherwise, to any person.

If any document is deemed by either the Commission, the Bureau of Prisons, or any other agency to fall within the exclusionary provisions of subparagraphs (1), (2), or (3) of this subsection, then it shall become the duty of the Commission, the Bureau, or such other agency, as the case may be, to summarize the basic contents of the material withheld, bearing in mind the need for confidentiality or the impact on the inmate, or both, and furnish such summary to the inmate.

“(d) (1) During the period prior to the parole determination proceeding as provided in subsection (b) of this section, a prisoner may consult, as provided by the director, with a representative as referred to in subparagraph (2) of this subsection, and by mail or otherwise with any person concerning such proceeding.

“(2) The prisoner shall, if he chooses, be represented at the parole determination proceeding by a representative who qualifies under rules and regulations promulgated by the Commission. Such rules shall not exclude attorneys as a class.

“(e) The prisoner shall be allowed to appear and testify on his own behalf at the parole determination proceeding.

“(f) A full and complete record of every proceeding shall be retained by the Commission. Upon request, the Commission shall make available to any eligible prisoner such record as the Commission may retain of the proceeding.

Record retention.

“(g) If parole is denied, a personal conference to explain the reasons for such denial shall be held, if feasible, between the prisoner and the Commissioners or examiners conducting the proceeding at the conclusion of the proceeding. When feasible, the conference shall include advice to the prisoner as to what steps may be taken to enhance his chance of being released at a subsequent proceeding.

Parole denial, conference.

“(h) In any case in which release on parole is not granted, subsequent parole determination proceedings shall be held not less frequently than:

“(1) eighteen months in the case of a prisoner with a term or terms of more than one year but less than seven years; and

“(2) twenty-four months in the case of a prisoner with a term or terms of seven years or longer.

“§ 4209. Conditions of parole

18 USC 4209.

“(a) In every case, the Commission shall impose as a condition of parole that the parolee not commit another Federal, State, or local crime. The Commission may impose or modify other conditions of parole to the extent that such conditions are reasonably related to—

“(1) the nature and circumstances of the offense; and

“(2) the history and characteristics of the parolee;

and may provide for such supervision and other limitations as are reasonable to protect the public welfare.

“(b) The conditions of parole should be sufficiently specific to serve as a guide to supervision and conduct, and upon release on parole the parolee shall be given a certificate setting forth the conditions of his

parole. An effort shall be made to make certain that the parolee understands the conditions of his parole.

“(c) Release on parole or release as if on parole may as a condition of such release require—

“(1) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole;

18 USC 4251. “(2) a parolee, who is an addict within the meaning of section 4251(a), or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), to participate in the community supervision programs authorized by section 4255 for all or part of the period of parole.

18 USC 4255.

A parolee residing in a residential community treatment center pursuant to subparagraph (1) or (2) of this subsection, may be required to pay such costs incident to residence as the Commission deems appropriate.

“(d) (1) The Commission may modify conditions of parole pursuant to this section on its own motion, or on the motion of a United States probation officer supervising a parolee: *Provided*, That the parolee receives notice of such action and has ten days after receipt of such notice to express his views on the proposed modification. Following such ten-day period, the Commission shall have twenty-one days, exclusive of holidays, to act upon such motion or application.

Petition.

“(2) A parolee may petition the Commission on his own behalf for a modification of conditions pursuant to this section.

“(3) The provisions of this subsection shall not apply to modifications of parole conditions pursuant to a revocation proceeding under section 4214.

18 USC 4210.

“§ 4210. Jurisdiction of Commission

“(a) A parolee shall remain in the legal custody and under the control of the Attorney General, until the expiration of the maximum term or terms for which such parolee was sentenced.

“(b) Except as otherwise provided in this section, the jurisdiction of the Commission over the parolee shall terminate no later than the date of the expiration of the maximum term or terms for which he was sentenced, except that—

“(1) such jurisdiction shall terminate at an earlier date to the extent provided under section 4164 (relating to mandatory release) or section 4211 (relating to early termination of parole supervision), and

“(2) in the case of a parolee who has been convicted of a Federal, State, or local crime committed subsequent to his release on parole, and such crime is punishable by a term of imprisonment, detention or incarceration in any penal facility, the Commission shall determine, in accordance with the provisions of section 4214 (b) or (c), whether all or any part of the unexpired term being served at the time of parole shall run concurrently or consecutively with the sentence imposed for the new offense, but in no case shall such service together with such time as the parolee has previously served in connection with the offense for which he was paroled, be longer than the maximum term for which he was sentenced in connection with such offense.

“(c) In the case of any parolee found to have intentionally refused or failed to respond to any reasonable request, order, summons, or warrant of the Commission or any member or agent thereof, the jurisdiction of the Commission may be extended for the period during which the parolee so refused or failed to respond.

“(d) The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

“(e) The parole of any prisoner sentenced before June 29, 1932, shall be for the remainder of the term or terms specified in his sentence, less good time allowances provided by law.

“(f) Upon the termination of the jurisdiction of the Commission over any parolee, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

“§ 4211. Early termination of parole

18 USC 4211.

“(a) Upon its own motion or upon request of the parolee, the Commission may terminate supervision over a parolee prior to the termination of jurisdiction under section 4210.

“(b) Two years after each parolee's release on parole, and at least annually thereafter, the Commission shall review the status of the parolee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

Review.

“(c) (1) Five years after each parolee's release on parole, the Commission shall terminate supervision over such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in section 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engage in conduct violating any criminal law.

“(2) If supervision is not terminated under subparagraph (1) of this subsection the parolee may request a hearing annually thereafter, and a hearing, with procedures as provided in subparagraph (1) of this subsection shall be conducted with respect to such termination of supervision not less frequently than biennially.

“(3) In calculating the five-year period referred to in subparagraph (1), there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

“§ 4212. Aliens

18 USC 4212.

“When an alien prisoner subject to deportation becomes eligible for parole, the Commission may authorize the release of such prisoner on condition that such person be deported and remain outside the United States.

“Such prisoner when his parole becomes effective, shall be delivered to the duly authorized immigration official for deportation.

“§ 4213. Summons to appear or warrant for retaking of parolee

18 USC 4213.

“(a) If any parolee is alleged to have violated his parole, the Commission may—

“(1) summon such parolee to appear at a hearing conducted pursuant to section 4214; or

“(2) issue a warrant and retake the parolee as provided in this section.

“(b) Any summons or warrant issued under this section shall be issued by the Commission as soon as practicable after discovery of the alleged violation, except when delay is deemed necessary. Imprisonment in an institution shall not be deemed grounds for delay of such issuance, except that, in the case of any parolee charged with a criminal offense, issuance of a summons or warrant may be suspended pending disposition of the charge.

“(c) Any summons or warrant issued pursuant to this section shall provide the parolee with written notice of—

“(1) the conditions of parole he is alleged to have violated as provided under section 4209;

“(2) his rights under this chapter; and

“(3) the possible action which may be taken by the Commission.

“(d) Any officer of any Federal penal or correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant issued under this section is delivered, shall execute such warrant by taking such parolee and returning him to the custody of the regional commissioner, or to the custody of the Attorney General, if the Commission shall so direct.

18 USC 4214.

“§ 4214. Revocation of parole

“(a) (1) Except as provided in subsections (b) and (c), any alleged parole violator summoned or retaken under section 4213 shall be accorded the opportunity to have—

Hearing.

“(A) a preliminary hearing at or reasonably near the place of the alleged parole violation or arrest, without unnecessary delay, to determine if there is probable cause to believe that he has violated a condition of his parole; and upon a finding of probable cause a digest shall be prepared by the Commission setting forth in writing the factors considered and the reasons for the decision, a copy of which shall be given to the parolee within a reasonable period of time; except that after a finding of probable cause the Commission may restore any parolee to parole supervision if:

“(i) continuation of revocation proceedings is not warranted; or

“(ii) incarceration of the parolee pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations;

“(iii) the parolee is not likely to fail to appear for further proceedings; and

“(iv) the parolee does not constitute a danger to himself or others.

“(B) upon a finding of probable cause under subparagraph (1) (A), a revocation hearing at or reasonably near the place of the alleged parole violation or arrest within sixty days of such determination of probable cause except that a revocation hearing may be held at the same time and place set for the preliminary hearing.

Hearings.

“(2) Hearings held pursuant to subparagraph (1) of this subsection shall be conducted by the Commission in accordance with the following procedures:

“(A) notice to the parolee of the conditions of parole alleged to have been violated, and the time, place, and purposes of the scheduled hearing;

“(B) opportunity for the parolee to be represented by an attorney (retained by the parolee, or if he is financially unable to retain counsel, counsel shall be provided pursuant to section 3006A) or, if he so chooses, a representative as provided by rules and regulations, unless the parolee knowingly and intelligently waives such representation.

18 USC 3006A.

“(C) opportunity for the parolee to appear and testify, and present witnesses and relevant evidence on his own behalf; and

“(D) opportunity for the parolee to be apprised of the evidence against him and, if he so requests, to confront and cross-examine

adverse witnesses, unless the Commission specifically finds substantial reason for not so allowing.

For the purposes of subparagraph (1) of this subsection, the Commission may subpoena witnesses and evidence, and pay witness fees as established for the courts of the United States. If a person refuses to obey such a subpoena, the Commission may petition a court of the United States for the judicial district in which such parole proceeding is being conducted, or in which such person may be found, to request such person to attend, testify, and produce evidence. The court may issue an order requiring such person to appear before the Commission, when the court finds such information, thing, or testimony directly related to a matter with respect to which the Commission is empowered to make a determination under this section. Failure to obey such an order is punishable by such court as a contempt. All process in such a case may be served in the judicial district in which such a parole proceeding is being conducted, or in which such person may be found.

Subpena.

“(b) (1) Conviction for a Federal, State, or local crime committed subsequent to release on parole shall constitute probable cause for purposes of subsection (a) of this section. In cases in which a parolee has been convicted of such a crime and is serving a new sentence in an institution, a parole revocation warrant or summons issued pursuant to section 4213 may be placed against him as a detainer. Such detainer shall be reviewed by the Commission within one hundred and eighty days of notification to the Commission of placement. The parolee shall receive notice of the pending review, have an opportunity to submit a written application containing information relative to the disposition of the detainer, and, unless waived, shall have counsel as provided in subsection (a) (2) (B) of this section to assist him in the preparation of such application.

Detainer review.

Notice;
application.

“(2) If the Commission determines that additional information is needed to review a detainer, a dispositional hearing may be held at the institution where the parolee is confined. The parolee shall have notice of such hearing, be allowed to appear and testify on his own behalf, and, unless waived, shall have counsel as provided in subsection (a) (2) (B) of this section.

“(3) Following the disposition review, the Commission may:

“(A) let the detainer stand; or

“(B) withdraw the detainer.

“(c) Any alleged parole violator who is summoned or retaken by warrant under section 4213 who knowingly and intelligently waives his right to a hearing under subsection (a) of this section, or who knowingly and intelligently admits violation at a preliminary hearing held pursuant to subsection (a) (1) (A) of this section, or who is retaken pursuant to subsection (b) of this section, shall receive a revocation hearing within ninety days of the date of retaking. The Commission may conduct such hearing at the institution to which he has been returned, and the alleged parole violator shall have notice of such hearing, be allowed to appear and testify on his own behalf, and, unless waived, shall have counsel or another representative as provided in subsection (a) (2) (B) of this section.

Revocation
hearing.

“(d) Whenever a parolee is summoned or retaken pursuant to section 4213, and the Commission finds pursuant to the procedures of this section and by a preponderance of the evidence that the parolee has violated a condition of his parole the Commission may take any of the following actions:

“(1) restore the parolee to supervision;

“(2) reprimand the parolee;

“(3) modify the parolee’s conditions of the parole;

“(4) refer the parolee to a residential community treatment center for all or part of the remainder of his original sentence; or

“(5) formally revoke parole or release as if on parole pursuant to this title.

The Commission may take any such action provided it has taken into consideration whether or not the parolee has been convicted of any Federal, State, or local crime subsequent to his release on parole, and the seriousness thereof, or whether such action is warranted by the frequency or seriousness of the parolee’s violation of any other condition or conditions of his parole.

Notice.

“(e) The Commission shall furnish the parolee with a written notice of its determination not later than twenty-one days, excluding holidays, after the date of the revocation hearing. If parole is revoked, a digest shall be prepared by the Commission setting forth in writing the factors considered and reasons for such action, a copy of which shall be given to the parolee.

18 USC 4215.

“§ 4215. Reconsideration and appeal

“(a) Whenever parole release is denied under section 4206, parole conditions are imposed or modified under section 4209, parole discharge is denied under section 4211 (c), or parole is modified or revoked under section 4214, the individual to whom any such decision applies may have the decision reconsidered by submitting a written application to the regional commissioner not later than thirty days following the date on which the decision is rendered. The regional commissioner, upon receipt of such application, must act pursuant to rules and regulations within thirty days to reaffirm, modify, or reverse his original decision and shall inform the applicant in writing of the decision and the reasons therefor.

“(b) Any decision made pursuant to subsection (a) of this section which is adverse to the applicant for reconsideration may be appealed by such individual to the National Appeals Board by submitting a written notice of appeal not later than thirty days following the date on which such decision is rendered. The National Appeals Board, upon receipt of the appellant’s papers, must act pursuant to rules and regulations within sixty days to reaffirm, modify, or reverse the decision and shall inform the appellant in writing of the decision and the reasons therefor.

“(c) The National Appeals Board may review any decision of a regional commissioner upon the written request of the Attorney General filed not later than thirty days following the decision and, by majority vote, shall reaffirm, modify, or reverse the decision within sixty days of the receipt of the Attorney General’s request. The Board shall inform the Attorney General and the individual to whom the decision applies in writing of its decision and the reasons therefor.

18 USC 4216.

“§ 4216. Young adult offenders

“In the case of a defendant who has attained his twenty-second birthday but has not attained his twenty-sixth birthday at the time of conviction, if, after taking into consideration the previous record of the defendant as to delinquency or criminal experience, his social background, capabilities, mental and physical health, and such other factors as may be considered pertinent, the court finds that there are reasonable grounds to believe that the defendant will benefit from the treatment provided under the Federal Youth Corrections Act (18 U.S.C., chap. 402) sentence may be imposed pursuant to the provisions of such Act.

18 USC 5005
et seq.

“§ 4217. Warrants to retake Canal Zone parole violators

18 USC 4217.

“An officer of a Federal penal or correctional institution, or a Federal officer authorized to serve criminal process within the United States, to whom a warrant issued by the Governor of the Canal Zone for the retaking of a parole violator is delivered, shall execute the warrant by taking the prisoner and holding him for delivery to a representative of the Governor of the Canal Zone for return to the Canal Zone.

“§ 4218. Applicability of Administrative Procedure Act

18 USC 4218.

“(a) For purposes of the provisions of chapter 5 of title 5, United States Code, other than sections 554, 555, 556, and 557, the Commission is an ‘agency’ as defined in such chapter. 5 USC 500 *et seq.*

“(b) For purposes of subsection (a) of this section, section 553(b)(3)(A) of title 5, United States Code, relating to rulemaking, shall be deemed not to include the phrase ‘general statements of policy’.

“(c) To the extent that actions of the Commission pursuant to section 4203(a)(1) are not in accord with the provisions of section 553 of title 5, United States Code, they shall be reviewable in accordance with the provisions of sections 701 through 706 of title 5, United States Code.

“(d) Actions of the Commission pursuant to paragraphs (1), (2), and (3) of section 4203(b) shall be considered actions committed to agency discretion for purposes of section 701(a)(2) of title 5, United States Code.”.

SEC. 3. Section 5005 of title 18, United States Code, is amended to read as follows:

“§ 5005. Youth correction decisions

“The Commission and, where appropriate, its authorized representatives as provided in section 4203(c), may grant or deny any application or recommendation for conditional release, or modify or revoke any order of conditional release, of any person sentenced pursuant to this chapter, and perform such other duties and responsibilities as may be required by law. Except as otherwise provided, decisions of the Commission shall be made in accordance with the procedures set out in chapter 311 of this title.”.

Ante, p. 220.18 USC 4201
et seq.

SEC. 4. Section 5006 of title 18, United States Code, is amended to read as follows:

“§ 5006. Definitions

“As used in this chapter—

“(a) ‘Commission’ means the United States Parole Commission;

“(b) ‘Bureau’ means the Bureau of Prisons;

“(c) ‘Director’ means the Director of the Bureau of Prisons;

“(d) ‘youth offender’ means a person under the age of twenty-two years at the time of conviction;

“(e) ‘committed youth offender’ is one committed for treatment hereunder to the custody of the Attorney General pursuant to sections 5010(b) and 5010(c) of this chapter;

“(f) ‘treatment’ means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youth offenders; and

“(g) ‘conviction’ means the judgment on a verdict or finding of guilty, a plea of guilty, or a plea of *nolo contendere*.”.

SEC. 5. Sections 5007, 5008, and 5009 of title 18, United States Code, are repealed. Repeal.

SEC. 6. Section 5014 of title 18, United States Code, is amended to read as follows:

18 USC 5014.

“§ 5014. Classification studies and reports

“The Director shall provide classification centers and agencies. Every committed youth offender shall first be sent to a classification center or agency. The classification center or agency shall make a complete study of each committed youth offender, including a mental and physical examination, to ascertain his personal traits, his capabilities, pertinent circumstances of his school, family life, any previous delinquency or criminal experience, and any mental or physical defect or other factor contributing to his delinquency. In the absence of exceptional circumstances, such study shall be completed within a period of thirty days. The agency shall promptly forward to the Director and to the Commission a report of its findings with respect to the youth offender and its recommendations as to his treatment. As soon as practicable after commitment, the youth offender shall receive a parole interview.”.

SEC. 7. Section 5017(a) of title 18, United States Code, is amended to read as follows:

Ante, p. 223.

“(a) The Commission may at any time after reasonable notice to the Director release conditionally under supervision a committed youth offender in accordance with the provisions of section 4206 of this title. When, in the judgment of the Director, a committed youth offender should be released conditionally under supervision he shall so report and recommend to the Commission.”.

SEC. 8. Section 5020 of title 18, United States Code, is amended to read as follows:

“§ 5020. Apprehension of released offenders

“If, at any time before the unconditional discharge of a committed youth offender, the Commission is of the opinion that such youth offender will be benefited by further treatment in an institution or other facility the Commission may direct his return to custody or if necessary may issue a warrant for the apprehension and return to custody of such youthful offender and cause such warrant to be executed by a United States probation officer, an appointed supervisory agent, a United States marshal, or any officer of a Federal penal or correctional institution. Upon return to custody, such youth offender shall be given a revocation hearing by the Commission.”.

18 USC 5005
et seq.

SEC. 9. Chapter 402 of title 18, United States Code, is amended by deleting the term “division” whenever it appears therein and inserting in lieu thereof the word “Commission”.

SEC. 10. The table of sections for chapter 402 of title 18, United States Code, is amended to read as follows:

“Sec.

“5005. Youth correction decisions.

“5006. Definitions.

“5010. Sentence.

“5011. Treatment.

“5012. Certificate as to availability of facilities.

“5013. Provision of facilities.

“5014. Classification studies and reports.

“5015. Powers of Director as to placement of youth offenders.

“5016. Reports concerning offenders.

“5017. Release of youth offenders.

“5018. Revocation of Commission orders.

“5019. Supervision of released youth offenders.

“5020. Apprehension for released offenders.

“5021. Certificate setting aside conviction.

“5022. Applicable date.

“5023. Relationship to Probation and Juvenile Delinquency Acts.

“5024. Where applicable.

“5025. Applicability to the District of Columbia.

“5026. Parole of other offenders not affected.”.

SEC. 11. Section 5041 of title 18, United States Code, is amended to read as follows:

“§ 5041. Parole

“A juvenile delinquent who has been committed may be released on parole at any time under such conditions and regulations as the United States Parole Commission deems proper in accordance with the provisions in section 4206 of this title.”

Ante, p. 223.
18 USC 4202
note.

SEC. 12. Whenever in any of the laws of the United States or the District of Columbia the term “United States Parole Board”, or any other term referring thereto, is used, such term or terms, on and after the date of the effective date of this Act, shall be deemed to refer to the United States Parole Commission as established by the amendments made by this Act.

SEC. 13. Section 5108(c) (7) of title 5, United States Code, is amended to read as follows:

“(7) the Attorney General, without regard to any other provision of this section, may place a total of ten positions of warden in the Bureau of Prisons in GS-16;”

5 USC 5332 note.

SEC. 14. Section 3655 of title 18, United States Code, relating to duties of probation officers, is amended by striking out “Attorney General” in the last sentence and inserting in lieu thereof “United States Parole Commission”.

SEC. 15. There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes of the amendments made by this Act.

Appropriation
authorization.

SEC. 16. (a) There are hereby transferred to the Chairman of the United States Parole Commission, all personnel, liabilities, contracts, property and records as are employed, held, used, arising from, available or to be made available of the United States Board of Parole with respect to all functions, powers, and duties transferred by this Act to the United States Parole Commission.

Transfer of
personnel and
property.
18 USC 4202
note.

(b) This Act shall take effect sixty days after the date of enactment, except that the provisions of section 4208(h) of this Act shall take effect one hundred twenty days after the date of enactment.

Effective date.
18 USC 4201
note.

(c) Each person holding office as a member of the United States Board of Parole on the day before the effective date of the Parole Commission and Reorganization Act shall be a Commissioner whose term as such shall expire on the date of the expiration of the term for which such person was appointed as a member of the Board of Parole.

18 USC 4202
note.

(d) For the purpose of section 4202 of title 18, United States Code, service by an individual as a member of the United States Board of Parole shall not constitute service as a Commissioner.

18 USC 4202
note.

Approved March 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-184 (Comm. on the Judiciary) and No. 94-838 (Comm. of Conference).

SENATE REPORTS: No. 94-369 (Comm. on the Judiciary) and No. 94-648 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): May 21, considered and passed House.

Sept. 16, considered and passed Senate, amended.

Vol. 122 (1976): Mar. 2, Senate agreed to conference report.

Mar. 3, House agreed to conference report.

Public Law 94-234
94th Congress

An Act

Mar. 17, 1976
[H.R. 8508]

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Camden, Arkansas, for airport purposes.

Camden, Ark.
Airport property
restrictions,
release.
49 USC 1716.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 16 of the Federal Airport Act (as in effect on August 5, 1954), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated August 5, 1954, under which the United States conveyed certain property to the city of Camden, Arkansas, for airport purposes.

SEC. 2. Any release granted by the Secretary of Transportation under the first section of this Act shall be subject to the following conditions:

(1) The city of Camden, Arkansas, shall agree that in conveying any interest in the property which the United States conveyed to the city by deed dated August 5, 1954 the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

Approved March 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-830 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Feb. 17, considered and passed House.
Mar. 5, considered and passed Senate.

Public Law 94-235
94th Congress

An Act

To establish the Chickasaw National Recreation Area in the State of Oklahoma, and for other purposes.

Mar. 17, 1976

[H.R. 4979]

Chickasaw
National
Recreation Area,
Okla.
Establishment.
16 USC 460hh.

Publication in
Federal Register.

Land acquisition.
16 USC 460hh-1.

40 USC 471 note.

Residential
property.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for public outdoor recreation use and enjoyment of Arbuckle Reservoir and land adjacent thereto, and to provide for more efficient administration of other adjacent area containing scenic, scientific, natural, and historic values contributing to public enjoyment of the area and to designate the area in such manner as will constitute a fitting memorialization of the Chickasaw Indian Nation, there is hereby established the Chickasaw National Recreation Area (hereinafter referred to as the "recreation area") consisting of lands and interests in lands within the area as generally depicted on the drawing entitled "Boundary Map, Chickasaw National Recreation Area," numbered 107-20004-A and dated February 1974, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may from time to time revise the boundaries of the recreation area by publication of a map or other boundary description in the Federal Register, but the total acreage of the recreation area may not exceed ten thousand acres.

SEC. 2. (a) The Secretary may acquire land or interests in lands within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries, and any land so acquired and not utilized for exchange shall be reported to the General Services Administration for disposal under the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended. Any Federal property located within the boundaries of the recreation area may be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of the recreation area. Lands within the boundaries of the recreation area owned by the State of Oklahoma, or any political subdivision thereof, may be acquired only by donation: *Provided*, That the Secretary may also acquire lands by exchange with the city of Sulphur, utilizing therefor only such lands as may be excluded from the recreation area which were formerly within the Platt National Park.

(b) With respect to improved residential property acquired for the purposes of this Act, which is beneficially owned by a natural person and which the Secretary determines can be continued in that use for a limited period of time without undue interference with the administration, development, or public use of the recreation area, the owner thereof may on the date of its acquisition by the Secretary retain a right of use and occupancy of the property for noncommercial residential purposes for a term, as the owner may elect, ending either (1) at the death of the owner or his spouse, whichever

occurs later, or (2) not more than twenty-five years from the date of acquisition. Any right so retained may, during its existence, be transferred or assigned. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

“Improved residential property.”

(c) As used in this Act, “improved residential property” means a single-family year-round dwelling, the construction of which began before March 1, 1975, and which serves as the owner’s permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located that the Secretary finds is reasonably necessary for the owner’s continued use and occupancy of the dwelling: *Provided*, That the Secretary may exclude from improved residential property any waters and adjoining land that the Secretary deems is necessary for public access to such waters.

(d) The Secretary may terminate a right to use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of the Act, and upon tender to the holder of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

Hunting and fishing.
16 USC 460hh-2.

SEC. 3. The Secretary shall permit hunting and fishing on lands and waters within the recreation area in accordance with applicable Federal and State laws: *Provided*, That he may designate zones where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities.

Administration.
16 USC 460hh-3.

SEC. 4. (a) Except as otherwise provided in this Act, the Secretary shall administer the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented.

(b) Nothing contained in this Act shall affect or interfere with the authority of the Secretary by the Act of August 24, 1962 (76 Stat. 395), to operate the Arbuckle Dam and Reservoir in accordance with and for the purposes set forth in that Act.

Repeal.
16 USC 460hh-4.

SEC. 5. The Act of June 29, 1906 (34 Stat. 837), which directed that certain lands now included by this Act in the recreation area be designated as the Platt National Park, is hereby repealed, and such lands shall hereafter be considered and known as an integral part of the Chickasaw National Recreation Area: *Provided*, That within such area the Secretary may cause to be erected suitable markers or plaques to honor the memory of Orville Hitchcock Platt and to commemorate the original establishment of Platt National Park.

Publication in Federal Register.
16 USC 460hh-5.

SEC. 6. Notwithstanding the provisions of section 7 of the Act of June 16, 1906 (34 Stat. 272), which retain exclusive jurisdiction in the United States, upon notification in writing to the Secretary by the appropriate State officials of the acceptance by the State of Oklahoma of concurrent legislative jurisdiction over the lands formerly within the Platt National Park, the Secretary shall publish a notice to that effect in the Federal Register and, upon such publication, concurrent legislative jurisdiction over such lands is hereby ceded to the State of Oklahoma: *Provided*, That such cession of jurisdiction shall not occur until a written agreement has been reached between the State of Oklahoma and the Secretary providing for the exercise of concurrent

jurisdiction over all other lands and waters within the Chickasaw National Recreation Area.

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not to exceed \$1,600,000 for the acquisition of lands and interests in lands, and \$4,567,000 for development.

Appropriation
authorization.
16 USC 460hh-6.

Approved March 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-803 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-678 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 2, considered and passed House.

Mar. 5, considered and passed Senate.

Public Law 94-236
94th Congress

An Act

Mar. 19, 1976

[H.R. 11700]

Relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions.

New York.
Public employee
retirement
systems.

26 USC 401.

26 USC 503.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) any pension plan or trust which, on December 5, 1975, was a party to the amended and restated agreement of November 26, 1975, set forth on pages S21308, S21309, and S21310 of the Congressional Record published on such date, and any trust forming a part of such a plan, shall not be considered to fail to satisfy the requirements of section 401(a) of the Internal Revenue Code of 1954, and shall not be considered to have engaged in a prohibited transaction described in section 503(b) of such Code, merely because such plan or trust does any or all of the following:

- (1) (A) enters into such agreement or agrees to an amendment of such agreement;
- (B) forebears from any act prohibited by such agreement;
- (C) acquires or holds any obligation the acquisition or holding of which is provided for by such agreement;
- (D) makes any election provided for by such agreement;
- (E) executes a waiver of any requirement of such agreement;
- (F) after the expiration of such agreement, holds any obligation acquired or held pursuant to such agreement; or
- (G) performs any other act provided for by such agreement;

(2) on or after August 20, 1975, and before January 1, 1979, considers, for purposes of determining investments to be made by the plan or trust, the extent to which such investments will—

(A) maintain the ability of the city of New York—

(i) to make future contributions to the plan or trust, and

(ii) to satisfy its future obligations to pay pension and retirement benefits to members and beneficiaries of such plan or trust, and

(B) protect the sources of funds to provide retirement benefits for members and beneficiaries of the plan or trust; or

(3) after December 31, 1978, considers, for purposes of determining whether to retain investments held on December 31, 1978, the factors enumerated in paragraph (2).

For purposes of paragraph (1), the acquisition or holding of any obligation of the Municipal Assistance Corporation for the city of New York on or after August 20, 1975, and before November 26, 1975, shall be considered an acquisition or holding provided for by such agreement.

(b) In the case of—

- (1) any amendment to the agreement described in subsection (a) which relates to the application of the factors set forth in subsection (a) to the requirements of section 401(a) or 503(b) of the Internal Revenue Code of 1954 and which is adopted after December 5, 1975, and

(2) any waiver of any requirement of the agreement by a plan or trust after December 5, 1975, Waiver.

such amendment or waiver shall take effect for purposes of subsection (a) on the date on which a copy of such amendment or waiver is submitted directly to the Secretary of the Treasury; except that, if the Secretary determines, not later than 30 days after such date of submission (or, if later, the date of the enactment of this Act) that the taking effect of such amendment or waiver for purposes of subsection (a) is inconsistent with the considerations set forth in subsection (a)(2), such amendment or waiver shall not be deemed to have been effective for any period for purposes of subsection (a). No amendment to the agreement which has the effect of extending the expiration date of the agreement to a date later than December 31, 1978, shall take effect for purposes of subsection (a).

(c) The trustees of each pension plan or trust described in subsection (a) shall furnish a copy of the annual report filed by such plan or trust with the New York State Insurance Department for each fiscal year of the plan or trust beginning after June 30, 1975, and ending with the first fiscal year in which there are no obligations with respect to which subsection (a) applies, to the Secretary of the Treasury not later than 30 days after the date such report is filed with the New York State Insurance Department, and shall furnish such additional reports and other information as the Secretary of the Treasury may reasonably require. A copy of each such report shall be furnished by the Secretary of the Treasury to the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate.

Report to
Secretary of the
Treasury.

(d) The Secretary of the Treasury or his delegate is authorized to prescribe such regulations as may be necessary to carry out the purposes of this Act.

Regulations.

(e) This Act shall be effective on and after August 20, 1975.

Effective date.

Approved March 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-851 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 1, considered and passed House.

Mar. 4, considered and passed Senate.

Public Law 94-237
94th Congress

An Act

To amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

Mar. 19, 1976
[S. 2017]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 (21 U.S.C. 1101) of the Drug Abuse Office and Treatment Act of 1972 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

Drug Abuse
 Office and
 Treatment Act of
 1972,
 amendments.

"(10) Although the Congress observed a significant apparent reduction in the rate of increase of drug abuse during the three-year period subsequent to the date of enactment of this Act, and in certain areas of the country apparent temporary reductions in its incidence, the increase and spread of heroin consumption since 1974, and the continuing abuse of other dangerous drugs, clearly indicate the need for effective, ongoing, and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy."

SEC. 2. Section 102 of the Act (21 U.S.C. 1102) is amended by striking "immediate objective of significantly reducing the incidence of drug abuse in the United States within the shortest possible period of time, and to develop" and inserting in lieu thereof "objective of significantly reducing the incidence, as well as the social and personal costs, of drug abuse in the United States, and to develop and assure the implementation of".

SEC. 3. Section 103(b) of the Act (21 U.S.C. 1103(b)) is amended by changing "education, training," to read "education or training (including preventive efforts directed to individuals who are not users of drugs and to individuals who are marginal users of drugs)."

SEC. 4. (a) Section 103 of the Act is amended by adding at the end thereof the following new subsection:

21 USC 1103.

"(d) The term 'drug abuse function' means any function described in subsection (b) or (c) of this section, or both."

"Drug abuse
 function."

(b) The Act is amended by inserting after title I the following new title:

"TITLE II—OFFICE OF DRUG ABUSE POLICY

"CHAPTER	Sec.
"1. GENERAL PROVISIONS.....	201
"2. FUNCTIONS OF THE DIRECTOR.....	221

"Chapter 1.—GENERAL PROVISIONS

"Sec.

- "201. Establishment of Office.
- "202. Appointment of Director.
- "203. Appointment of Deputy Director.
- "204. Delegation.
- "205. Officers and employees.
- "206. Employment of experts and consultants.
- "207. Acceptance of uncompensated services.
- "208. Notice relating to the control of dangerous drugs.
- "209. Compensation of Director and Deputy Director.
- "210. Statutory authority unaffected.
- "211. Appropriations authorized.

Office of Drug
Abuse Policy.
21 USC 1111.

“§ 201. Establishment of Office

“There is established in the Executive Office of the President an office to be known as the Office of Drug Abuse Policy (hereinafter in this Act referred to as the ‘Office’). The establishment of the Office in the Executive Office of the President shall not be construed as affecting access by the Congress, or committees of either House, (1) to information, documents, and studies in the possession of, or conducted by, the Office or (2) to personnel of the Office.

“§ 202. Appointment of Director

21 USC 1112.

“The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall not hold office in any other department or agency of the United States, whether on an acting basis or otherwise, except on such occasions as may be appropriate in connection with the performance of such duties as may be assigned to him pursuant to section 222.

“§ 203. Appointment of Deputy Director

21 USC 1113.

“There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may assign or delegate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

“§ 204. Delegation

21 USC 1114.

“Unless specifically prohibited by law, the Director may, without being relieved of his responsibility, perform any of his functions or duties or exercise any of his powers through, or with the aid of, such persons in, or organizations of, the Office as he may designate.

“§ 205. Officers and employees

21 USC 1115.

“(a) The Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him. At the discretion of the Director, any officer or employee of the Office may be allowed and paid travel expenses, including per diem in lieu of subsistence, in the same manner as is authorized by section 5703 of title 5, United States Code, for individuals employed intermittently.

“(b) In addition to the number of positions which may be placed in grades GS-16, GS-17, and GS-18 under section 5108 of title 5, United States Code, and without prejudice to the placement of other positions in the Office in such grades under any authority other than this subsection, not to exceed four positions in the Office may be placed in grades GS-16, GS-17, and GS-18, but in accordance with the standards and procedures prescribed by chapter 51 of such title.

5 USC 5101 *et*
seq.

“§ 206. Employment of experts and consultants

21 USC 1116.

“The Director may procure services as authorized by section 3109 of title 5, United States Code, and may pay a rate for such services not in excess of the rate in effect for grade GS-18 of the General Schedule. The Director may employ individuals under this section without regard to any limitation, applicable to services procured under such section 3109, on the number of days or the period of such services, except that, at any one time, not more than six individuals may be employed under this section without regard to such limitation.

5 USC 5332 note.

“§ 207. Acceptance of uncompensated services

“The Director is authorized to accept and employ in furtherance of the purpose of this Act voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)). 21 USC 1117.

“§ 208. Notice relating to the control of dangerous drugs

“Whenever the Attorney General determines that there is evidence that— 21 USC 1118.

“(1) a drug or other substance, which is not a controlled substance (as defined in section 102(6) of the Controlled Substances Act), has a potential for abuse, or 21 USC 802.

“(2) a controlled substance should be transferred or removed from a schedule under section 202 of such Act, 21 USC 812.
he shall, prior to initiating any proceeding under section 201(a) of such Act, give the Director timely notice of such determination. 21 USC 811.
Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health, Education, and Welfare to the Director.

“§ 209. Compensation of Director and Deputy Director

“(a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

““(64) Director of the Office of Drug Abuse Policy.”.

“(b) Paragraph (95) of section 5315 of such title is amended to read as follows: 5 USC 5315.

““(95) Deputy Director of the Office of Drug Abuse Policy.”.

“§ 210. Statutory authority unaffected

“Nothing in this title shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces or the authority of the Administrator of Veterans' Affairs with respect to the furnishing of health care and related services to veterans. 21 USC 1119.

“§ 211. Appropriations authorized

“For purposes of carrying out this title, there is authorized to be appropriated \$700,000 for the fiscal year ending June 30, 1976, \$500,000 for the period July 1, 1976, through September 30, 1976, \$2,000,000 for the fiscal year ending September 30, 1977, and \$2,000,000 for the fiscal year ending September 30, 1978. 21 USC 1120.

“Chapter 2.—FUNCTIONS OF THE DIRECTOR

“Sec.

“221. Concentration of Federal effort.

“222. International negotiations.

“223. Annual report.

“§ 221. Concentration of Federal effort

“(a) The Director shall make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and shall coordinate the performance of such functions by Federal departments and agencies. Recommendations under this subsection shall include recommendations for changes in the organization, management, and personnel of Federal departments and agencies performing drug abuse functions to implement the policies, priorities, and objectives recommended under this subsection. Recommendations to President. 21 USC 1131.

“(b) To carry out subsection (a), the Director shall—

“(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions;

“(2) conduct, or provide for, evaluations of (A) the performance of drug abuse functions by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such functions; and

“(3) seek to assure that Federal departments and agencies, in the performance of drug abuse functions, construe drug abuse as a health problem.

“(c) Federal departments and agencies engaged in drug abuse functions shall submit to the Director such information and reports with respect to such functions as he may reasonably require to carry out the purposes of this title.

“§ 222. International negotiations

21 USC 1132.

“The President may designate the Director to represent the Government of the United States in discussions and negotiations relating to drug abuse functions.

“§ 223. Annual report

21 USC 1133.

“The Director shall submit to the President and the Congress, prior to March 1 of each year which begins after the enactment of this title, a written report on the activities of the Office. The report shall specify the objectives, activities, and accomplishments of the Office, and shall contain an accounting of funds expended under this title.”

Repeal.

21 USC 1104.

21 USC 1162.

(c) (1) Section 104 of the Act is repealed.

(2) Section 302 of the Act is amended by striking out “Special Action Office of Drug Abuse Prevention until the date specified in section 104 of this Act” and inserting in lieu thereof “Office of Drug Abuse Policy”.

(3) Section 302 of the Act is amended by striking out “and” before “other officials”, and by striking out the period after “appropriate” and inserting in lieu thereof “and no fewer than three members from outside the Federal Government.”.

21 USC 1164.

(4) Section 304 of the Act is amended by adding at the end thereof the following:

“(4) from time to time make recommendations to, and coordinate with, the Director of the Office of Drug Abuse Policy with respect to the performance of his functions under this Act.”.

(5) The following provisions of law are each amended by striking out “Special Action Office for Drug Abuse Prevention” and inserting in lieu thereof “Office of Drug Abuse Policy”:

(A) Sections 302 and 408(g) of the Act (21 U.S.C. 1162 and 1175(g)).

(B) Subsections (b) (1) and (d) of section 303 of Public Law 93-282 (21 U.S.C. 1175 note).

(C) Section 454 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750c).

(D) Section 206(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a) (1)).

Repeal.

(6) Sections 5316(131) and 5313(21) of title 5, United States Code, are repealed.

SEC. 5. Section 305 of the Act (21 U.S.C. 1165) is amended by striking out “from time to time as the President deems appropriate, but not less often than once a year” and inserting in lieu thereof “prior to June 1 of each year”.

SEC. 6. (a) Section 407 of the Act (21 U.S.C. 1174) is amended to read as follows:

“§ 407. Admission of drug abusers to private and public hospitals

“(a) Drug abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their drug abuse or drug dependence, by any private or public general hospital which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency. 21 USC 1174.

“(b)(1) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a) with respect to the admission and treatment of drug abusers in hospitals which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital. Regulations.

“(2) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) of this subsection to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse or drug dependence. In prescribing and implementing regulations pursuant to this paragraph, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.”

(b) The Administrator of Veterans' Affairs shall submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he has prescribed pursuant to section 407 (b)(2) of the Act, (2) explaining the bases for any inconsistency between such regulations and regulations of the Secretary under section 407(b)(1) of the Act, (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determines are necessary and desirable. The Administrator shall submit such report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 407(b)(1) and shall timely publish such report in the Federal Register. Reports to congressional committees. 21 USC 1174 note.

(c) The item relating to section 407 in the table of sections of title IV of the Act is amended by striking out “hospitals for emergency treatment” and inserting in lieu thereof “private and public hospitals”. 21 USC 1174.

SEC. 7. The first sentence of section 409(a) of the Act (21 U.S.C. 1176(a)) is amended by changing “and \$45,000,000 for the fiscal year ending June 30, 1975”, to read “\$45,000,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976, \$11,250,000 for the period

Publication in Federal Register.

21 USC 1171.

July 1, 1976, through September 30, 1976, and \$45,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978".

21 USC 1176.

SEC. 8. (a) Section 409(c)(1) of the Act is amended by—

(1) inserting "(A)" immediately after "(c)(1)";

(2) adding before the period at the end of subparagraph (A) the following: "except that in the case of a State (other than the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific Islands) which can demonstrate a need (determined in accordance with the methodology established under subparagraph (B)(iii)) for an allotment for a fiscal year in an amount not less than \$150,000, the allotment for such State for such fiscal year may not be less than \$150,000 multiplied by such fraction"; and

(3) inserting at the end thereof the following new subparagraph:

Notice of
proposed
rulemaking.

"(B)(i) Not later than June 15 of each year, the Secretary, after consultation with the Director of the National Institute on Drug Abuse, shall publish a notice of proposed rulemaking setting forth a formula to be used in making allotments pursuant to subparagraph (A) of this paragraph. Such notice of published rulemaking shall be in accordance with section 553 of title 5, United States Code, except that a sixty-day period shall be allowed for public comment.

Final regulations,
publication.

"(ii) Not later than the first day of each fiscal year, the Secretary shall publish final regulations setting forth the allotment formula to be used pursuant to subparagraph (A) of this paragraph in making allotments during such fiscal year.

"(iii) In determining, for the purposes of paragraph (1), the extent of need for more effective conduct of drug abuse prevention functions, the Secretary shall (within one hundred and eighty days after the date of enactment of this paragraph) by regulation establish a methodology to assess and determine the incidence and prevalence of drug abuse to be applied in determining such need."

Effective date.
21 USC 1176
note.

(b) The amendments made by subsection (a) of this section shall be effective with respect to fiscal years beginning on and after October 1, 1976.

SEC. 9. (a)(1) Section 409(e) of the Act (21 U.S.C. 1176(e)) is amended—

(A) by inserting in the first sentence thereof "not later than July 15 of each calendar year," immediately after "Secretary";

(B) by inserting in the second sentence thereof "shall pertain to the twelve-month period commencing October 1 of the calendar year in which it is required to be submitted, and" immediately after "Each State plan";

(C) by inserting "in accordance with such needs" immediately before the semicolon at the end of paragraph (5) thereof;

(D) by striking "and" at the end of paragraph (11) thereof;

(E) by redesignating paragraph (12) thereof as paragraph (13); and

(F) by inserting immediately after paragraph (11) thereof the following new paragraph:

"(12) provide reasonable assurances that treatment or rehabilitation projects or programs supported by funds made available under this section have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation programs or projects; and"

Effective date.
21 USC 1176
note.

(2) The amendments made by paragraph (1) shall take effect January 1, 1976.

(b) (1) Section 409(f) of the Act is amended by adding at the end the following: "A State plan submitted under subsection (e) may also contain provisions relating to alcoholism or mental health. The Secretary, acting through the National Institute on Drug Abuse, shall establish procedures by which the National Institute on Drug Abuse shall review each State plan submitted pursuant to subsection (e) and under which it shall complete its review of each such plan not later than September 15 of the calendar year in which the plan is submitted, or not later than sixty days after the plan is received by the National Institute on Drug Abuse, whichever is later."

(2) The amendment made by paragraph (1) shall take effect January 1, 1976.

SEC. 10. (a) Section 410(a) of the Act (21 U.S.C. 1177(a)) is amended by adding at the end thereof the following: "In the implementation of his authority under this section, the Secretary shall accord a high priority to applications for grants or contracts for primary prevention programs. For purposes of the preceding sentence, primary prevention programs include programs designed to discourage persons from beginning drug abuse. To the extent that appropriations authorized under this section are used to fund treatment services, the Secretary shall not limit such funding to treatment for opiate abuse, but shall also provide support for treatment for non-opiate drug abuse including polydrug abuse."

(b) Section 410(c) of the Act (21 U.S.C. 1177(c)) is amended by adding at the end thereof the following new paragraph:

"(4) Each applicant within a State, upon filing its application with the Secretary for a grant or contract to provide treatment or rehabilitation services shall provide a proposed performance standard or standards, to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation program or project."

SEC. 11. Section 410(b) of the Act (21 U.S.C. 1177(b)) is amended by changing "and \$160,000,000 for the fiscal year ending June 30, 1975." to read "\$160,000,000 for each of the fiscal years ending June 30, 1975 and June 30, 1976; \$40,000,000 for the period July 1, 1976, through September 30, 1976; and \$160,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978,".

SEC. 12. (a) (1) The first sentence of section 501(a) of the Act is amended by changing "section" to read "title" both places it appears therein.

(2) Section 501(b) of the Act (21 U.S.C. 1191(b)) is amended by inserting "(hereinafter in this title referred to as the 'Director')"

immediately after "Director".

(b) (1) Section 502 of the Act is amended to read as follows:

"§ 502. Technical assistance to State and local agencies

"(a) The Director shall—

"(1) coordinate or assure coordination of Federal drug abuse prevention functions with corresponding functions of State and local governments; and

"(2) provide for a central clearinghouse for Federal, State, and local governments, public and private agencies, and individuals seeking drug abuse information and assistance from the Federal Government.

"(b) In carrying out his functions under this section, the Director may—

"(1) provide technical assistance—including advice and consultation relating to local programs, technical and professional assistance, and, where deemed necessary, use of task forces of

21 USC 1176.

Review of State plans.

Effective date.
21 USC 1176
note.

21 USC 1191.

86 Stat. 85.

21 USC 1192.

public officials or other persons assigned to work with State and local governments—to analyze and identify State and local drug abuse problems and assist in the development of plans and programs to meet the problems so identified;

“(2) convene conferences of State, local, and Federal officials, and such other persons as the Director shall designate, to promote the purposes of this Act, and the Director is authorized to pay reasonable expenses of individuals incurred in connection with their participation in such conferences; and

“(3) draft and make available to State and local governments model legislation with respect to State and local drug abuse programs and activities, and provide for uniform forms for, procedures for the submission of, and criteria for the consideration of applications of State and local governments and individuals for grants and contracts for drug abuse control and treatment programs.

“(c) In implementation of his authority under subsection (b) (1), the Director may—

“(1) take such action as may be necessary to request the assignment, with or without reimbursement, of any individual employed by any Federal department or agency and engaged in any Federal drug abuse prevention function or drug traffic prevention function to serve as a member of any such task force; except that no such person shall be so assigned during any one fiscal year for more than an aggregate of ninety days without the express approval of the head of the Federal department or agency with respect to which he was so employed prior to such assignment;

“(2) assign any person employed by the Institute to serve as a member of any such task force or to coordinate management of such task forces; and

“(3) enter into contracts or other agreements with any person or organization to serve on or work with such task forces.”.

(2) The item relating to such section 502 in the table of sections of title V of the Act is amended to read as follows:

“502. Technical assistance to State and local agencies.”.

SEC. 13. (a) Title V of the Act is amended by adding at the end thereof the following new section:

“§ 503. Encouragement of certain research and development

“(a) The Director shall encourage and promote (by grants, contracts, or otherwise) expanded research programs to create, develop, and test—

“(1) synthetic analgesics, antitussives, and other drugs which are—

“(A) nonaddictive, or

“(B) less addictive than opium or its derivatives, to replace opium and its derivatives in medical use;

“(2) long-lasting, nonaddictive blocking or antagonistic drugs or other pharmacological substances for treatment of heroin addiction; and

“(3) detoxification agents which, when administered, will ease the physical effects of withdrawal from heroin addiction.

In carrying out this section the Director is authorized to establish, or provide for the establishment of, clinical research facilities.

“(b) For purposes of carrying out subsection (a) of this section there are authorized to be appropriated \$7,000,000 for the fiscal year ending June 30, 1976, \$1,750,000 for the period July 1, 1976, through

21 USC 1193.

Appropriation
authorization.

September 30, 1976, \$7,000,000 for the fiscal year ending September 30, 1977, and \$7,000,000 for the fiscal year ending September 30, 1978.”

(b) The table of sections at the beginning of title V of the Act is amended by adding at the end thereof the following new item:

“503. Encouragement of certain research and development.”.

SEC. 14. (a) Section 1513(e)(1)(A)(i) of the Public Health Service Act is amended by inserting “sections 409 and 410 of the Drug Abuse Office and Treatment Act,” after “Community Mental Health Centers Act”. 42 USC 3001-2.

(b) Section 1512(b)(3)(C)(ii) of the Public Health Service Act is amended by inserting “, substance abuse treatment facilities” after “long-term care facilities”. 42 USC 3001-1.

(c) Section 1531(3)(A) of the Public Health Service Act is amended by inserting “, substance abuse treatment facilities” after “long-term care facilities”. 42 USC 300n.

Approved March 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-375 accompanying H.R. 8150 (Comm. on Interstate and Foreign Commerce) and No. 94-839 (Comm. of Conference).

SENATE REPORTS: No. 94-218 accompanying S. 1608 (Comm. on Labor and Public Welfare) and No. 94-639 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 26, considered and passed Senate.

Sept. 11, considered and passed House, amended, in lieu of H.R. 8150.

Vol. 122 (1976): Feb. 19, Senate agreed to conference report; agreed to House amendment with an amendment.

Mar. 4, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 13 (1976): Mar. 20, Presidential statement.

Public Law 94-238
94th Congress

An Act

Mar. 23, 1976
[H.R. 12193]

To amend the Federal Water Pollution Control Act to increase the authorization for the National Study Commission.

National Study
Commission.
Appropriation
authorization.
33 USC 1325.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (h) of section 315 of the Federal Water Pollution Control Act is amended by striking out "\$17,000,000." and inserting in lieu thereof "\$17,250,000."

Approved March 23, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-870 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 9, considered and passed House.

Mar. 10, considered and passed Senate.

Public Law 94-239
94th Congress

An Act

To amend title VII of the Consumer Credit Protection Act to include discrimination on the basis of race, color, religion, national origin, and age, and for other purposes.

Mar. 23, 1976
[H.R. 6516]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Equal Credit Opportunity Act Amendments of 1976".

Equal Credit
Opportunity Act
Amendments of
1976.
15 USC 1691
note.

(b) Title VII of the Consumer Credit Protection Act is amended by adding at the end thereof the following new section:

"§ 709. Short title

"This title may be cited as the 'Equal Credit Opportunity Act'."

(c) Section 501 of Public Law 93-495 is repealed.

Equal Credit
Opportunity Act.
15 USC 1691
note.
Repeal.
15 USC 1691
note.
15 USC 1691.

SEC. 2. Section 701 of the Equal Credit Opportunity Act is amended to read as follows:

"§ 701. Prohibited discrimination; reasons for adverse action

"(a) It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction—

"(1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);

"(2) because all or part of the applicant's income derives from any public assistance program; or

"(3) because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

15 USC 1601
note.

"(b) It shall not constitute discrimination for purposes of this title for a creditor—

"(1) to make an inquiry of marital status if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of credit-worthiness;

"(2) to make an inquiry of the applicant's age or of whether the applicant's income derives from any public assistance program if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of credit-worthiness as provided in regulations of the Board;

"(3) to use any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Board, except that in the operation of such system the age of an elderly applicant may not be assigned a negative factor or value; or

"(4) to make an inquiry or to consider the age of an elderly applicant when the age of such applicant is to be used by the creditor in the extension of credit in favor of such applicant.

"(c) It is not a violation of this section for a creditor to refuse to extend credit offered pursuant to—

"(1) any credit assistance program expressly authorized by law for an economically disadvantaged class of persons;

“(2) any credit assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or

“(3) any special purpose credit program offered by a profit-making organization to meet special social needs which meets standards prescribed in regulations by the Board;

if such refusal is required by or made pursuant to such program.

Notice.

“(d)(1) Within thirty days (or such longer reasonable time as specified in regulations of the Board for any class of credit transaction) after receipt of a completed application for credit, a creditor shall notify the applicant of its action on the application.

Statement of reasons.

“(2) Each applicant against whom adverse action is taken shall be entitled to a statement of reasons for such action from the creditor. A creditor satisfies this obligation by—

“(A) providing statements of reasons in writing as a matter of course to applicants against whom adverse action is taken; or

“(B) giving written notification of adverse action which discloses (i) the applicant's right to a statement of reasons within thirty days after receipt by the creditor of a request made within sixty days after such notification, and (ii) the identity of the person or office from which such statement may be obtained. Such statement may be given orally if the written notification advises the applicant of his right to have the statement of reasons confirmed in writing on written request.

“(3) A statement of reasons meets the requirements of this section only if it contains the specific reasons for the adverse action taken.

“(4) Where a creditor has been requested by a third party to make a specific extension of credit directly or indirectly to an applicant, the notification and statement of reasons required by this subsection may be made directly by such creditor, or indirectly through the third party, provided in either case that the identity of the creditor is disclosed.

“(5) The requirements of paragraph (2), (3), or (4) may be satisfied by verbal statements or notifications in the case of any creditor who did not act on more than one hundred and fifty applications during the calendar year preceding the calendar year in which the adverse action is taken, as determined under regulations of the Board.

“Adverse action.”

“(6) For purposes of this subsection, the term ‘adverse action’ means a denial or revocation of credit, a change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested. Such term does not include a refusal to extend additional credit under an existing credit arrangement where the applicant is delinquent or otherwise in default, or where such additional credit would exceed a previously established credit limit.”.

15 USC 1691b.

SEC. 3. (a) Section 703 of the Equal Credit Opportunity Act is amended—

(1) by inserting “(a)” immediately before “The Board”;

(2) by inserting after the second sentence thereof the following new sentence: “In particular, such regulations may exempt from one or more of the provisions of this title any class of transactions not primarily for personal, family, or household purposes, if the Board makes an express finding that the application of such provision or provisions would not contribute substantially to carrying out the purposes of this title.”; and

(3) by adding at the end thereof the following new subsection:

Consumer
Advisory Council.
Establishment.

“(b) The Board shall establish a Consumer Advisory Council to advise and consult with it in the exercise of its functions under the

Consumer Credit Protection Act and to advise and consult with it concerning other consumer related matters it may place before the Council. In appointing the members of the Council, the Board shall seek to achieve a fair representation of the interests of creditors and consumers. The Council shall meet from time to time at the call of the Board. Members of the Council who are not regular full-time employees of the United States shall, while attending meetings of such Council, be entitled to receive compensation at a rate fixed by the Board, but not exceeding \$100 per day, including travel time. Such members may be allowed travel expenses, including transportation and subsistence, while away from their homes or regular place of business."

15 USC 1601
note.

(b) (1) Section 110 of the Truth in Lending Act is repealed.

Repeal.

(2) The table of sections of chapter 1 of such Act is amended by striking out item 110.

15 USC 1609.
15 USC 1601 *et*
seq.
15 USC 1691c.

SEC. 4. Section 704(c) of the Equal Credit Opportunity Act is amended by inserting before the period at the end thereof the following: "including the power to enforce any Federal Reserve Board regulation promulgated under this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule".

SEC. 5. Section 705 of the Equal Credit Opportunity Act is amended—

15 USC 1691d.

(1) by amending subsection (e) to read as follows:

"(e) Where the same act or omission constitutes a violation of this title and of applicable State law, a person aggrieved by such conduct may bring a legal action to recover monetary damages either under this title or under such State law, but not both. This election of remedies shall not apply to court actions in which the relief sought does not include monetary damages or to administrative actions."; and

(2) by adding the following new subsections:

"(f) This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with, the laws of any State with respect to credit discrimination, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this title if the Board determines that such law gives greater protection to the applicant.

"(g) The Board shall by regulation exempt from the requirements of sections 701 and 702 of this title any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this title or that such law gives greater protection to the applicant, and that there is adequate provision for enforcement. Failure to comply with any requirement of such State law in any transaction so exempted shall constitute a violation of this title for the purposes of section 706."

15 USC 1691,
1691a.

SEC. 6. Section 706 of the Equal Credit Opportunity Act is amended to read as follows:

Infra.
15 USC 1691e.

"§ 706. Civil liability

"(a) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

"(b) Any creditor, other than a government or governmental sub-

division or agency, who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than \$10,000, in addition to any actual damages provided in subsection (a), except that in the case of a class action the total recovery under this subsection shall not exceed the lesser of \$500,000 or 1 per centum of the net worth of the creditor. In determining the amount of such damages in any action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

"(c) Upon application by an aggrieved applicant, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this title.

"(d) In the case of any successful action under subsection (a), (b), or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such subsection.

"(e) No provision of this title imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(f) Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than two years from the date of the occurrence of the violation, except that—

15 USC 1691c.

"(1) whenever any agency having responsibility for administrative enforcement under section 704 commences an enforcement proceeding within two years from the date of the occurrence of the violation,

"(2) whenever the Attorney General commences a civil action under this section within two years from the date of the occurrence of the violation,

then any applicant who has been a victim of the discrimination which is the subject of such proceeding or civil action may bring an action under this section not later than one year after the commencement of that proceeding or action.

15 USC 1691.

"(g) The agencies having responsibility for administrative enforcement under section 704, if unable to obtain compliance with section 701, are authorized to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted.

"(h) When a matter is referred to the Attorney General pursuant to subsection (g), or whenever he has reason to believe that one or more creditors are engaged in a pattern or practice in violation of this title, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

42 USC 3605.

"(i) No person aggrieved by a violation of this title and by a violation of section 805 of the Civil Rights Act of 1968 shall recover

under this title and section 812 of the Civil Rights Act of 1968, if such violation is based on the same transaction. 42 USC 3612.

“(j) Nothing in this title shall be construed to prohibit the discovery of a creditor’s credit granting standards under appropriate discovery procedures in the court or agency in which an action or proceeding is brought.”.

SEC. 7. The Equal Credit Opportunity Act is amended by redesignating section 707 as section 708 and by inserting immediately after section 706 the following new section:

“§ 707. Annual reports to Congress

“Not later than February 1 of each year after 1976, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with the requirements of this title is being achieved, and a summary of the enforcement actions taken by each of the agencies assigned administrative enforcement responsibilities under section 704.”.

15 USC 1691
note.
15 USC 1691e.
15 USC 1691f.

SEC. 8. Section 708 of the Equal Credit Opportunity Act is amended by adding at the end thereof the following new sentence: “The amendments made by the Equal Credit Opportunity Act Amendments of 1976 shall take effect on the date of enactment thereof and shall apply to any violation occurring on or after such date, except that the amendments made to section 701 of the Equal Credit Opportunity Act shall take effect 12 months after the date of enactment.”.

Effective dates.
15 USC 1691
note.

Ante, p. 251.
15 USC 1691.

SEC. 9. The table of sections of the Equal Credit Opportunity Act is amended by striking out

“707. Effective date.”

and inserting in lieu thereof the following new items:

“707. Annual reports to Congress.

“708. Effective date.

“709. Short title.”.

Approved March 23, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-210 (Comm. on Banking, Currency and Housing) and No. 94-873 (Comm. of Conference).

SENATE REPORT No. 94-589 (Comm. on Banking, Housing and Urban Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 3, considered and passed House.

Vol. 122 (1976): Feb. 2, considered and passed Senate, amended.

Mar. 9, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 13 (1976): Mar. 23, Presidential statement.

Public Law 94-240
94th Congress

An Act

To amend the Truth in Lending Act to protect consumers against inadequate and misleading leasing information, assure meaningful disclosure of lease terms, and limit ultimate liability in connection with leasing of personal property primarily for personal, family, or household purposes, and for other purposes.

Mar. 23, 1976
[H.R. 8835]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Leasing Act of 1976".

Consumer
Leasing Act of
1976.
15 USC 1601
note.

FINDINGS AND PURPOSE

SEC. 2. Section 102 of the Truth in Lending Act (15 U.S.C. 1601) is amended by inserting "(a)" before the first sentence, and adding the following subsection:

"(b) The Congress also finds that there has been a recent trend toward leasing automobiles and other durable goods for consumer use as an alternative to installment credit sales and that these leases have been offered without adequate cost disclosures. It is the purpose of this title to assure a meaningful disclosure of the terms of leases of personal property for personal, family, or household purposes so as to enable the lessee to compare more readily the various lease terms available to him, limit balloon payments in consumer leasing, enable comparison of lease terms with credit terms where appropriate, and to assure meaningful and accurate disclosures of lease terms in advertisements."

DISCLOSURE OF LEASE TERMS

SEC. 3. The Truth in Lending Act (15 U.S.C. 1601-1665) is amended by adding at the end thereof a new chapter as follows:

"Chapter 5—CONSUMER LEASES

"Sec.

"181. Definitions.

"182. Consumer lease disclosures.

"183. Lessee's liability on expiration or termination of lease.

"184. Consumer lease advertising.

"185. Civil liability.

"186. Relation to State laws.

"§ 181. Definitions

"For purposes of this chapter—

"(1) The term 'consumer lease' means a contract in the form of a lease or bailment for the use of personal property by a natural person for a period of time exceeding four months, and for a total contractual obligation not exceeding \$25,000, primarily for personal, family, or household purposes, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease, except that such term shall not include any credit sale as defined in section 103(g). Such term does not include a lease for agricultural, business, or commercial purposes, or to a government or governmental agency or instrumentality, or to an organization.

15 USC 1667.

15 USC 1602.

“(2) The term ‘lessee’ means a natural person who leases or is offered a consumer lease.

“(3) The term ‘lessor’ means a person who is regularly engaged in leasing, offering to lease, or arranging to lease under a consumer lease.

“(4) The term ‘personal property’ means any property which is not real property under the laws of the State where situated at the time offered or otherwise made available for lease.

“(5) The terms ‘security’ and ‘security interest’ mean any interest in property which secures payment or performance of an obligation.

“§ 182. Consumer lease disclosures

15 USC 1667a.

“Each lessor shall give a lessee prior to the consummation of the lease a dated written statement on which the lessor and lessee are identified setting out accurately and in a clear and conspicuous manner the following information with respect to that lease, as applicable:

“(1) A brief description or identification of the leased property;

“(2) The amount of any payment by the lessee required at the inception of the lease;

“(3) The amount paid or payable by the lessee for official fees, registration, certificate of title, or license fees or taxes;

“(4) The amount of other charges payable by the lessee not included in the periodic payments, a description of the charges and that the lessee shall be liable for the differential, if any, between the anticipated fair market value of the leased property and its appraised actual value at the termination of the lease, if the lessee has such liability;

“(5) A statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and whether or not the lessee has the option to purchase the leased property and at what price and time;

“(6) A statement identifying all express warranties and guarantees made by the manufacturer or lessor with respect to the leased property, and identifying the party responsible for maintaining or servicing the leased property together with a description of the responsibility;

“(7) A brief description of insurance provided or paid for by the lessor or required of the lessee, including the types and amounts of the coverages and costs;

“(8) A description of any security interest held or to be retained by the lessor in connection with the lease and a clear identification of the property to which the security interest relates;

“(9) The number, amount, and due dates or periods of payments under the lease and the total amount of such periodic payments;

“(10) Where the lease provides that the lessee shall be liable for the anticipated fair market value of the property on expiration of the lease, the fair market value of the property at the inception of the lease, the aggregate cost of the lease on expiration, and the differential between them; and

“(11) A statement of the conditions under which the lessee or lessor may terminate the lease prior to the end of the term and the amount or method of determining any penalty or other charge for delinquency, default, late payments, or early termination.

The disclosures required under this section may be made in the lease contract to be signed by the lessee. The Board may provide by regulation that any portion of the information required to be disclosed under

this section may be given in the form of estimates where the lessor is not in a position to know exact information.

“§ 183. Lessee's liability on expiration or termination of lease

15 USC 1667b.

“(a) Where the lessee's liability on expiration of a consumer lease is based on the estimated residual value of the property such estimated residual value shall be a reasonable approximation of the anticipated actual fair market value of the property on lease expiration. There shall be a rebuttable presumption that the estimated residual value is unreasonable to the extent that the estimated residual value exceeds the actual residual value by more than three times the average payment allocable to a monthly period under the lease. In addition, where the lessee has such liability on expiration of a consumer lease there shall be a rebuttable presumption that the lessor's estimated residual value is not in good faith to the extent that the estimated residual value exceeds the actual residual value by more than three times the average payment allocable to a monthly period under the lease and such lessor shall not collect from the lessee the amount of such excess liability on expiration of a consumer lease unless the lessor brings a successful action with respect to such excess liability. In all actions, the lessor shall pay the lessee's reasonable attorney's fees. The presumptions stated in this section shall not apply to the extent the excess of estimated over actual residual value is due to physical damage to the property beyond reasonable wear and use, or to excessive use, and the lease may set standards for such wear and use if such standards are not unreasonable. Nothing in this subsection shall preclude the right of a willing lessee to make any mutually agreeable final adjustment with respect to such excess residual liability, provided such an agreement is reached after termination of the lease.

“(b) Penalties or other charges for delinquency, default, or early termination may be specified in the lease but only at an amount which is reasonable in the light of the anticipated or actual harm caused by the delinquency, default, or early termination, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy.

“(c) If a lease has a residual value provision at the termination of the lease, the lessee may obtain at his expense, a professional appraisal of the leased property by an independent third party agreed to by both parties. Such appraisal shall be final and binding on the parties.

“§ 184. Consumer lease advertising

15 USC 1667c.

“(a) No advertisement to aid, promote, or assist directly or indirectly any consumer lease shall state the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at inception of the lease unless the advertisement also states clearly and conspicuously and in accordance with regulations issued by the Board each of the following items of information which is applicable:

“(1) That the transaction advertised is a lease.

“(2) The amount of any payment required at the inception of the lease or that no such payment is required if that is the case.

“(3) The number, amounts, due dates or periods of scheduled payments, and the total of payments under the lease.

“(4) That the lessee shall be liable for the differential, if any, between the anticipated fair market value of the leased property and its appraised actual value at the termination of the lease, if the lessee has such liability.

“(5) A statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the

end of the term and whether or not the lessee has the option to purchase the leased property and at what price and time.

"(b) There is no liability under this section on the part of any owner or personnel, as such, of any medium in which an advertisement appears or through which it is disseminated.

"§ 185. Civil liability

15 USC 1667d.

"(a) Any lessor who fails to comply with any requirement imposed under section 182 or 183 of this chapter with respect to any person is liable to such person as provided in section 130.

15 USC 1640.

"(b) Any lessor who fails to comply with any requirement imposed under section 184 of this chapter with respect to any person who suffers actual damage from the violation is liable to such person as provided in section 130. For the purposes of this section, the term 'creditor' as used in sections 115, 130, and 131 shall include a lessor as defined in this chapter.

"Creditor."

15 USC 1614,
1641.

"(c) Notwithstanding section 130(e), any action under this section may be brought in any United States district court or in any other court of competent jurisdiction. Such actions alleging a failure to disclose or otherwise comply with the requirements of this chapter shall be brought within one year of the termination of the lease agreement.

"§ 186. Relation to State laws

15 USC 1667e.

"(a) This chapter does not annul, alter, or affect, or exempt any person subject to the provisions of this chapter from complying with, the laws of any State with respect to consumer leases, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this chapter if the Board determines that such law gives greater protection and benefit to the consumer.

"(b) The Board shall by regulation exempt from the requirements of this chapter any class of lease transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection and benefit to the consumer, and that there is adequate provision for enforcement."

AMENDMENTS TO SECTION 130

15 USC 1640.

SEC. 4. Section 130 of the Truth in Lending Act is amended as follows:

(1) In subsection (a), after "chapter 4" insert "or 5".

(2) In clause (2)(A) of subsection (a), insert "(i)" after "(A)", and insert after "transaction" a comma and the following: "or (ii) in the case of an individual action relating to a consumer lease under chapter 5 of this title, 25 per centum of the total amount of monthly payments under the lease".

Ante, p. 257.

(3) In paragraph (2)(B) of subsection (a), strike out "lesser of \$100,000" and insert in lieu thereof "lesser of \$500,000".

(4) In subsection (b), insert "or chapter 5" after "this chapter" and strike out the word "finance".

(5) In subsection (g), after "this chapter", insert "or chapter 4 or 5 of this title", and insert after "consumer loan" a comma and "consumer lease".

CONFORMING AMENDMENT

SEC. 5. The table of chapters of the Truth in Lending Act is amended by adding at the end thereof the following:

"5. Consumer Leases----- 181".

EFFECTIVE DATE

SEC. 6. This Act takes effect one year after the date of its enactment. 15 USC 1667
note.

Approved March 23, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-544 (Comm. on Banking, Currency and Housing) and No. 94-872 (Comm. of Conference).

SENATE REPORT No. 94-590 (Comm. on Banking, Housing and Urban Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 28, considered and passed House.

Vol. 122 (1976): Feb. 2, considered and passed Senate, amended.

Mar. 9, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 13 (1976): Mar. 23, Presidential statement.

Public Law 94-241
94th Congress

Joint Resolution

To approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", and for other purposes.

Mar. 24, 1976

[H.J. Res. 549]

Whereas the United States is the administering authority of the Trust Territory of the Pacific Islands under the terms of the trusteeship agreement for the former Japanese-mandated islands entered into by the United States with the Security Council of the United Nations on April 2, 1947, and approved by the United States on July 18, 1947; and

48 USC 1681
note.

Whereas the United States, in accordance with the trusteeship agreement and the Charter of the United Nations, has assumed the obligation to promote the development of the peoples of the trust territory toward self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned; and

Whereas the United States, in response to the desires of the people of the Northern Mariana Islands clearly expressed over the past twenty years through public petition and referendum, and in response to its own obligations under the trusteeship agreement to promote self-determination, entered into political status negotiations with representatives of the people of the Northern Mariana Islands; and

Whereas, on February 15, 1975, a "Covenant to Establish A Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" was signed by the Marianas Political Status Commission for the people of the Northern Mariana Islands and by the President's Personal Representative, Ambassador F. Haydn Williams for the United States of America, following which the covenant was approved by the unanimous vote of the Mariana Islands District Legislature on February 20, 1975 and by 78.8 per centum of the people of the Northern Mariana Islands voting in a plebiscite held on June 17, 1975: Now be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the text of which is as follows, is hereby approved.

Covenant to
Establish a
Commonwealth
of the Northern
Mariana Islands
in Political Union
with the United
States of
America.
Congressional
approval.
48 USC 1681
note.

"COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES
OF AMERICA

"Whereas, the Charter of the United Nations and the Trusteeship Agreement between the Security Council of the United Nations and the United States of America guarantee to the people of the Northern Mariana Islands the right freely to express their wishes for self-government or independence; and

"Whereas, the United States supports the desire of the people of the Northern Mariana Islands to exercise their inalienable right of self-determination; and

"Whereas, the people of the Northern Mariana Islands and the people of the United States share the goals and values found in the American system of government based upon the principles of government by the consent of the governed, individual freedom and democracy; and

"Whereas, for over twenty years, the people of the Northern Mariana Islands, through public petition and referendum, have clearly expressed their desire for political union with the United States;

"Now, therefore, the Marianas Political Status Commission, being the duly appointed representative of the people of the Northern Mariana Islands, and the Personal Representative of the President of the United States have entered into this Covenant in order to establish a self-governing commonwealth for the Northern Mariana Islands within the American political system and to define the future relationship between the Northern Mariana Islands and the United States. This Covenant will be mutually binding when it is approved by the United States, by the Mariana Islands District Legislature and by the people of the Northern Mariana Islands in a plebiscite, constituting on their part a sovereign act of self-determination.

"ARTICLE I

"POLITICAL RELATIONSHIP

"SECTION 101. The Northern Mariana Islands upon termination of the Trusteeship Agreement will become a self-governing commonwealth to be known as the 'Commonwealth of the Northern Mariana Islands', in political union with and under the sovereignty of the United States of America.

"SECTION 102. The relations between the Northern Mariana Islands and the United States will be governed by this Covenant which, together with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, will be the supreme law of the Northern Mariana Islands.

"SECTION 103. The people of the Northern Mariana Islands will have the right of local self-government and will govern themselves with respect to internal affairs in accordance with a Constitution of their own adoption.

"SECTION 104. The United States will have complete responsibility for and authority with respect to matters relating to foreign affairs and defense affecting the Northern Mariana Islands.

"SECTION 105. The United States may enact legislation in accordance with its constitutional processes which will be applicable to the Northern Mariana Islands, but if such legislation cannot also be made applicable to the several States the Northern Mariana Islands must be specifically named therein for it to become effective in the Northern Mariana Islands. In order to respect the right of self-government guaranteed by this Covenant the United States agrees to limit the exercise of that authority so that the fundamental provisions of this Covenant, namely Articles I, II and III and Sections 501 and 805, may be modified only with the consent of the Government of the United States and the Government of the Northern Mariana Islands.

"ARTICLE II

"CONSTITUTION OF THE NORTHERN MARIANA ISLANDS

"SECTION 201. The people of the Northern Mariana Islands will formulate and approve a Constitution and may amend their Constitution pursuant to the procedures provided therein.

"SECTION 202. The Constitution will be submitted to the Government of the United States for approval on the basis of its consistency with this Covenant and those provisions of the Constitution, treaties and laws of the United States to be applicable to the Northern Mariana Islands. The Constitution will be deemed to have been approved six months after its submission to the President on behalf of the Government of the United States unless earlier approved or disapproved. If disapproved the Constitution will be returned and will be resubmitted in accordance with this Section. Amendments to the Constitution may be made by the people of the Northern Mariana Islands without approval by the Government of the United States, but the courts established by the Constitution or laws of the United States will be competent to determine whether the Constitution and subsequent amendments thereto are consistent with this Covenant and with those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands.

Submittal to U.S.
for approval.

"SECTION 203. (a) The Constitution will provide for a republican form of government with separate executive, legislative and judicial branches, and will contain a bill of rights.

"(b) The executive power of the Northern Mariana Islands will be vested in a popularly elected Governor and such other officials as the Constitution or laws of the Northern Mariana Islands may provide.

"(c) The legislative power of the Northern Mariana Islands will be vested in a popularly elected legislature and will extend to all rightful subjects of legislation. The Constitution of the Northern Mariana Islands will provide for equal representation for each of the chartered municipalities of the Northern Mariana Islands in one house of a bicameral legislature, notwithstanding other provisions of this Covenant or those provisions of the Constitution or laws of the United States applicable to the Northern Mariana Islands.

"(d) The judicial power of the Northern Mariana Islands will be vested in such courts as the Constitution or laws of the Northern Mariana Islands may provide. The Constitution or laws of the Northern Mariana Islands may vest in such courts jurisdiction over all causes in the Northern Mariana Islands over which any court established by the Constitution or laws of the United States does not have exclusive jurisdiction.

"SECTION 204. All members of the legislature of the Northern Mariana Islands and all officers and employees of the Government of the Northern Mariana Islands will take an oath or affirmation to support this Covenant, those provisions of the Constitution, treaties and laws of the United States applicable to the Northern Mariana Islands, and the Constitution and laws of the Northern Mariana Islands.

"ARTICLE III

"CITIZENSHIP AND NATIONALITY

"SECTION 301. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals of the United States under any other provision of law, and who on that date do not owe allegiance to any foreign state, are

declared to be citizens of the United States, except as otherwise provided in Section 302:

“(a) all persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

“(b) all persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, registered to vote in elections for the Marianas Islands District Legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975; and

“(c) all persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands, on that date have been domiciled continuously in the Northern Mariana Islands beginning prior to January 1, 1974.

“SECTION 302. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the Constitution or laws of the United States or any court of record in the Commonwealth in the form as follows:

“‘I _____ being duly sworn, hereby declare my intention to be a national but not a citizen of the United States.’”

“SECTION 303. All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States will be citizens of the United States at birth.

“SECTION 304. Citizens of the Northern Mariana Islands will be entitled to all privileges and immunities of citizens in the several States of the United States.

“ARTICLE IV

“JUDICIAL AUTHORITY

District Court for
the Northern
Mariana Islands.
Establishment

“SECTION 401. The United States will establish for and within the Northern Mariana Islands a court of record to be known as the ‘District Court for the Northern Mariana Islands’. The Northern Mariana Islands will constitute a part of the same judicial circuit of the United States as Guam.

“SECTION 402. (a) The District Court for the Northern Mariana Islands will have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties or laws of the United States it will have jurisdiction regardless of the sum or value of the matter in controversy.

“(b) The District Court will have original jurisdiction in all causes in the Northern Mariana Islands not described in Subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the District Court solely on

the basis of this subsection, the District Court will be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by grand jury or trial by jury.

“(c) The District Court will have such appellate jurisdiction as the Constitution or laws of the Northern Mariana Islands may provide. When it sits as an appellate court, the District Court will consist of three judges, at least one of whom will be a judge of a court of record of the Northern Mariana Islands.

“SECTION 403. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus and other matters or proceedings will be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in this Article; provided that for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States Court of Appeals for the judicial circuit which includes the Northern Mariana Islands will have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to Subsection 402(c).

“(b) Those portions of Title 28 of the United States Code which apply to Guam or the District Court of Guam will be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in this Article.

“ARTICLE V

“APPLICABILITY OF LAWS

“SECTION 501. (a) To the extent that they are not applicable of their own force, the following provisions of the Constitution of the United States will be applicable within the Northern Mariana Islands as if the Northern Mariana Islands were one of the several States: Article I, Section 9, Clauses 2, 3, and 8; Article I, Section 10, Clauses 1 and 3; Article IV, Section 1 and Section 2, Clauses 1 and 2; Amendments 1 through 9, inclusive; Amendment 13; Amendment 14, Section 1; Amendment 15; Amendment 19; and Amendment 26; provided, however, that neither trial by jury nor indictment by grand jury shall be required in any civil action or criminal prosecution based on local law, except where required by local law. Other provisions of or amendments to the Constitution of the United States, which do not apply of their own force within the Northern Mariana Islands, will be applicable within the Northern Mariana Islands only with approval of the Government of the Northern Mariana Islands and of the Government of the United States.

USC prec. title 1.

“(b) The applicability of certain provisions of the Constitution of the United States to the Northern Mariana Islands will be without prejudice to the validity of and the power of the Congress of the United States to consent to Sections 203, 506 and 805 and the proviso in Subsection (a) of this Section.

"SECTION 502. (a) The following laws of the United States in existence on the effective date of this Section and subsequent amendments to such laws will apply to the Northern Mariana Islands, except as otherwise provided in this Covenant:

42 USC 428,
1381.
42 USC 201 note.
50 USC app.
2018.

"(1) those laws which provide federal services and financial assistance programs and the federal banking laws as they apply to Guam; Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States; the Public Health Service Act as it applies to the Virgin Islands; and the Micronesian Claims Act as it applies to the Trust Territory of the Pacific Islands;

"(2) those laws not described in paragraph (1) which are applicable to Guam and which are of general application to the several States as they are applicable to the several States; and

"(3) those laws not described in paragraph (1) or (2) which are applicable to the Trust Territory of the Pacific Islands, but not their subsequent amendments unless specifically made applicable to the Northern Mariana Islands, as they apply to the Trust Territory of the Pacific Islands until termination of the Trusteeship Agreement, and will thereafter be inapplicable.

"(b) The laws of the United States regarding coastal shipments and the conditions of employment, including the wages and hours of employees, will apply to the activities of the United States Government and its contractors in the Northern Mariana Islands.

"SECTION 503. The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable to them by the Congress by law after termination of the Trusteeship Agreement:

"(a) except as otherwise provided in Section 506, the immigration and naturalization laws of the United States;

"(b) except as otherwise provided in Subsection (b) of Section 502, the coastwise laws of the United States and any prohibition in the laws of the United States against foreign vessels landing fish or unfinished fish products in the United States; and

"(c) the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat. 1062, as amended.

29 USC 206.
Commission on
Federal Laws.

"SECTION 504. The President will appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be citizens of the Trust Territory of the Pacific Islands who are and have been for at least five years domiciled continuously in the Northern Mariana Islands at the time of their appointments) who will be representative of the federal, local, private and public interests in the applicability of laws of the United States to the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within one year after the termination of the Trusteeship Agreement, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate to facilitate the transition of the Northern Mariana Islands to its new political status. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Northern Mariana Islands,

Membership.

Reports to
Congress.

the policies embodied in the law and the provisions and purposes of this Covenant. The United States will bear the cost of the work of the Commission.

"SECTION 505. The laws of the Trust Territory of the Pacific Islands, of the Mariana Islands District and its local municipalities, and all other Executive and District orders of a local nature applicable to the Northern Mariana Islands on the effective date of this Section and not inconsistent with this Covenant or with those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana Islands will remain in force and effect until and unless altered by the Government of the Northern Mariana Islands.

"SECTION 506. (a) Notwithstanding the provisions of Subsection 503(a), upon the effective date of this Section the Northern Mariana Islands will be deemed to be a part of the United States under the Immigration and Nationality Act, as amended for the following purposes only, and the said Act will apply to the Northern Mariana Islands to the extent indicated in each of the following Subsections of this Section.

8 USC 1101 note.

"(b) With respect to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands the provisions of Sections 301 and 308 of the said Act will apply.

8 USC 1401, 1408.

"(c) With respect to aliens who are 'immediate relatives' (as defined in Subsection 201(b) of the said Act) of United States citizens who are permanently residing in the Northern Mariana Islands all the provisions of the said Act will apply, commencing when a claim is made to entitlement to 'immediate relative' status. A person who is certified by the Government of the Northern Mariana Islands both to have been a lawful permanent resident of the Northern Mariana Islands and to have had the 'immediate relative' relationship denoted herein on the effective date of this Section will be presumed to have been admitted to the United States for lawful permanent residence as of that date without the requirement of any of the usual procedures set forth in the said Act. For the purpose of the requirements of judicial naturalization, the Northern Mariana Islands will be deemed to constitute a State as defined in Subsection 101(a) paragraph (36) of the said Act. The Courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be included among the courts specified in Subsection 310(a) of the said Act and will have jurisdiction to naturalize persons who become eligible under this Section and who reside within their respective jurisdictions.

"Immediate relatives."
8 USC 1151.

8 USC 1101.

8 USC 1421.

"(d) With respect to persons who will become citizens or nationals of the United States under Article III of this Covenant or under this Section the loss of nationality provisions of the said Act will apply.

"ARTICLE VI

"REVENUE AND TAXATION

"SECTION 601. (a) The income tax laws in force in the United States will come into force in the Northern Mariana Islands as a local territorial income tax on the first day of January following the effective date of this Section, in the same manner as those laws are in force in Guam.

"(b) Any individual who is a citizen or a resident of the United States, of Guam, or of the Northern Mariana Islands (including a

national of the United States who is not a citizen), will file only one income tax return with respect to his income, in a manner similar to the provisions of Section 935 of Title 26, United States Code.

“(c) References in the Internal Revenue Code to Guam will be deemed also to refer to the Northern Mariana Islands, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof or of this Covenant.

Additional taxes
levied by Island
government.

“SECTION 602. The Government of the Northern Mariana Islands may by local law impose such taxes, in addition to those imposed under Section 601, as it deems appropriate and provide for the rebate of any taxes received by it, except that the power of the Government of the Northern Mariana Islands to rebate collections of the local territorial income tax received by it will be limited to taxes on income derived from sources within the Northern Mariana Islands.

“SECTION 603. (a) The Northern Mariana Islands will not be included within the customs territory of the United States.

“(b) The Government of the Northern Mariana Islands may, in a manner consistent with the international obligations of the United States, levy duties on goods imported into its territory from any area outside the customs territory of the United States and impose duties on exports from its territory.

“(c) Imports from the Northern Mariana Islands into the customs territory of the United States will be subject to the same treatment as imports from Guam into the customs territory of the United States.

“(d) The Government of the United States will seek to obtain from foreign countries favorable treatment for exports from the Northern Mariana Islands and will encourage other countries to consider the Northern Mariana Islands a developing territory.

“SECTION 604. (a) The Government of the United States may levy excise taxes on goods manufactured, sold or used or services rendered in the Northern Mariana Islands in the same manner and to the same extent as such taxes are applicable within Guam.

“(b) The Government of the Northern Mariana Islands will have the authority to impose excise taxes upon goods manufactured, sold or used or services rendered within its territory or upon goods imported into its territory, provided that such excise taxes imposed on goods imported into its territory will be consistent with the international obligations of the United States.

U.S. property
exclusion from
customs duties.

“SECTION 605. Nothing in this Article will be deemed to authorize the Government of the Northern Mariana Islands to impose any customs duties on the property of the United States or on the personal property of military or civilian personnel of the United States Government or their dependents entering or leaving the Northern Mariana Islands pursuant to their contract of employment or orders assigning them to or from the Northern Mariana Islands or to impose any taxes on the property, activities or instrumentalities of the United States which one of the several States could not impose; nor will any provision of this Article be deemed to affect the operation of the Soldiers and Sailors Civil Relief Act of 1940, as amended, which will be applicable to the Northern Mariana Islands as it is applicable to Guam.

50 USC app. 501.

Northern
Mariana Islands
Social Security
Retirement Fund,
transfer to U.S.
Treasury.

“SECTION 606. (a) Not later than at the time this Covenant is approved, that portion of the Trust Territory Social Security Retirement Fund attributable to the Northern Mariana Islands will be transferred to the Treasury of the United States, to be held in trust as a

separate fund to be known as the 'Northern Mariana Islands Social Security Retirement Fund'. This fund will be administered by the United States in accordance with the social security laws of the Trust Territory of the Pacific Islands in effect at the time of such transfer, which may be modified by the Government of the Northern Mariana Islands only in a manner which does not create any additional differences between the social security laws of the Trust Territory of the Pacific Islands and the laws described in Subsection (b). The United States will supplement such fund if necessary to assure that persons receive benefits therefrom comparable to those they would have received from the Trust Territory Social Security Retirement Fund under the laws applicable thereto on the day preceding the establishment of the Northern Mariana Islands Social Security Retirement Fund, so long as the rate of contributions thereto also remains comparable.

Administration.

"(b) Those laws of the United States which impose excise and self-employment taxes to support or which provide benefits from the United States Social Security System will upon termination of the Trusteeship Agreement or such earlier date as may be agreed to by the Government of the Northern Mariana Islands and the Government of the United States become applicable to the Northern Mariana Islands as they apply to Guam.

"(c) At such time as the laws described in Subsection (b) become applicable to the Northern Mariana Islands:

"(1) the Northern Mariana Islands Social Security Retirement Fund will be transferred into the appropriate Federal Social Security Trust Funds;

"(2) prior contributions by or on behalf of persons domiciled in the Northern Mariana Islands to the Trust Territory Social Security Retirement Fund or the Northern Mariana Islands Social Security Retirement Fund will be considered to have been made to the appropriate Federal Social Security Trust Funds for the purpose of determining eligibility of those persons in the Northern Mariana Islands for benefits under those laws; and

"(3) persons domiciled in the Northern Mariana Islands who are eligible for or entitled to social security benefits under the laws of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands will not lose their entitlement and will be eligible for or entitled to benefits under the laws described in Subsection (b).

"SECTION 607. (a) All bonds or other obligations issued by the Government of the Northern Mariana Islands or by its authority will be exempt, as to principal and interest, from taxation by the United States, or by any State, territory or possession of the United States, or any political subdivision of any of them.

Bonds and other obligations, exemption.

"(b) During the initial seven year period of financial assistance provided for in Section 702, and during such subsequent periods of financial assistance as may be agreed, the Government of the Northern Mariana Islands will authorize no public indebtedness (other than bonds or other obligations of the Government payable solely from revenues derived from any public improvement or undertaking) in excess of ten percentum of the aggregate assessed valuation of the property within the Northern Mariana Islands.

"ARTICLE VII

"UNITED STATES FINANCIAL ASSISTANCE

"SECTION 701. The Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop the economic resources needed to meet the financial responsibilities of local self-government. To this end, the United States will provide direct multi-year financial support to the Government of the Northern Mariana Islands for local government operations, for capital improvement programs and for economic development. The initial period of such support will be seven years, as provided in Section 702.

Seven year grant
assistance,
appropriation
authorization.

"SECTION 702. Approval of this Covenant by the United States will constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of the following guaranteed annual levels of direct grant assistance to the Government of the Northern Mariana Islands for each of the seven fiscal years following the effective date of this Section:

"(a) \$8.25 million for budgetary support for government operations, of which \$250,000 each year will be reserved for a special education training fund connected with the change in the political status of the Northern Mariana Islands;

"(b) \$4 million for capital improvement projects, of which \$500,000 each year will be reserved for such projects on the Island of Tinian and \$500,000 each year will be reserved for such projects on the Island of Rota; and

"(c) \$1.75 million for an economic development loan fund, of which \$500,000 each year will be reserved for small loans to farmers and fishermen and to agricultural and marine cooperatives, and of which \$250,000 each year will be reserved for a special program of low interest housing loans for low income families.

Federal programs
and services
availability.

"SECTION 703. (a) The United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States. Funds provided under Section 702 will be considered to be local revenues of the Government of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

"(b) There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be expended to the benefit of the people thereof as that Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in the Northern Mariana Islands and transported to the United States, its territories or possessions, or consumed in the Northern Mariana Islands, the proceeds of any other taxes which may be levied by the Congress on the inhabitants of the Northern Mariana Islands, and all quarantine, passport, immigration and naturalization fees collected in the Northern Mariana Islands, except that nothing in this Section shall be construed to apply to any tax imposed by Chapters 2 or 21 of Title 26, United States Code.

26 USC 1401,
3101.

"SECTION 704. (a) Funds provided under Section 702 not obligated or expended by the Government of the Northern Mariana Islands

during any fiscal year will remain available for obligation or expenditure by that Government in subsequent fiscal years for the purposes for which the funds were appropriated.

“(b) Approval of this Covenant by the United States will constitute an authorization for the appropriation of a pro-rata share of the funds provided under Section 702 for the period between the effective date of this Section and the beginning of the next succeeding fiscal year.

Pro-rata share,
appropriation
authorization.

“(c) The amounts stated in Section 702 will be adjusted for each fiscal year by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index using the beginning of Fiscal Year 1975 as the base.

“(d) Upon expiration of the seven year period of guaranteed annual direct grant assistance provided by Section 702, the annual level of payments in each category listed in Section 702 will continue until Congress appropriates a different amount or otherwise provides by law.

“ARTICLE VIII

“PROPERTY

“SECTION 801. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to real property in the Northern Mariana Islands on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be transferred to the Government of the Northern Mariana Islands. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to all personal property on the date of the signing of this Covenant or thereafter acquired in any manner whatsoever will, no later than upon the termination of the Trusteeship Agreement, be distributed equitably in a manner to be determined by the Government of the Trust Territory of the Pacific Islands in consultation with those concerned, including the Government of the Northern Mariana Islands.

“SECTION 802. (a) The following property will be made available to the Government of the United States by lease to enable it to carry out its defense responsibilities:

Leased property,
U.S. defense
purposes.

“(1) on Tinian Island, approximately 17,799 acres (7,203 hectares) and the waters immediately adjacent thereto;

“(2) on Saipan Island, approximately 177 acres (72 hectares) at Tanapag Harbor; and

“(3) on Farallon de Medinilla Island, approximately 206 acres (83 hectares) encompassing the entire island, and the waters immediately adjacent thereto.

“(b) The United States affirms that it has no present need for or present intention to acquire any greater interest in property listed above than that which is granted to it under Subsection 803(a), or to acquire any property in addition to that listed in Subsection (a), above, in order to carry out its defense responsibilities.

“SECTION 803. (a) The Government of the Northern Mariana Islands will lease the property described in Subsection 802(a) to the Government of the United States for a term of fifty years, and the Government of the United States will have the option of renewing this lease for all or part of such property for an additional term of fifty years if it so desires at the end of the first term.

“(b) The Government of the United States will pay to the Government of the Northern Mariana Islands in full settlement of this lease, including the second fifty year term of the lease if extended under the renewal option, the total sum of \$19,520,600, determined as follows:

- “(1) for that property on Tinian Island, \$17.5 million;
- “(2) for that property at Tanapag Harbor on Saipan Island, \$2 million; and
- “(3) for that property known as Farallon de Medinilla, \$20,600.

The sum stated in this Subsection will be adjusted by a percentage which will be the same as the percentage change in the United States Department of Commerce composite price index from the date of signing the Covenant.

Technical
Agreement
Regarding Use of
Land To Be
Leased by the
U.S.

“(c) A separate Technical Agreement Regarding Use of Land To Be Leased by the United States in the Northern Mariana Islands will be executed simultaneously with this Covenant. The terms of the lease to the United States will be in accordance with this Section and with the terms of the Technical Agreement. The Technical Agreement will also contain terms relating to the leaseback of property, to the joint use arrangements for San Jose Harbor and West Field on Tinian Island, and to the principles which will govern the social structure relations between the United States military and the Northern Mariana Islands civil authorities.

“(d) From the property to be leased to it in accordance with this Covenant the Government of the United States will lease back to the Government of the Northern Mariana Islands, in accordance with the Technical Agreement, for the sum of one dollar per acre per year, approximately 6,458 acres (2,614 hectares) on Tinian Island and approximately 44 acres (18 hectares) at Tanapag Harbor on Saipan Island, which will be used for purposes compatible with their intended military use.

“(e) From the property to be leased to it at Tanapag Harbor on Saipan Island the Government of the United States will make available to the Government of the Northern Mariana Islands 133 acres (54 hectares) at no cost. This property will be set aside for public use as an American memorial park to honor the American and Marianas dead in the World War II Marianas Campaign. The \$2 million received from the Government of the United States for the lease of this property will be placed into a trust fund, and used for the development and maintenance of the park in accordance with the Technical Agreement.

“SECTION 804. (a) The Government of the United States will cause all agreements between it and the Government of the Trust Territory of the Pacific Islands which grant to the Government of the United States use or other rights in real property in the Northern Mariana Islands to be terminated upon or before the effective date of the Section. All right, title and interest of the Government of the Trust Territory of the Pacific Islands in and to any real property with respect to which the Government of the United States enjoys such use or other rights will be transferred to the Government of the Northern Mariana Islands at the time of such termination. From the time such right, title and interest is so transferred the Government of the Northern Mariana Islands will assure the Government of the United States the continued use of the real property then actively used by the Government of the United States for civilian governmental purposes on terms comparable to those enjoyed by the Government of the United

States under its arrangements with the Government of the Trust Territory of the Pacific Islands on the date of the signature of this Covenant.

“(b) All facilities at Isely Field developed with federal aid and all facilities at that field usable for the landing and take-off of aircraft will be available to the United States for use by military and naval aircraft, in common with other aircraft, at all times without charge, except, if the use by military and naval aircraft shall be substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities so used may be charged at a rate established by agreement between the Government of the Northern Mariana Islands and the Government of the United States.

Isely Field facilities, availability to U.S.

“SECTION 805. Except as otherwise provided in this Article, and notwithstanding the other provisions of this Covenant, or those provisions of the Constitution, treaties or laws of the United States applicable to the Northern Mariana Islands, the Government of the Northern Mariana Islands, in view of the importance of the ownership of land for the culture and traditions of the people of the Northern Mariana Islands, and in order to protect them against exploitation and to promote their economic advancement and self-sufficiency:

Landholding restrictions.

“(a) will until twenty-five years after the termination of the Trusteeship Agreement, and may thereafter, regulate the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent; and

“(b) may regulate the extent to which a person may own or hold land which is now public land.

“SECTION 806. (a) The United States will continue to recognize and respect the scarcity and special importance of land in the Northern Mariana Islands. If the United States must acquire any interest in real property not transferred to it under this Covenant, it will follow the policy of seeking to acquire only the minimum area necessary to accomplish the public purpose for which the real property is required, of seeking only the minimum interest in real property necessary to support such public purpose, acquiring title only if the public purpose cannot be accomplished if a lesser interest is obtained, and of seeking first to satisfy its requirement by acquiring an interest in public rather than private real property.

“(b) The United States may, upon prior written notice to the Government of the Northern Mariana Islands, acquire for public purposes in accordance with federal laws and procedures any interest in real property in the Northern Mariana Islands by purchase, lease, exchange, gift or otherwise under such terms and conditions as may be negotiated by the parties. The United States will in all cases attempt to acquire any interest in real property for public purposes by voluntary means under this Subsection before exercising the power of eminent domain. No interest in real property will be acquired unless duly authorized by the Congress of the United States and appropriations are available therefor.

“(c) In the event it is not possible for the United States to obtain an interest in real property for public purposes by voluntary means, it may exercise within the Commonwealth the power of eminent domain to the same extent and in the same manner as it has and can exercise the power of eminent domain in a State of the Union. The power of eminent domain will be exercised within the Commonwealth only to the extent necessary and in compliance with applicable United States laws, and with full recognition of the due process required by the United States Constitution.

Power of eminent domain.

USC prec. title 1.

"ARTICLE IX

"NORTHERN MARIANA ISLANDS REPRESENTATIVE AND CONSULTATION

"SECTION 901. The Constitution or laws of the Northern Mariana Islands may provide for the appointment or election of a Resident Representative to the United States, whose term of office will be two years, unless otherwise determined by local law, and who will be entitled to receive official recognition as such Representative by all of the departments and agencies of the Government of the United States upon presentation through the Department of State of a certificate of selection from the Governor. The Representative must be a citizen and resident of the Northern Mariana Islands, at least twenty-five years of age, and, after termination of the Trusteeship Agreement, a citizen of the United States.

Special
representatives,
report.

"SECTION 902. The Government of the United States and the Government of the Northern Mariana Islands will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than every ten years, the President of the United States and the Governor of the Northern Mariana Islands will designate special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto. Special representatives will be appointed in any event to consider and to make recommendations regarding future multi-year financial assistance to the Northern Mariana Islands pursuant to Section 701, to meet at least one year prior to the expiration of every period of such financial assistance.

"SECTION 903. Nothing herein shall prevent the presentation of cases or controversies arising under this Covenant to courts established by the Constitution or laws of the United States. It is intended that any such cases or controversies will be justiciable in such courts and that the undertakings by the Government of the United States and by the Government of the Northern Mariana Islands provided for in this Covenant will be enforceable in such courts.

"SECTION 904. (a) The Government of the United States will give sympathetic consideration to the views of the Government of the Northern Mariana Islands on international matters directly affecting the Northern Mariana Islands and will provide opportunities for the effective presentation of such views to no less extent than such opportunities are provided to any other territory or possession under comparable circumstances.

Promotion of
local tourism.

"(b) The United States will assist and facilitate the establishment by the Northern Mariana Islands of offices in the United States and abroad to promote local tourism and other economic or cultural interests of the Northern Mariana Islands.

"(c) On its request the Northern Mariana Islands may participate in regional and other international organizations concerned with social, economic, educational, scientific, technical and cultural matters when similar participation is authorized for any other territory or possession of the United States under comparable circumstances.

"ARTICLE X

"APPROVAL, EFFECTIVE DATES, AND DEFINITIONS

"SECTION 1001. (a) This Covenant will be submitted to the Mariana Islands District Legislature for its approval. After its approval by the Mariana Islands District Legislature, this Covenant will be submitted to the people of the Northern Mariana Islands for approval in a plebiscite to be called by the United States. Only persons who are domiciled exclusively in the Northern Mariana Islands and who meet such other qualifications, including timely registration, as are promulgated by the United States as administering authority will be eligible to vote in the plebiscite. Approval must be by a majority of at least 55% of the valid votes cast in the plebiscite. The results of the plebiscite will be certified to the President of the United States.

"(b) This Covenant will be approved by the United States in accordance with its constitutional processes and will thereupon become law.

Covenant
approval by U.S.

"SECTION 1002. The President of the United States will issue a proclamation announcing the termination of the Trusteeship Agreement, or the date on which the Trusteeship Agreement will terminate, and the establishment of the Commonwealth in accordance with this Covenant. Any determination by the President that the Trusteeship Agreement has been terminated or will be terminated on a day certain will be final and will not be subject to review by any authority, judicial or otherwise, of the Trust Territory of the Pacific Islands, the Northern Mariana Islands or the United States.

Trusteeship
Agreement
termination;
establishment of
Commonwealth,
proclamation.

"SECTION 1003. The provisions of this Covenant will become effective as follows, unless otherwise specifically provided:

Effective dates.

"(a) Sections 105, 201-203, 503, 504, 606, 801, 903 and Article X will become effective on approval of this Covenant;

"(b) Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601-605, 607, Article VII, Sections 802-805, 901 and 902 will become effective on a date to be determined and proclaimed by the President of the United States which will be not more than 180 days after this Covenant and the Constitution of the Northern Mariana Islands have both been approved; and

"(c) The remainder of this Covenant will become effective upon the termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands.

"SECTION 1004. (a) The application of any provision of the Constitution or laws of the United States which would otherwise apply to the Northern Mariana Islands may be suspended until termination of the Trusteeship Agreement if the President finds and declares that the application of such provision prior to termination would be inconsistent with the Trusteeship Agreement.

"(b) The Constitution of the Northern Mariana Islands will become effective in accordance with its terms on the same day that the provisions of this Covenant specified in Subsection 1003(b) become effective, provided that if the President finds and declares that the effectiveness of any provision of the Constitution of the Northern Mariana Islands prior to termination of the Trusteeship Agreement would be inconsistent with the Trusteeship Agreement such provision will be ineffec-

Constitution of
the Northern
Mariana Islands,
effective date.

tive until termination of the Trusteeship Agreement. Upon the establishment of the Commonwealth of the Northern Mariana Islands the Constitution will become effective in its entirety in accordance with its terms as the Constitution of the Commonwealth of the Northern Mariana Islands.

Definitions.

"SECTION 1005. As used in this Covenant:

"(a) 'Trusteeship Agreement' means the Trusteeship Agreement for the former Japanese Mandated Islands concluded between the Security Council of the United Nations and the United States of America, which entered into force on July 18, 1947;

"(b) 'Northern Mariana Islands' means the area now known as the Mariana Islands District of the Trust Territory of the Pacific Islands, which lies within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude and east of 144° east longitude;

"(c) 'Government of the Northern Mariana Islands' includes, as appropriate, the Government of the Mariana Islands District of the Trust Territory of the Pacific Islands at the time this Covenant is signed, its agencies and instrumentalities, and its successors, including the Government of the Commonwealth of the Northern Mariana Islands;

"(d) 'Territory or possession' with respect to the United States includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa;

"(e) 'Domicile' means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

"Signed at Saipan, Mariana Islands on the fifteenth day of February, 1975.

"For the people of the Northern Mariana Islands:

EDWARD DLG. PANGELINAN,
Chairman, Marianas
Political Status Commission.
VICENTE N. SANTOS.
Vice Chairman, Marianas
Political Status Commission.

"For the United States of America:

Ambassador F. HAYDN WILLIAMS,
Personal Representative of the
President of the United States.

"Members of the Marianas Political Status Commission:

JUAN LG. CABRERA.
VICENTE T. CAMACHO.
JOSE R. CRUZ.
BERNARD V. HOFSCHEIDER.
BENJAMIN T. MANGLONA.
DANIEL T. MUNA.
DR. FRANCISCO T. PALACIOS.
JOAQUIN I. PANGELINAN.
MANUEL A. SABLAN.
JOANNES B. TAIMANAO.
PEDRO A. TENORIO."

SEC. 2. It is the sense of the Congress that pursuant to section 902 of the foregoing Covenant, and in any case within ten years from the date of the enactment of this resolution, the President of the United States should request, on behalf of the United States, the designation of special representatives to meet and to consider in good faith such issues affecting the relationship between the Northern Mariana Islands and the United States as may be designated by either Government and to make a report and recommendations with respect thereto.

Special
representatives,
appointment by
President, report
to Congress.
48 USC 1681
note.

Approved March 24, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-364 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 94-433 (Comm. on Interior and Insular Affairs) and No. 94-596 (Committees on Foreign Relations and Armed Services).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 21, considered and passed House.

Vol. 122 (1976): Feb. 24, considered and passed Senate, amended.

Mar. 11, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 13 (1976): Mar. 24, Presidential statement.

Public Law 94-242
94th Congress

An Act

Mar. 24, 1976

[H.R. 1313]

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Rolla, Missouri, for airport purposes.

Rolla, Mo.
Airport property
restrictions,
release.
49 USC 1716.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 16 of the Federal Airport Act (as in effect on October 6, 1958), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated October 6, 1958, under which the United States conveyed certain property to the city of Rolla, Missouri, for airport purposes.

SEC. 2. Any release granted by the Secretary of Transportation under the first section of this Act shall be subject to the following conditions:

(1) The city of Rolla, Missouri, shall agree that in conveying any interest in the property which the United States conveyed to the city by deed dated October 6, 1958, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operations, or maintenance of a public airport.

Approved March 24, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-824 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 17, considered and passed House.

Mar. 11, considered and passed Senate.

Public Law 94-243
94th Congress

An Act

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Algona, Iowa, for airport purposes.

Mar. 24, 1976

[H.R. 2575]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 16 of the Federal Airport Act (as in effect on March 20, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated March 20, 1947, under which the United States conveyed certain property to the city of Algona, Iowa, for airport purposes.

Algona, Iowa.
Airport property
restrictions,
release.
49 USC 1716.

SEC. 2. Any release granted by the Secretary of Transportation under the first section of this Act shall be subject to the following conditions:

(1) The city of Algona, Iowa, shall agree that in conveying any interest in the property which the United States conveyed to the city by deed dated March 20, 1947, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

Approved March 24, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-825 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 17, considered and passed House.

Mar. 11, considered and passed Senate.

Public Law 94-244
94th Congress

An Act

Mar. 24, 1976
[H.R. 3440]

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Grand Junction, Colorado, for airport purposes.

Grand Junction,
Colo.
Airport property
restrictions,
release
49 USC 1716.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 16 of the Federal Airport Act (as in effect on September 14, 1951), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated September 14, 1951, under which the United States conveyed certain property to the city of Grand Junction, Colorado, for airport purposes.

SEC. 2. Any release granted by the Secretary of Transportation under the first section of this Act shall be subject to the following conditions:

(1) The city of Grand Junction, Colorado, shall agree that in conveying any interest in the property which the United States conveyed to the city by deed dated September 14, 1951, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

Approved March 24, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-827 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Feb. 17, considered and passed House.
Mar. 11, considered and passed Senate.

Public Law 94-245
94th Congress

An Act

To authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Alva, Oklahoma, for airport purposes.

Mar. 24, 1976

[H.R. 9617]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 16 of the Federal Airport Act (as in effect on July 17, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of section 2 of this Act, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated July 17, 1947, under which the United States conveyed certain property to the city of Alva, Oklahoma, for airport purposes.

Alva, Okla.
Airport property
restrictions,
release.
49 USC 1716.

SEC. 2. Any release granted by the Secretary of Transportation under the first section of this Act shall be subject to the following conditions:

(1) The city of Alva, Oklahoma, shall agree that in conveying any interest in the property which the United States conveyed to the city by deed dated July 17, 1947, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

Approved March 24, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-831 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 17, considered and passed House.
Mar. 11, considered and passed Senate.

Public Law 94-246
94th Congress

An Act

Mar. 25, 1976
[H.R. 4034]

To designate the Veterans' Administration hospital in Loma Linda, California, as the "Jerry L. Pettis Memorial Veterans' Hospital", and for other purposes.

Jerry L. Pettis
Memorial
Veterans'
Hospital, Calif.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans' Administration hospital at Loma Linda, California, shall hereafter be known and designated as the "Jerry L. Pettis Memorial Veterans' Hospital". Any reference to such hospital in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the Jerry L. Pettis Memorial Veterans' Hospital.

SEC. 2. The Administrator of Veterans' Affairs is authorized to provide such memorial at the above-named hospital as he may deem suitable to preserve the remembrance of the late Jerry L. Pettis.

Approved March 25, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-486 (Comm. on Veterans' Affairs).

SENATE REPORT No. 94-693 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 6, considered and passed House.

Vol. 122 (1976): Mar. 15, considered and passed Senate.

Public Law 94-247
94th Congress

An Act

To amend the Agricultural Adjustment Act of 1938 with respect to peanuts.

Mar. 25, 1976

[S. 1545]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 358 of the Agricultural Adjustment Act of 1938 be amended by adding a new subsection (j) to read as follows:

“(j) Notwithstanding any other provision of this Act, if the Secretary determines for 1976 or a subsequent year that because of a natural disaster a portion of the farm peanut acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or a part of the peanut acreage allotments for any farm in the county so affected to another farm in the county or in an adjoining county in the same or an adjoining State on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of peanuts and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be released acreage for the purpose of acreage history credits under subsection (g) of this section and section 377 of this Act: *Provided*, That notwithstanding the provisions of subsection (g) of this section, the transfer of any farm allotment under this subsection shall operate to make the farm from which the allotment was transferred eligible for an allotment as having peanuts planted thereon during the three-year base period.”.

Peanuts.
Acreage
allotment,
transfer.
7 USC 1358.

7 USC 1377.

Approved March 25, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-855 (Comm. on Agriculture).

SENATE REPORT No. 94-451 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 12, considered and passed Senate.

Vol. 122 (1976): Mar. 15, considered and passed House, amended.

Mar. 17, Senate concurred in House amendment.

Public Law 94-248
94th Congress

Joint Resolution

Mar. 25, 1976
[S.J. Res. 184]

To amend the Regional Rail Reorganization Act of 1973, as amended.

Regional Rail
Reorganization
Act of 1973,
amendments.
45 USC 702.
Ante, p. 104.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(3) of the Regional Rail Reorganization Act of 1973, as amended, is amended by inserting after "Act" the phrase "or its successor by merger, consolidation or other form of succession carried out under applicable law for the purpose of changing the State of its incorporation".

45 USC 746.

SEC. 2. Subparagraph (A) of paragraph (3) of section 306(c) of the Regional Rail Reorganization Act of 1973, as amended, is amended by striking "without regard to" and by inserting in lieu thereof "adjusted to reflect".

Common stock
shares.
45 USC 746.

SEC. 3. Subparagraph (B) of paragraph (3) of section 306(c) of the Regional Rail Reorganization Act of 1973, as amended, is amended to read as follows:

45 USC 743.

"(B) the number of shares of common stock determined by dividing the total number of shares of common stock distributed pursuant to section 303(c)(4) of this Act to the transferor receiving such series of certificates of value (adjusted to reflect any stock splits, stock combinations, reclassifications, or similar transactions affecting the number of shares of outstanding common stock following the date of distribution pursuant to section 303(c)(4) of this title) by the total number of certificates of value in the series so distributed to such transferor."

45 USC 741.

SEC. 4. Paragraph (2) of subsection (e) of section 301 of the Regional Rail Reorganization Act of 1973, as amended, is amended by adding thereto the following sentence: "Notwithstanding anything to the contrary in the final system plan, the initial authorized number of shares of series B preferred stock may be 35,000,000, and the Corporation may issue initially for the purpose of the deposit required under section 303(a)(1) of this Act such numbers of shares of series B preferred and common stock as the Association shall certify to the Special Court pursuant to section 209(c)(1)(3) of this Act, including any modifications in such numbers of shares as may be ordered by the Special Court for the purpose of, and in connection with, such deposit and certification."

45 USC 719.

45 USC 771.

45 USC 718.

SEC. 5. Section 501(2) of the Regional Rail Reorganization Act of 1973, as amended, is amended by striking "or to an acquiring railroad" and inserting in lieu thereof ", to an acquiring railroad, or to a State pursuant to section 208(d)(2) of this Act".

Approved March 25, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):
Mar. 18, considered and passed Senate.
Mar. 22, considered and passed House.

Public Law 94-249
94th Congress

An Act

To rescind certain budget authority recommended in the message of the President of January 23, 1976 (H. Doc. 94-342), transmitted pursuant to the Impoundment Control Act of 1974.

Mar. 25, 1976
[H.R. 11665]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rescissions of budget authority contained in the message of the President of January 23, 1976 (H. Doc. 94-342), are made pursuant to the Impoundment Control Act of 1974, namely:

Certain budget
authority.
Rescission.
31 USC 1400
note.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

Appropriations provided under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1976, are rescinded in the amount of \$2,256,000 for the fiscal year ending June 30, 1976, and in the amount of \$400,000 for the period July 1, 1976, through September 30, 1976.

89 Stat. 587.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

Appropriations provided under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1976, are rescinded in the amount of \$1,775,000 for the period July 1, 1976, through September 30, 1976.

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS

Contract authority provided in the Federal-Aid Highway Act of 1973 for Public Lands Development Roads and Trails in the amount of \$4,900,000, available until June 30, 1976, is rescinded.

23 USC 101 note.

NATIONAL PARK SERVICE

ROAD CONSTRUCTION

Contract authority provided in the Federal-Aid Highway Act of 1973 for Road Construction in the amount of \$58,500,000, available until June 30, 1976, is rescinded.

DEPARTMENT OF STATE

EDUCATIONAL EXCHANGE

MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACTIVITIES

89 Stat. 616.

Appropriations provided under this head in the Department of State Appropriation Act, 1976, are rescinded in the amount of \$5,000,000 for the fiscal year ending June 30, 1976, and in the amount of \$3,000,000 for the period July 1, 1976, through September 30, 1976.

Approved March 25, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-808 (Comm. on Appropriations).

SENATE REPORT No. 94-640 (Comm. on Appropriations) and (Comm. on the Budget).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 10, considered and passed House.

Feb. 26, considered and passed Senate, amended.

Mar. 11, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 14:

Mar. 29, Presidential statement.

Public Law 94-250
94th Congress

An Act

For the relief of Southeastern University of the District of Columbia.

Mar. 29, 1976

[S. 611]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the certificate of incorporation and certificate of amendment thereto for the incorporation of the Southeastern University of the District of Columbia under subchapter 1 of chapter 18 of the Code of Laws of the District of Columbia (1929 D.C. Code, title 5, ch. 8) be and the same are hereby, approved and confirmed, except as herein specifically altered and amended.

Southeastern
University, D.C.

SEC. 2. That the name of the corporation shall be Southeastern University.

SEC. 3. The management of the said corporation shall be vested in a board of trustees consisting of not less than nine nor more than thirty in number as determined from time to time by said board of trustees, one-third of whom, at all times, shall be graduates of said university, of the qualifications prescribed by said board of trustees, nominated by the alumni of said university in the manner prescribed by said board of trustees, and all of whom shall be elected by said board of trustees. Each trustee shall be elected for a term of office of three years from the date of expiration of the term for which his predecessor was elected; except that (1) in expanding or reducing the number of trustees under this Act, the board of trustees shall have the authority to fix or adjust the terms of office of such additional or remaining trustees, as the case may be, so that the term of office of not more than one-third of the trustees shall expire annually; and (2) a trustee elected to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be elected only for the unexpired term of such predecessor.

Board of trustees.

Term.

SEC. 4. That the said board of trustees is authorized to (a) make, alter, and repeal bylaws for the management of the said corporation and rules and regulations for the government of the university and the schools, faculty, and students thereof; (b) elect as officers of the said corporation and fix the salaries of a president, a treasurer, and a secretary, and such other officers as it may find necessary, for the respective terms and with the respective powers and duties as fixed by the bylaws of the said corporation; (c) appoint, from among their number, as officers of the said board of trustees and fix the salaries of a chairman, a vice chairman, and a secretary, and such other officers as it may find necessary, for the respective terms and with the respective powers and duties as fixed by the laws of the said corporation; (d) remove any trustee when, in its judgment, he shall be found incapable, by age or otherwise, of performing or discharging, or shall neglect or refuse to perform or discharge, the duties of his office; (e) determine and establish from time to time additional schools in all departments of sciences, liberal arts, and the professions, and the courses of instruction therein; (f) determine and establish, from time

Functions.

to time, additional professorships; (g) appoint, from time to time, such deans, professors, tutors, and instructors as it may deem necessary, and fix their respective terms, duties, and salaries; and (h) grant and confer degrees, but only upon the recommendation of the appropriate school.

Seal and
corporation
powers.

SEC. 5. That the said corporation may have and use a common seal and alter and change the same at pleasure, and shall have power, in its corporate name, (a) to sue and be sued; (b) to plead and be impleaded; and (c) to acquire real, personal, and mixed property by grant, gift, purchase, bargain and sale, conveyance, will, devise, bequest, or otherwise to hold, use, and maintain the same solely for the purposes of education and to demise, let, mortgage, or otherwise lien, grant, sell, exchange, convey, transfer, place out at interest, or otherwise dispose of the same for its use in such manner as shall seem most beneficial thereto; subject to conforming to the express conditions of the donor of any gift, devise, or bequest with regard thereto accepted by it: *Provided*, That it shall not hold more land at any one time than necessary for the purpose of education, unless it shall have received the same by gift, grant, or devise, in which case it shall sell and dispose of so much of the same as may not be necessary for said purposes within fifteen years from the date of acquisition, otherwise the same shall revert to the donor or his heirs.

Income, use.

SEC. 6. The income of said corporation from all sources whatsoever shall be held in the name of the corporation and supplied to the maintenance, endowment, promotion, and advancement of the said university, subject to conforming to the express conditions of the donor of any gift, devise, or bequest accepted by said corporation, with regard to the income therefrom.

Discrimination,
prohibition.

SEC. 7. That no person shall ever be required to profess any particular religious denomination, sentiment, or opinion as a condition to becoming and continuing a member of the faculty or a student, with the full benefits, privileges, and advantages thereof.

SEC. 8. That no institution of learning hereafter incorporated in the District of Columbia shall use in or as its title, in whole or in part, the words "Southeastern University".

26 USC 501.

SEC. 9. Upon dissolution of the corporation, the board of trustees shall, after paying or making provision for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized and operated exclusively for educational purposes as shall at the time qualify as an exempt organization or organizations under section 501(c)(3) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States internal revenue law, as the board of trustees shall determine.

Sec. 10. That nothing in this Act contained shall be construed as preventing the Congress from amending, annulling, or repealing the same or any part thereof.

Sec. 11. The provisions of sections 2 and 3 of the Act of August 30, 1964 (Public Law 88-504; sections 2 and 3, 78 Stat. 636; 36 U.S.C. 1102, 1103) entitled "An Act to provide for audit of accounts of private corporations established under Federal law" shall apply with respect to the corporation. 78 Stat. 636.

Approved March 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-551 (Comm. on the Judiciary).

SENATE REPORT No. 94-205 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 19, considered and passed Senate.

Nov. 3, considered and passed House, amended.

Vol. 122 (1976): Mar. 17, Senate concurred in House amendment.

Public Law 94-251
94th Congress

An Act

Mar. 29, 1976

[H.R. 9570]

To authorize the sale and shipment incident to such sale of the chemical substance carbonyl chloride by the Department of Defense.

Carbonyl
chloride.
Disposal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of Defense is authorized to dispose of the entire inventory of the chemical substance carbonyl chloride under his jurisdiction by sale within the United States of the carbonyl chloride or of any commercially available derivative thereof.

SEC. 2. Nothing contained in section 409 of Public Law 91-121, as amended, or in section 506 of Public Law 91-441, shall be deemed to restrict any sale authorized by section 1 hereof, or any transportation incident to such sale.

50 USC 1512.
50 USC 1513.

Approved March 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-635 (Comm. on Armed Services).

SENATE REPORT No. 94-692 (Comm. on Armed Services).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 17, considered and passed House.

Vol. 122 (1976): Mar. 16, considered and passed Senate.

Public Law 94-252
94th Congress

Joint Resolution

Making supplemental railroad appropriations for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes.

Mar. 30, 1976
[H.J. Res. 801]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1976, the period ending September 30, 1976, the fiscal year ending September 30, 1978, and the fiscal year ending September 30, 1979, and for other purposes, namely:

Railroads.
Supplemental
appropriations.

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements for fiscal year 1976, \$25,000,000, to remain available until expended.

For necessary expenses related to Northeast Corridor improvements for the period July 1, 1976 through September 30, 1976, \$25,000,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For additional amounts for "Grants to the National Railroad Passenger Corporation", \$36,500,000 to remain available until expended: *Provided*, That not to exceed \$21,200,000 in fiscal year 1976 and \$5,300,000 in the period July 1, 1976, through September 30, 1976, shall be available for additional operating expenses for the Corporation in connection with the Corporation's additional operating responsibilities over the rail properties of the Northeast Corridor; non-recurring costs related to the initial assumption of control and responsibility for maintaining rail operations on the Northeast Corridor, \$10,000,000.

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN MASS TRANSPORTATION FUND

RAIL SERVICE OPERATING PAYMENTS

For an additional payment to the Urban Mass Transportation Fund there is hereby appropriated to remain available until expended, for the purposes of the Urban Mass Transportation Act of 1964, as amended by Public Law 94-210, \$25,000,000.

The amount appropriated in preceding paragraph shall be added, as needed, to the limitations contained in section 306 of Public Law 94-134.

49 USC 1601
note.
Ante, p. 143.
89 Stat. 710.

UNITED STATES RAILWAY ASSOCIATION

PAYMENTS FOR PURCHASE OF CONRAIL SECURITIES

For acquisition of debentures and series A preferred stock issued by the Consolidated Rail Corporation to remain available until expended, \$500,000,000 for fiscal year 1976 and \$350,000,000 for the period July 1, 1976 through September 30, 1976: *Provided*, That not to exceed \$308,000,000 shall be made available to the Corporation for operating losses of the Corporation.

For acquisition of debentures and series A preferred stock issued by the Consolidated Rail Corporation to become available on September 30, 1976, and to remain available until expended, \$615,000,000: *Provided*, That not to exceed \$200,000,000 shall be made available to the Corporation for operating losses of the Corporation.

For acquisition of debentures and series A preferred stock issued by the Consolidated Rail Corporation to remain available until expended, \$425,000,000 for fiscal year 1978 and \$136,000,000 for fiscal year 1979.

ADMINISTRATION EXPENSES

For an additional amount for "Administrative expenses" for fiscal year 1976, \$5,800,000, to remain available until expended.

MISCELLANEOUS PROVISIONS

5 USC 8344 note. On and after the date of the enactment of the joint resolution, the provisions of section 8344 of title 5, United States Code, shall not apply to any individual serving as a member of the Commission on the Operation of the Senate.

Approved March 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-832 (Comm. on Appropriations) and No. 94-941 (Comm. of Conference).

SENATE REPORT No. 94-637 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 18, considered and passed House.

Feb. 25, 26, considered and passed Senate, amended.

Mar. 25, House agreed to conference report, concurred in Senate amendments; Senate agreed to conference report.

Public Law 94-253
94th Congress

An Act

To provide tax treatment for exchanges under the final system plan for ConRail.

Mar. 31, 1976

[H.R. 12490]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX TREATMENT OF EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL.

ConRail
exchanges.
Tax treatment.

(a) IN GENERAL.—Section 374 of the Internal Revenue Code of 1954 (relating to gain or loss not recognized in certain railroad reorganizations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

26 USC 374.

“(c) EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL.—

“(1) IN GENERAL.—No gain or loss shall be recognized if, in order to carry out the final system plan, rail properties of a transferor railroad corporation are transferred to the Consolidated Rail Corporation (or any subsidiary thereof) pursuant to an order of the special court under section 303 or 305(d) of the Regional Rail Reorganization Act of 1973 in exchange solely for stock of the Consolidated Rail Corporation, securities of such Corporation, certificates of value of the United States Railway Association, or any combination thereof.

45 USC 743.
Ante, p. 100
45 USC 745.

“(2) EXCHANGES NOT SOLELY IN KIND.—If paragraph (1) would apply to an exchange if it were not for the fact that the property received in exchange consists not only of property permitted by paragraph (1) to be received without the recognition of gain or loss, but also of other property or money, then rules similar to the rules set forth in paragraph (2) or (3) of subsection (a) (whichever is appropriate) shall be applied.

“(3) BASIS.—The basis of the property transferred to the Consolidated Rail Corporation (or any subsidiary thereof) in an exchange to which paragraph (1) or (2) applies shall be determined under rules similar to the rules set forth in subsection (b).

“(4) DENIAL OF NET OPERATING LOSS CARRYOVERS TO CONRAIL.—Neither the Consolidated Rail Corporation nor any subsidiary thereof shall succeed to any net operating loss carryover of any transferor railroad corporation.

“(5) DEFINITIONS.—For purposes of this subsection—

“(A) RAIL PROPERTIES.—The term ‘rail properties’ means rail properties within the meaning of paragraph (12) of section 102 of the Regional Rail Reorganization Act of 1973.

45 USC 702.

“(B) TRANSFEROR RAILROAD CORPORATION.—The term ‘transferor railroad corporation’ means a corporation which, on March 11, 1976, was—

“(i) a railroad in reorganization (within the meaning of paragraph (14) of section 102 of the Regional Rail Reorganization Act of 1973) in the region (within the meaning of paragraph (15) of such section 102), or

“(ii) a corporation leased, operated, or controlled by such a railroad in reorganization.

45 USC 702.
Ante, p. 100.
 45 USC 745.

“(C) FINAL SYSTEM PLAN.—The term ‘final system plan’ means the final system plan (within the meaning of paragraph (6) of section 102 of such Act). Such term includes supplemental transactions under section 305 of such Act.

“(D) SUBSIDIARY.—The term ‘subsidiary’ means any corporation 100 percent of whose total combined voting shares are, directly or indirectly, owned or controlled by the Consolidated Rail Corporation.”

(b) BASIS AMENDMENTS.—

26 USC 358.

(1) BASIS OF PROPERTY RECEIVED BY TRANSFEROR RAILROAD CORPORATIONS.—Section 358(a) of such Code (relating to basis to distributees) is amended by striking out “or 371(b)” and inserting in lieu thereof “371(b), or 374”.

(2) ALLOCATION OF BASIS.—Subsection (b) of section 358 of such Code (relating to allocation of basis) is amended by adding at the end thereof the following new paragraph:

“(3) CERTAIN EXCHANGES INVOLVING CONRAIL.—To the extent provided in regulations prescribed by the Secretary or his delegate, in the case of an exchange to which section 354(d) (or so much of section 356 as relates to section 354(d)) or section 374(c) applies, for purposes of allocating basis under paragraph (1), stock of the Consolidated Rail Corporation and the certificate of value of the United States Railway Association which relates to such stock shall, so long as they are held by the same person, be treated as one property.”

26 USC 354.

(c) EFFECTS ON SHAREHOLDERS AND SECURITY HOLDERS.—Section 354 of such Code (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end thereof the following new subsection:

“(d) EXCHANGES UNDER THE FINAL SYSTEM PLAN FOR CONRAIL.—No gain or loss shall be recognized if stock or securities in a corporation are, in pursuance of an exchange to which paragraph (1) or (2) of section 374(c) applies, exchanged solely for stock of the Consolidated Rail Corporation, securities of such Corporation, certificates of value of the United States Railway Association, or any combination thereof.”

26 USC 356.

Clause (i) of section 356(d) (2) (B) of such Code (relating to receipt of additional consideration) is amended by striking out “subsection (c) thereof” and inserting in lieu thereof “subsection (c) or (d) thereof”.

26 USC 374.

(d) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET INCOME ARISING FROM CERTAIN RAILROAD REORGANIZATION PROCEEDINGS.—Section 374 of such Code (relating to gain or loss not recognized in certain railroad reorganizations) is amended by adding at the end thereof the following new subsection:

“(e) USE OF EXPIRED NET OPERATING LOSS CARRYOVERS TO OFFSET INCOME ARISING FROM CERTAIN RAILROAD REORGANIZATION PROCEEDINGS.—

“(1) IN GENERAL.—If—

“(A) any corporation receives or accrues any amount pursuant to—

11 USC 205.

“(i) an award in (or settlement of) a proceeding under section 77 of the Bankruptcy Act,

“(ii) an award in (or settlement of) a proceeding before the special court to carry out section 303(c), 305, or 306 of the Regional Rail Reorganization Act of 1973.

45 USC 743.
Ante, p. 100,
 104.
 45 USC 745,
 746.

“(iii) an award in (or settlement of) a proceeding in the Court of Claims under section 1491 of title 28 of the United States Code, to the extent such proceeding involves a claim arising under the Regional Rail Reorganization Act of 1973, or

45 USC 701 note.

“(iv) a redemption of a certificate of value of the United States Railway Association issued to such corporation under section 306 of such Act,

Ante, p. 104.

45 USC 746.

“(B) any portion of such amount is includible in the gross income of such corporation for the taxable year in which such portion is received or accrued, and such taxable year begins not more than 5 years after the date of such award, settlement, or redemption, and

“(C) the net operating loss of such corporation for any taxable year—

“(i) was a net operating loss carryover to, or arose in, the first taxable year of such corporation ending after March 31, 1976 (or, in the case of a proceeding referred to in subparagraph (A) (i) which began after March 31, 1976, ending after the beginning of such proceeding), but

“(ii) solely by reason of the lapse of time, is not a net operating loss carryover to the taxable year referred to in subparagraph (B),

then such net operating loss shall be a net operating loss carryover to the taxable year described in subparagraph (B) but only for use (to the extent not theretofore used under this subsection to offset other amounts) to offset the portion referred to in subparagraph (B).

“(2) SPECIAL RULE.—For purposes of paragraph (1) (C) (i), a corporation which was a regulated transportation corporation (within the meaning of section 172(j)) for its last taxable year ending on or before March 31, 1976, shall be treated as such a regulated transportation corporation for its first taxable year ending after such date.”

26 USC 172.

SEC. 2. EFFECTIVE DATE.

26 USC 374 note.

The amendments made by section 1 shall apply to taxable years ending after March 31, 1976.

Approved March 31, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-940 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 24, considered and passed House.

Mar. 25, considered and passed Senate.

Public Law 94-254
94th Congress

Joint Resolution

Mar. 31, 1976
[H.J. Res. 857]

Making further continuing appropriations for the fiscal year 1976, and the period ending September 30, 1976, and for other purposes.

Continuing
appropriations,
1976.
89 Stat. 230,
847.

89 Stat. 225.

National
Commission on
Water Quality,
additional funds.
33 USC 1325.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of June 27, 1975 (Public Law 94-41, as amended by Public Law 94-159), is hereby further amended by striking out "March 31, 1976" and inserting in lieu thereof "September 30, 1976".

SEC. 2. The first section of the tenth unnumbered clause of section 101(b) of such joint resolution is amended by inserting after "VII", the following "(except sections 792, 793, and 794(a))".

SEC. 3. The first unnumbered clause of section 101(e) of such joint resolution is amended by striking out "section 314(d)" and inserting in lieu thereof "sections 312, 313, 792, 793, and 794(a)".

SEC. 4. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, an additional amount of \$175,000 for the National Commission on Water Quality, authorized by section 315 of the Federal Water Pollution Control Act, as amended, to complete the work of the Commission.

Approved March 31, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-893 (Comm. on Appropriations).
SENATE REPORT No. 94-702 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 16, considered and passed House.
Mar. 25, considered and passed Senate.

Public Law 94-255
94th Congress

An Act

To amend section 2 of the Act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes.

Apr. 1, 1976

[H.R. 12122]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of June 30, 1954 (68 Stat. 330), is amended by deleting "plus such sums as are necessary, but not to exceed \$10,000,000, for each of such fiscal years, to offset reductions in, or the termination of, Federal grant-in-aid programs or other funds made available to the Trust Territory of the Pacific Islands by other Federal agencies", and inserting in lieu thereof the following: "for fiscal year 1976, \$80,000,000; for the period beginning July 1, 1976, and ending September 30, 1976, \$15,100,000; for fiscal year 1977, \$80,000,000; and such amounts as were authorized but not appropriated for fiscal year 1975, and up to but not to exceed \$8,000,000 for the construction of such buildings as are required for a four-year college to serve the Micronesian community (no appropriations for the construction of such buildings shall, however, be made (A) until, but not later than one year after the date of the enactment of this Act, the President causes a study to be made by an appropriate authority to determine the educational need and the most suitable educational concept for such a college and transmits such study, together with his recommendations, to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of the United States within said one year period and (B) until 90 calendar days after the receipt of such study and recommendations which shall be deemed approved unless specifically disapproved by resolution of either such committee), and \$1,800,000 for a human development project in the Marshall Islands plus such sums as are necessary, but not to exceed \$10,000,000, for each of such fiscal years, or periods, to offset reductions in, or the termination of, Federal grant-in-aid programs or other funds made available to the Trust Territory of the Pacific Islands by other Federal agencies, which amounts for each such fiscal year or other period shall be adjusted upward or downward and presented to the Congress in the budget document for the next succeeding fiscal year as a supplemental budget request for the current fiscal year, to offset changes in the purchasing power of the United States dollar by multiplying such amounts by the Gross National Product Implicit Price Deflator for the third quarter of the calendar year numerically preceding the fiscal year or other period for which such supplemental appropriations are made, and dividing the resulting product by the Gross National Product Implicit Price Deflator for the third quarter of the calendar year 1974."

Trust Territory of the Pacific Islands.

Civil government, continuance.

Appropriation.
48 USC 1681
note.

Micronesian college, study, report to congressional committees.

48 USC 1421q.

Ante, p. 268.42 USC 428,
1381.50 USC app.
2018.

SEC. 2. The laws of the United States which are made applicable to the Northern Mariana Islands by the provisions of section 502(a)(1) of H.J. Res. 549, as approved by the House of Representatives and the Senate, except for section 228 of title II and title XVI of the Social Security Act as it applies to the several States and the Micronesia Claims Act as it applies to the Trust Territory of the Pacific Islands, shall be made applicable to Guam on the same terms and conditions as such laws are applied to the Northern Mariana Islands.

Approved April 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-291 accompanying H.R. 7688 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-496 accompanying H.R. 7688 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 26, considered and passed House.

Mar. 9, considered and passed Senate, amended.

Mar. 11, House concurred in Senate amendments with amendments.

Mar. 16, Senate concurred in House amendments with an amendment.

Mar. 18, House concurred in Senate amendment.

Public Law 94-256
94th Congress

An Act

To revise the per diem allowance authorized for members of the American Battle Monuments Commission when in a travel status.

Apr. 1, 1976
[H.R. 8507]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (42 Stat. 1509; 36 U.S.C. 121), is amended to read as follows:

American Battle
Monuments
Commission,
members.
Per diem
allowance.

"The members of the Commission shall serve as such without compensation, except that (1) their actual expenses in connection with the work of the Commission, (2) when in a travel status outside the continental United States, a per diem at the same rate prescribed for members of the uniformed services under section 405 of title 37, United States Code, in lieu of subsistence, and (3) when in a travel status within the continental United States, a per diem at the same rate authorized to be paid under sections 5702 and 5703 of title 5, United States Code, in lieu of subsistence, may be paid to such members from any funds appropriated for the purposes of this Act, or acquired by other means hereinafter authorized."

Approved April 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-600 (Comm. on Veterans' Affairs).

SENATE REPORT No. 94-695 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 4, considered and passed House.

Vol. 122 (1976): Mar. 15, considered and passed Senate, amended.

Mar. 18, House concurred in Senate amendments.

Public Law 94-257
94th Congress

An Act

Apr. 1, 1976

[H.R. 3427]

To provide for the striking of medals in commemoration of the two hundredth anniversary of the signing of the Declaration of Independence by Charles Carroll of Carrollton.

Declaration of
Independence,
signing by
Charles Carroll.
Commemorative
medals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the two hundredth anniversary of the signing of the Declaration of Independence by Charles Carroll of Carrollton, the last surviving signer of the Declaration, the Secretary of the Treasury shall strike and furnish to the Baltimore Museum of Art, of Baltimore, Maryland, not more than fifty thousand medals with emblems, designs, and inscriptions reproducing those on the medal heretofore struck by the Mint in honor of the ninetieth birthday of Charles Carroll of Carrollton, except for variations to be determined by the Baltimore Museum of Art subject to the approval of the Secretary of the Treasury. The medals shall be made and delivered at such times as may be required by the Baltimore Museum of Art in quantities of not less than two thousand, but no medals shall be made after December 31, 1976. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

Cost.

SEC. 2. The Secretary of the Treasury shall cause such medals to be struck and furnished at not less than the estimated cost of manufacture, including labor, materials, guides, use of machinery, and overhead expenses. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for full payment of such costs.

Size.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be of bronze and of such size or sizes as shall be determined by the Secretary of the Treasury in consultation with the Baltimore Museum of Art.

Approved April 1, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-700 (Comm. on Banking, Housing and Urban Affairs).
CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 20, considered and passed House.

Vol. 122 (1976): Mar. 18, considered and passed Senate.

Public Law 94-258
94th Congress

An Act

To authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes.

Apr. 5, 1976
[H.R. 49]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Naval Petroleum Reserves Production Act of 1976”.

Naval Petroleum
Reserves
Production Act of
1976.
42 USC 6501
note.
42 USC 6501.

TITLE I—NATIONAL PETROLEUM RESERVE IN ALASKA

DEFINITION

SEC. 101. As used in this title, the term “petroleum” includes crude oil, gases (including natural gas), natural gasoline, and other related hydrocarbons, oil shale, and the products of any of such resources.

DESIGNATION OF THE NATIONAL PETROLEUM RESERVE IN ALASKA

SEC. 102. The area known as Naval Petroleum Reserve Numbered 4, Alaska, established by Executive order of the President, dated February 27, 1923, except for tract Numbered 1 as described in Public Land Order 2344, dated April 24, 1961, shall be transferred to and administered by the Secretary of the Interior in accordance with the provisions of this Act. Effective on the date of transfer all lands within such area shall be redesignated as the “National Petroleum Reserve in Alaska” (hereinafter in this title referred to as the “reserve”). Subject to valid existing rights, all lands within the exterior boundaries of such reserve are hereby reserved and withdrawn from all forms of entry and disposition under the public land laws, including the mining and mineral leasing laws, and all other Acts; but the Secretary is authorized to (1) make dispositions of mineral materials pursuant to the Act of July 31, 1947 (61 Stat. 681), as amended (30 U.S.C. 601), for appropriate use by Alaska Natives, (2) make such dispositions of mineral materials and grant such rights-of-way, licenses, and permits as may be necessary to carry out his responsibilities under this Act, and (3) convey the surface of lands properly selected on or before December 18, 1975, by Native village corporations pursuant to the Alaska Native Claims Settlement Act. All other provisions of law heretofore enacted and actions heretofore taken reserving such lands as a Naval Petroleum Reserve shall remain in full force and effect to the extent not inconsistent with this Act.

42 USC 6502.

43 CFR app.

43 USC 1601
note.

TRANSFER OF JURISDICTION

SEC. 103. (a) Jurisdiction over the reserve shall be transferred by the Secretary of the Navy to the Secretary of the Interior on June 1, 1977.

42 USC 6503.

(b) With respect to any activities related to the protection of environmental, fish and wildlife, and historical or scenic values, the Secretary of the Interior shall assume all responsibilities as of the date

Rules and
regulations.

of the enactment of this title. As soon as possible, but not later than the effective date of transfer, the Secretary of the Interior may promulgate such rules and regulations as he deems necessary and appropriate for the protection of such values within the reserve.

(c) The Secretary of the Interior shall, upon the effective date of the transfer of the reserve, assume the responsibilities and functions of the Secretary of the Navy under any contracts which may be in effect with respect to activities within the reserve.

(d) On the date of transfer of jurisdiction of the reserve, all equipment, facilities, and other property of the Department of the Navy used in connection with the operation of the reserve, including all records, maps, exhibits, and other informational data held by the Secretary of the Navy in connection with the reserve, shall be transferred without reimbursement from the Secretary of the Navy to the Secretary of the Interior who shall thereafter be authorized to use them to carry out the provisions of this title.

(e) On the date of transfer of jurisdiction of the reserve, the Secretary of the Navy shall transfer to the Secretary of the Interior all unexpended funds previously appropriated for use in connection with the reserve and all civilian personnel ceilings assigned by the Secretary of the Navy to the management and operation of the reserve as of January 1, 1976.

ADMINISTRATION OF THE RESERVE

Petroleum
production,
prohibition.
42 USC 6504.
Explorations.

Sec. 104. (a) Except as provided in subsection (e) of this section, production of petroleum from the reserve is prohibited and no development leading to production of petroleum from the reserve shall be undertaken until authorized by an Act of Congress.

(b) Any exploration within the Utukok River, the Teshekpuk Lake areas, and other areas designated by the Secretary of the Interior containing any significant subsistence, recreational, fish and wildlife, or historical or scenic value, shall be conducted in a manner which will assure the maximum protection of such surface values to the extent consistent with the requirements of this Act for the exploration of the reserve.

(c) The Secretary of the Navy shall continue the ongoing petroleum exploration program within the reserve until the date of the transfer of jurisdiction specified in section 103(a). Prior to the date of such transfer of jurisdiction the Secretary of the Navy shall—

(1) cooperate fully with the Secretary of the Interior providing him access to such facilities and such information as he may request to facilitate the transfer of jurisdiction;

(2) provide to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives copies of any reports, plans, or contracts pertaining to the reserve that are required to be submitted to the Committees on Armed Services of the Senate and the House of Representatives; and

(3) cooperate and consult with the Secretary of the Interior before executing any new contract or amendment to any existing contract pertaining to the reserve and allow him a reasonable opportunity to comment on such contract or amendment, as the case may be.

(d) The Secretary of the Interior shall commence further petroleum exploration of the reserve as of the date of transfer of jurisdiction specified in section 103(a). In conducting this exploration effort, the Secretary of the Interior—

(1) is authorized to enter into contracts for the exploration of the reserve, except that no such contract may be entered into until

Information,
submittal to
congressional
committees.

Contracts.

at least thirty days after the Secretary of the Interior has provided the Attorney General with a copy of the proposed contract and such other information as may be appropriate to determine legal sufficiency and possible violations under, or inconsistencies with, the antitrust laws. If, within such thirty day period, the Attorney General advises the Secretary of the Interior that any such contract would unduly restrict competition or be inconsistent with the antitrust laws, then the Secretary of the Interior may not execute that contract;

(2) shall submit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives any new plans or substantial amendments to ongoing plans for the exploration of the reserve. All such plans or amendments submitted to such committees pursuant to this section shall contain a report by the Attorney General of the United States with respect to the anticipated effects of such plans or amendments on competition. Such plans or amendments shall not be implemented until sixty days after they have been submitted to such committees; and

(3) shall report annually to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives on the progress of, and future plans for, exploration of the reserve.

(e) Until the reserve is transferred to the jurisdiction of the Secretary of the Interior, the Secretary of the Navy is authorized to develop and continue operation of the South Barrow gas field, or such other fields as may be necessary, to supply gas at reasonable and equitable rates to the native village of Barrow, and other communities and installations at or near Point Barrow, Alaska, and to installations of the Department of Defense and other agencies of the United States located at or near Point Barrow, Alaska. After such transfer, the Secretary of the Interior shall take such actions as may be necessary to continue such service to such village, communities, installations, and agencies at reasonable and equitable rates.

Plans, submittal
to congressional
committees.

Report by
Attorney
General.

Report to
congressional
committees.

STUDY OF THE RESERVE

SEC. 105. (a) Section 164 of the Energy Policy and Conservation Act (89 Stat. 871, 889), is hereby amended by deleting in the first sentence "to the Congress" and by inserting in lieu thereof "to the Committees on Interior and Insular Affairs of the Senate and House of Representatives".

42 USC 6244.

(b)(1) The President shall direct such Executive departments and/or agencies as he may deem appropriate to conduct a study, in consultation with representatives of the State of Alaska, to determine the best overall procedures to be used in the development, production, transportation, and distribution of petroleum resources in the reserve. Such study shall include, but shall not be limited to, a consideration of—

42 USC 6505.

(A) the alternative procedures for accomplishing the development, production, transportation, and distribution of the petroleum resources from the reserve, and

(B) the economic and environmental consequences of such alternative procedures.

(2) The President shall make semiannual progress reports on the implementation of this subsection to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives beginning not later than six months after the date of the enactment of this Act and shall, not later than one year after the transfer of jurisdiction of the reserve, and annually thereafter, report any findings or

Report to
congressional
committees.

conclusions developed as a result of such study together with appropriate supporting data and such recommendations as he deems desirable. The study shall be completed and submitted to such committees, together with recommended procedures and any proposed legislation necessary to implement such procedures not later than January 1, 1980.

42 USC 6505.

(c) (1) The Secretary of the Interior shall establish a task force to conduct a study to determine the values of, and best uses for, the lands contained in the reserve, taking into consideration (A) the natives who live or depend upon such lands, (B) the scenic, historical, recreational, fish and wildlife, and wilderness values, (C) mineral potential, and (D) other values of such lands.

(2) Such task force shall be composed of representatives from the government of Alaska, the Arctic slope native community, and such offices and bureaus of the Department of the Interior as the Secretary of the Interior deems appropriate, including, but not limited to, the Bureau of Land Management, the United States Fish and Wildlife Service, the United States Geological Survey, and the Bureau of Mines.

Report to
congressional
committees.

(3) The Secretary of the Interior shall submit a report, together with the concurring or dissenting views, if any, of any non-Federal representatives of the task force, of the results of such study to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within three years after the date of enactment of this title and shall include in such report his recommendations with respect to the value, best use, and appropriate designation of the lands referred to in paragraph (1).

ANTITRUST PROVISIONS

42 USC 6506.

Post, p. 309.

SEC. 106. Unless otherwise provided by Act of Congress, whenever development leading to production of petroleum is authorized, the provisions of subsections (g), (h), and (i) of section 7430 of title 10, United States Code, shall be deemed applicable to the Secretary of the Interior with respect to rules and regulations, plans of development and amendments thereto, and contracts and operating agreements. All plans and proposals submitted to the Congress under this title or pursuant to legislation authorizing development leading to production shall contain a report by the Attorney General of the United States on the anticipated effects upon competition of such plans and proposals.

AUTHORIZATION FOR APPROPRIATIONS

42 USC 6507.

Community
municipal
services and
facilities, Federal
financial
assistance.

SEC. 107. (a) There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this title.

(b) If the Secretary of the Interior determines that there is an immediate and substantial increase in the need for municipal services and facilities in communities located on or near the reserve as a direct result of the exploration and study activities authorized by this title and that an unfair and excessive financial burden will be incurred by such communities as a result of the increased need for such services and facilities, then he is authorized to assist such communities in meeting the costs of providing increased municipal services and facilities. The Secretary of the Interior shall carry out the provisions of this section through existing Federal programs and he shall consult with the heads of the departments or agencies of the Federal Government concerned with the type of services and facilities for which financial assistance is being made available.

TITLE II—NAVAL PETROLEUM RESERVES

SEC. 201. Chapter 641 of title 10, United States Code, is amended as follows:

(1) Immediately before section 7421 insert the following new section:

“§ 7420. Definitions

10 USC 7420.

“(a) In this chapter—

“(1) ‘national defense’ includes the needs of, and the planning and preparedness to meet, essential defense, industrial, and military emergency energy requirements relative to the national safety, welfare, and economy, particularly resulting from foreign military or economic actions;

“(2) ‘naval petroleum reserves’ means the naval petroleum and oil shale reserves established by this chapter, including Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912; Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912; Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915; Naval Petroleum Reserve Numbered 4, Alaska, established by Executive order of the President, dated February 27, 1923 (until redesignated as the National Petroleum Reserve in Alaska under the jurisdiction of the Secretary of the Interior as provided in the Naval Petroleum Reserves Production Act of 1976); Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order dated June 12, 1919; Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1924;

“(3) ‘petroleum’ includes crude oil, gases (including natural gas), natural gasoline, and other related hydrocarbons, oil shale, and the products of any of such resources;

“(4) ‘Secretary’ means the Secretary of the Navy;

“(5) ‘small refiner’ means an owner of a refinery or refineries (including refineries not in operation) who qualifies as a small business refiner under the rules and regulations of the Small Business Administration; and

“(6) ‘maximum efficient rate’ means the maximum sustainable daily oil or gas rate from a reservoir which will permit economic development and depletion of that reservoir without detriment to the ultimate recovery.”

(2) Section 7421 (a) is amended—

10 USC 7421.

(A) by striking out “of the Navy”;

(B) by striking out “and oil shale”;

(C) by striking out “for naval purposes” and inserting in lieu thereof “for national defense purposes”; and

(D) by striking out “section 7438 hereof” and inserting in lieu thereof “this chapter”.

(3) The text of section 7422 is amended to read as follows:

10 USC 7422.

“(a) The Secretary, directly or by contract, lease, or otherwise, shall explore, prospect, conserve, develop, use, and operate the naval petroleum reserves in his discretion, subject to the provisions of subsection

(c) and the other provisions of this chapter; except that no petroleum leases shall be granted at Naval Petroleum Reserves Numbered 1 and 3.

“(b) Except as otherwise provided in this chapter, particularly subsection (c) of this section, the naval petroleum reserves shall be used and operated for—

“(1) the protection, conservation, maintenance, and testing of those reserves; or

“(2) the production of petroleum whenever and to the extent that the Secretary, with the approval of the President, finds that such production is needed for national defense purposes and the production is authorized by a joint resolution of Congress.

“(c) (1) In administering Naval Petroleum Reserves Numbered 1, 2, and 3, the Secretary is authorized and directed—

“(A) to further explore, develop, and operate such reserves;

“(B) commencing within ninety days after the date of enactment of the Naval Petroleum Reserves Production Act of 1976, to produce such reserves at the maximum efficient rate consistent with sound engineering practices for a period not to exceed six years after the date of enactment of such Act;

“(C) during such production period or any extension thereof to sell or otherwise dispose of the United States share of such petroleum produced from such reserves as hereinafter provided; and

“(D) to construct, acquire, or contract for the use of storage and shipping facilities on and off the reserves and pipelines and associated facilities on and off the reserves for transporting petroleum from such reserves to the points where the production from such reserves will be refined or shipped.

Any pipeline in the vicinity of a naval petroleum reserve not otherwise operated as a common carrier may be acquired by the Secretary by condemnation, if necessary, if the owner thereof refuses to accept, convey, and transport without discrimination and at reasonable rates any petroleum produced at such reserve. With the approval of the Secretary, rights-of-way for new pipelines and associated facilities may be acquired by the exercise of the right of eminent domain in the appropriate United States district court. Such rights-of-way may be acquired in the manner set forth in the Act of February 26, 1931, chapter 307 (46 Stat. 1421; 40 U.S.C. 258(a)), and the prospective holder of the right-of-way is ‘the authority empowered by law to acquire the lands’ within the meaning of that Act. Such new pipelines shall accept, convey, and transport without discrimination and at reasonable rates any petroleum produced at such reserves as a common carrier. Pipelines and associated facilities constructed at or procured for Naval Petroleum Reserve Numbered 1 pursuant to this subsection shall have adequate capacity to accommodate not less than three hundred fifty thousand barrels of oil per day and shall be fully operable as soon as possible, but not later than three years after the date of enactment of the Naval Petroleum Reserves Production Act of 1976.

“(2) At the conclusion of the six-year production period authorized by paragraph (1) (B) of this subsection the President may extend the period of production in the case of any naval petroleum reserve for additional periods of not to exceed three years each—

“(A) after the President requires an investigation to be made, in the case of each extension, to determine the necessity for continued production from such naval petroleum reserve;

“(B) after the President submits to the Congress, at least one hundred eighty days prior to the expiration of the current production period prescribed by this section, or any extension thereof,

Investigation.

Report to
Congress.

a copy of the report made to him on such investigation together with a certification by him that continued production from such naval petroleum reserve is in the national interest; and

“(C) if neither House of Congress within ninety days after receipt of such report and certification adopts a resolution disapproving further production from such naval petroleum reserve.

“(3) The production authorization set forth in paragraph (1)(B) of this subsection, in the case of Naval Petroleum Reserve Numbered 1, is conditioned upon the private owner of any lands or interests therein within such reserve agreeing with the Secretary to continue operations of such reserve under a unitized plan contract which adequately protects the public interest; however, if such agreement is not reached within ninety days after the date of enactment of the Naval Petroleum Reserves Production Act of 1976 the Secretary is authorized to exercise the authority for condemnation conferred by section 7425 of this chapter.”.

(4) The first sentence of section 7423 is amended by deleting “of the Navy” and “or products”. 10 USC 7423.

(5) Section 7424 is amended— 10 USC 7424.

(A) by deleting “of the Navy” in the text of subsection (a) preceding clause (1);

(B) by deleting “and oil shale” in subsection (a)(1) in the text preceding subclause (A); and

(C) by deleting “in the ground” in clause (1)(A) of subsection (a).

(6) Section 7425 is amended by deleting “of the Navy”. 10 USC 7425.

(7) Section 7426(a) is amended by striking out “the Secretary of the Navy” and inserting in lieu thereof “Subject to the provisions of section 7422(c), the Secretary”. 10 USC 7426.

(8) The first and second sentences of section 7427 are amended by striking out “of the Navy”. 10 USC 7427.

(9) Section 7428 is amended by striking out “within the naval petroleum and oil shale reserves shall contain a provision authorizing the Secretary of the Navy” and inserting in lieu thereof “within Naval Petroleum Reserve Numbered 2 and the oil shale reserves shall contain a provision authorizing the Secretary”. 10 USC 7428.

(10) The first sentence of section 7429 is amended by deleting “of the Navy”. 10 USC 7429.

(11) The text of section 7430 is amended to read as follows: 10 USC 7430.

“(a) In administering the naval petroleum reserves under this chapter, the Secretary shall use, store, or sell the petroleum produced from the naval petroleum reserves and lands covered by joint, unit, or other cooperative plans.

“(b) Notwithstanding any other provision of law, each sale of the United States share of petroleum shall be made by the Secretary at public sale to the highest qualified bidder, for periods of not more than one year, at such time, in such amounts, and after such advertising as the Secretary considers proper and without regard to Federal, State, or local regulations controlling sales or allocation of petroleum products. Public sale.

“(c) In no event shall the Secretary permit the award of any contract which would result in any person obtaining control, directly or indirectly, over more than 20 per centum of the estimated annual United States share of petroleum produced from Naval Petroleum Reserve Numbered 1.

“(d) Each proposal for sale under this title shall provide that the terms of every sale of the United States share of petroleum from the naval petroleum reserves shall be so structured as to give full and

equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike. When the Secretary, in consultation with the Secretary of the Interior, determines that the public interests will be served by the sale of petroleum to small refiners not having their own adequate sources of supply of petroleum, the Secretary is authorized and directed to set aside a portion of the United States share of petroleum produced for sale to such refiners under the provisions of this section for processing or use in such refineries, except that—

“(1) none of the production sold to small refiners may be resold in kind;

“(2) production must be sold at a cost of not less than the prevailing local market price of comparable petroleum;

“(3) the set-aside portion may not exceed 25 per centum of the estimated annual United States share of the total production from all producing naval petroleum reserves; and

“(4) notwithstanding the provisions of subsection (b) of this section, the Secretary may, at his discretion if he deems it to be in the public interest, prorate such petroleum among such refiners for sale, without competition, at not less than the prevailing local market price of comparable petroleum.

“(e) Any petroleum produced from the naval petroleum reserves, except such petroleum which is either exchanged in similar quantities for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1969 (83 Stat. 841) and, in addition, before any petroleum subject to this section may be exported under the limitations and licensing requirement and penalty and enforcement provisions of the Export Administration Act of 1969, the President must make and publish an express finding that such exports will not diminish the total quality or quantity of petroleum available to the United States and that such exports are in the national interest and are in accord with the Export Administration Act of 1969.

“(f) During the period of production or any extension thereof authorized by section 7422(c), the consultation and approval requirements of section 7431(a) (3) are waived.

“(g) (1) Prior to the promulgation of any rules and regulations, plans of development and amendments thereto, and in the entering and making of contracts and operating agreements relating to the development, production, or sale of petroleum in or from the reserves, the Secretary shall consult with and give due consideration to the views of the Attorney General of the United States with respect to matters which may affect competition.

“(2) No contract or operating agreement may be made, issued, or executed under this chapter until at least thirty days after the Secretary notifies the Attorney General of the proposed contract or operating agreement. Such notification shall contain such information as the Attorney General may require in order to advise the Secretary as to whether such contract or operating agreement may create or maintain a situation inconsistent with the antitrust laws. If, within such thirty day period, the Attorney General advises the Secretary that a contract or operating agreement may create or maintain a situation inconsistent with the antitrust laws, then the Secretary may not make, issue, or execute that contract or operating agreement.

50 USC app.
2401 note.

Waiver.
Ante, p. 307.
Post, p. 311.
Rules and
regulations.

Contract or
operating
agreement,
notification.

“(h) Nothing in this chapter shall be deemed to confer on any person immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

“(i) As used in this section, the term ‘antitrust laws’ means—

“Antitrust laws.”

“(1) the Act entitled ‘An Act to protect trade and commerce against unlawful restraints and monopolies’, approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

“(2) the Act entitled ‘An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes’, approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

“(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

“(4) sections 73 and 74 of the Act entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes’, approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; or

“(5) sections 2, 3, and 4 of the Act of June 19, 1936, chapter 592 (15 U.S.C. 13a, 13b, and 21a).

“(j) Any pipeline which accepts, conveys, or transports any petroleum produced from Naval Petroleum Reserves Numbered 1 or Numbered 3 shall accept, convey, and transport without discrimination and at reasonable rates any such petroleum as a common carrier insofar as petroleum from such reserves is concerned. Every contract entered into by the Secretary for the sale of any petroleum owned by the United States which is produced from such reserves shall contain provisions implementing the requirements of the preceding sentence if the contractor owns a controlling interest in any pipeline or any company operating any pipeline, or is the operator of any pipeline, which carries any petroleum produced from such naval petroleum reserves. The Secretary may promulgate rules and regulations for the purpose of carrying out the provisions of this section and he, or the Secretary of the Interior where the authority extends to him, may declare forfeit any contract, operating agreement, right-of-way, permit, or easement held by any person violating any such rule or regulation. This section shall not apply to any natural gas common carrier pipeline operated by any person subject to regulation under the Natural Gas Act or any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

Rules and regulations.

15 USC 717w.

“(k) The President may, at his discretion, direct that all or any part of the United States share of petroleum produced from the naval petroleum reserves be placed in strategic storage facilities as authorized by sections 151 through 166 of the Energy Policy and Conservation Act or that all or any part of such share be exchanged for petroleum of equal value for the purpose of placing such petroleum in such strategic storage facilities.”

42 USC
6231-6246.

(12) Section 7431 is amended—

10 USC 7431.

(A) by inserting “(a)” immediately before “The Committees”;
(B) by striking out “or oil shale” in clauses (1) and (2);
(C) by striking out “and oil shale” in clauses (2) and (3);
(D) by striking out “oil and gas (other than royalty oil and gas), oil shale, and products therefrom” in clause (3) and inserting in lieu thereof “petroleum (other than royalty oil and gas)”;
and

(E) by adding at the end thereof the following new subsections:

“(b) (1) During the period of production authorized by section

Plans, submittal
to congressional
committees.

Ante, p. 307.

7422(c), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives any new plans or substantial amendments to ongoing plans for the exploration, development, and production of the naval petroleum reserves.

"(2) All plans or substantial amendments submitted to the Congress pursuant to this section shall contain a report by the Attorney General of the United States with respect to the anticipated effects of such plans or amendments on competition. Such plans or amendments shall not be implemented until sixty days after such plans or amendments have been submitted to such committees.

Reports to
congressional
committees.

"(c) During the period of production authorized by section 7422(c), the Secretary shall submit annual reports as of the first day of the fiscal year to the Committees on Armed Services of the Senate and the House of Representatives, and such committees shall cause such reports to be printed as a Senate or House document, as appropriate. The Secretary shall include in such reports, with respect to each naval petroleum reserve, an explanation in detail of the following:

"(1) the status of the exploration, development, and production programs;

"(2) the production that has been achieved, including the disposition of such production and the proceeds realized therefrom;

"(3) the status of pipeline construction and procurement and problems related to the availability of transportation facilities;

"(4) a summary of future plans for exploration, development, production, disposal, and transportation of the production from the naval petroleum reserves; and

"(5) such other information regarding the reserve as the Secretary deems appropriate."

10 USC 7432.

(13) Section 7432 is amended to read as follows:

"§ 7432. Naval petroleum reserves special account

"(a) There is hereby established on the books of the Treasury Department a special account designated as the 'naval petroleum reserves special account'. There shall be credited to such account—

"(1) all proceeds realized under this chapter from the disposition of the United States share of petroleum;

"(2) the net proceeds, if any, realized from sales or exchanges within the Department of Defense of refined petroleum products accruing to the benefit of any component of that department as the result of any such sales or exchanges;

"(3) such additional sums as may be appropriated for the maintenance, operation, exploration, development, and production of the naval petroleum reserves;

"(4) such royalties as may accrue under the provisions of section 7433; and

"(5) any other revenues resulting from the operation of the naval petroleum reserves.

"(b) Funds available in the naval petroleum reserve special account shall be available for expenditure in such sums as are specified in annual appropriations Acts for the expenses of—

"(1) exploration, prospecting, conservation, development, use, operation, and production of the naval petroleum reserves as authorized by this chapter;

"(2) production (including preparation for production) as authorized by this chapter, or as may hereafter be authorized;

"(3) the construction and operation of facilities both within and outside the naval petroleum reserves incident to the production and the delivery of petroleum, including pipelines and shipping terminals;

10 USC 7433.

“(4) the procurement of petroleum for, and the construction and operation of facilities associated with, the Strategic Petroleum Reserve authorized by sections 151 through 166 of the Energy Policy and Conservation Act; and

“(5) the exploration and study of the National Petroleum Reserve in Alaska as authorized in title I of the Naval Petroleum Reserves Production Act of 1976.

“(c) The budget estimates for annual appropriations from the naval petroleum reserves special account shall be prepared by the Secretary and shall be presented to the Congress by the President independently of the budget of the Department of the Navy and the Department of Defense.

“(d) Contracts under this chapter providing for the obligation of funds may be entered into by the Secretary for a period of five years, renewable, at the option of the Secretary, for an additional five-year period; however, such contracts may obligate funds only to the extent that such funds are made available in annual appropriations.”

(14) Section 7433(a) is amended by striking out “of the Navy”.

(15) Section 7433(b) is amended by striking out “and oil shale”.

(16) Section 7434 is amended by striking out “and oil shale”.

(17) Section 7435(b) is amended by striking out “of the Navy”.

(18) Section 7436(a) is amended by deleting “of the Navy, subject to approval of the President.”

(19) Section 7438 is amended by striking out “Secretary of the Interior” wherever it occurs and inserting therefor “Administrator of the Energy Research and Development Administration”; and by striking out “of the Navy” wherever it occurs.

(20) The table of sections at the beginning of such chapter is amended—

(A) by inserting immediately before

“7421. Jurisdiction and control.”

the following:

“7420. Definitions.”

(B) by striking out:

“7432. Expenditures; appropriations chargeable.”

and inserting in lieu thereof the following:

“7432. Naval petroleum reserve special account.”

Approved April 5, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-81 Pts. I, 2, 3 (Comm. on Interior and Insular Affairs) and No. 94-156 accompanying H.R. 5919 (Comm. on Armed Services) and No. 94-942 (Comm. of Conference).

SENATE REPORTS: No. 94-327 accompanying S. 2173 (Comm. on Armed Services) and No. 94-708 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 8, considered and passed House.

July 28, S. 2173 considered in Senate.

July 29, considered and passed Senate, amended, in lieu of S. 2173.

Vol. 122 (1976): Mar. 24, Senate agreed to conference report.

Mar. 31, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 15 (1976): Apr. 5, Presidential statement.

42 USC
6231-6246.

Ante, p. 303.
Budget estimates,
presentation to
Congress.

Contracts.

10 USC 7433.

10 USC 7434.

10 USC 7435.

10 USC 7436.

10 USC 7438.

Public Law 94-259
94th Congress

An Act

Apr. 5, 1976

[H.R. 6346]

To extend the authorization of appropriations for carrying out title V of the Rural Development Act of 1972, and for other purposes.

Rural
development and
small farm
research and
education.
Appropriation
authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 503 of the Rural Development Act of 1972 (7 U.S.C. 2663(a)) is amended—

(1) by striking out the word “is” and inserting in lieu thereof “are”;

(2) by striking out the word “and”; and

(3) by changing the period at the end thereof to a comma, and adding the following: “not to exceed \$5,000,000 for the period July 1, 1976, through September 30, 1976, and not to exceed \$20,000,000 for each of the three fiscal years during the period beginning October 1, 1976, and ending September 30, 1979.”.

7 USC 2042.

SEC. 2. Subsection (b) of section 3 of the Farm Labor Contractor Registration Act of 1963, 78 Stat. 920, as amended (7 U.S.C. 2041-2055), is amended—

(1) by striking the word “or” at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof a new paragraph (8) as follows:

“(8) any custom combine, hay harvesting, or sheep shearing operation.”.

Approved April 5, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-441 (Comm. on Agriculture).

SENATE REPORT No. 94-706 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 7, considered and passed House.

Vol. 122 (1976): Mar. 23, considered and passed Senate, amended.

Mar. 24, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 15 (1976): Apr. 5, Presidential statement.

Public Law 94-260
94th Congress

An Act

To amend chapter IX of the Bankruptcy Act to provide by voluntary reorganization procedures for the adjustment of the debts of municipalities.

Apr. 8, 1976

[H.R. 10624]

Whereas the Congress finds and declares this Act and proceedings thereunder providing for the composition of indebtedness of, or authorized by, municipalities to be within the subject of bankruptcies under article I, section 8, clause 4 of the United States Constitution; and

USC prec. title 1.

Whereas the Congress finds that the impracticability of existing Federal bankruptcy remedies for use by municipalities increases the likelihood of their default and will aggravate the adverse effects thereof; and

Whereas the Congress finds that the financial disruptions and dislocations resulting from default of such municipalities without availability of a Federal procedure to restructure their indebtedness in such fashion as to avoid continuing insolvency would have a substantial adverse effect on interstate commerce within the meaning of article I, section 8, clause 3 of the United States Constitution, by reason of the commercial importance of the municipalities involved.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter IX of the Bankruptcy Act is amended to read as follows:

Bankruptcy Act,
amendments.
11 USC 401
et seq.

“CHAPTER IX

“ADJUSTMENT OF DEBTS OF POLITICAL SUBDIVISIONS AND PUBLIC AGENCIES
AND INSTRUMENTALITIES

“SEC. 81. CHAPTER IX DEFINITIONS.—As used in this chapter the term— 11 USC 401.

“(1) ‘claim’ includes all claims of whatever character against the petitioner or the property of the petitioner, whether or not such claims are provable under section 63 of this Act and whether secured or unsecured, liquidated or unliquidated as to amount, fixed or contingent;

11 USC 103.

“(2) ‘court’ means court of bankruptcy in which the case is pending, or a judge of such court;

“(3) ‘creditor’ means holder (including the United States, a State, or political subdivision or public agency or instrumentality of a State) of a claim against the petitioner;

“(4) ‘claim affected by the plan’ means claim as to which the rights of its holder are proposed to be materially and adversely adjusted or modified by the plan;

“(5) ‘debt’ means claim allowable under section 88(a);

“(6) ‘lien’ means security interest in property, lien obtained on property by levy, sequestration, or other legal or equitable process, statutory or common law lien on property, or any other variety of charge against property to secure the performance of an obligation;

"(7) 'person' includes a corporation or a partnership, the United States, the several States, and political subdivisions and public agencies and instrumentalities of the several States;

"(8) 'petitioner' means agency, instrumentality, or subdivision which has filed a petition under this chapter;

"(9) 'plan' means plan filed under section 90;

"(10) 'special tax payer' means record owner or holder of title, legal or equitable, to real estate against which has been levied a special assessment or special tax the proceeds of which are the sole source of payment of obligations issued by the petitioner to defray the costs of local improvements; and

"(11) 'special tax payer affected by the plan' means special tax payer with respect to whose real estate the plan proposes to increase the proportion of special assessments or special taxes referred to in paragraph (10) of this section assessed against that real estate.

11 USC 402.

"SEC. 82. JURISDICTION AND POWERS OF COURT.—

"(a) **JURISDICTION.**—The court in which a petition is filed under this chapter shall exercise exclusive original jurisdiction for the adjustment of the petitioner's debts, and for the purposes of this chapter, shall have exclusive jurisdiction of the petitioner and its property, wherever located.

"(b) **POWERS.**—After the filing of a petition under this chapter the court may—

Notice and
hearing.

"(1) permit the petitioner to reject executory contracts and unexpired leases of the petitioner, after hearing on notice to the parties to such contracts leases and to such other parties in interest as the court may designate;

Notice and
hearing.

"(2) during the pendency of a case under this chapter, or after the confirmation of the plan if the court has retained jurisdiction under section 96(e), after hearing on such notice as the court may prescribe and for cause shown, permit the issuance of certificates of indebtedness for such consideration as is approved by the court, upon such terms and conditions, and with such security and priority in payment over existing obligations, secured or unsecured, and over costs and expenses of administration, not including operating expenses of the petitioner, as in the particular case may be equitable; and

"(3) exercise such other powers as are not inconsistent with the provisions of this chapter.

"(c) **LIMITATION.**—Unless the petitioner consents or the plan so provides, the court shall not, by any stay, order or decree, in the case or otherwise, interfere with—

"(1) any of the political or governmental powers of the petitioner;

"(2) any of the property or revenues of the petitioner; or

"(3) the petitioner's use or enjoyment of any income-producing property.

"(d) **DESIGNATION OF JUDGE.**—After the filing of a petition, the chief judge of the court in the district in which the petition is filed shall immediately notify the chief judge of the circuit court of appeals of the circuit in which the district court is located, who shall designate the judge of the district court to conduct the proceedings under this chapter.

11 USC 403.

"SEC. 83. RESERVATION OF STATE POWER TO CONTROL GOVERNMENTAL FUNCTIONS OF POLITICAL SUBDIVISIONS.—Nothing contained in this chapter shall be construed to limit or impair the power of any State

to control, by legislation or otherwise, any municipality or any political subdivision of or in such State in the exercise of its political or governmental powers, including expenditures therefor: *Provided, however,* That no State law prescribing a method of composition of indebtedness of such agencies shall be binding upon any creditor who does not consent to such composition, and no judgment shall be entered under such State law which would bind a creditor to such composition without his consent.

“SEC. 84. ELIGIBILITY FOR RELIEF.—Any State's political subdivision or public agency or instrumentality, which is generally authorized to file a petition under this chapter by the legislature, or by a governmental officer or organization empowered by State law to authorize the filing of a petition, is eligible for relief under this chapter if it is insolvent or unable to meet its debts as they mature, and desires to effect a plan to adjust its debts. An entity is not eligible for relief under this chapter unless—

11 USC 404.

Conditions.

“(1) it has successfully negotiated a plan of adjustment of its debts with creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan;

“(2) it has negotiated in good faith with its creditors and has failed to obtain, with respect to a plan of adjustment of its debts, the agreement of creditors holding at least a majority in amount of the claims of each class which are claims affected by that plan;

“(3) such negotiation is impracticable; or

“(4) it has a reasonable fear that a creditor may attempt to obtain a preference.

“SEC. 85. PETITION AND PROCEEDINGS RELATING TO PETITION.—

11 USC 405.

“(a) PETITION.—An entity eligible under section 84 may file a petition for relief under this chapter. In the case of an unincorporated tax or special assessment district having no officials of its own, the petition may be filed by its governing authority or the board or body having authority to levy taxes or assessments to meet the obligations of the district. Any party in interest may file an answer to the petition with the court, not later than 15 days after the publication of notice required by subsection (d) is completed, objecting to the filing of the petition. Upon the filing of such an answer, the court may dismiss the petition after hearing on notice if the petitioner did not file the petition in good faith, or if the petition does not meet the requirements of this chapter. The court shall not, on account of an appeal from a finding of jurisdiction, delay any proceeding under this chapter in the case in which the appeal is being taken; nor shall any court order a stay of such proceeding pending such appeal. The reversal on appeal of a finding of jurisdiction shall not affect the validity of any certificate of indebtedness authorized by the court and issued in such case.

Notice,
publication.Notice and
hearing.

“(b) LIST.—The petitioner shall file with the court a list of the petitioner's creditors, insofar as practicable. The list shall include for each known creditor, to the extent practicable, the name of the creditor, the address of the creditor so far as known to the petitioner, and a description of any claim of the creditor, showing the amount and character of the claim, the nature of any security for the claim, and whether the claim is disputed, contingent or unliquidated as to amount. If an identification of any of the petitioner's creditors is impracticable, the petitioner shall state the reason such identification is impracticable and the character of the claims of the creditors involved. The petitioner shall supplement the list as creditors who were unknown or unidentified at the time the list was filed become known or identified to the petitioner. If the list is not filed with the petition, the petitioner shall file the list at such later time as the court, upon its own motion or upon application of the petitioner, sets.

“(c) **VENUE AND FEES.**—The petition and any accompanying papers, together with a filing fee of \$100, shall be filed with a court in a district in which the petitioner is located.

Publication in
newspapers.

“(d) **NOTICE.**—The petitioner or such other person as the court designates shall give notice of the filing or dismissal of the petition to the State in which the petitioner is located, to the Securities and Exchange Commission, and to creditors included in the list of creditors required by subsection (b) or in any supplement to that list. The notice shall also state that a creditor who files with the court a request, setting forth that creditor's name and address and the nature and amount of that creditor's claim, shall be given notice of any other matter in which that creditor has a direct and substantial interest. The notice required by the first sentence of this subsection shall be published at least once a week for three successive weeks in at least one newspaper of general circulation published within the jurisdiction of the court, and in such other papers having a general circulation among bond dealers and bondholders as may be designated by the court. The court may require that it be published in such other publication as the court deems proper. The court shall require that a copy of the notice required by the first sentence of this subsection be mailed, postage prepaid, to each creditor named in the list required by subsection (b) at the address of such creditor given in the list, or, if no address is given in the list for a creditor and the address of such creditor cannot with reasonable diligence be ascertained, then a copy of the notice may, if the court so determines, be mailed, postage prepaid, to such creditor addressed as the court may prescribe. All expense of giving notice required by this subsection shall be paid by the petitioner, unless the court for good cause determines that the cost of notice in a particular instance should be borne by another party. The notice shall be first published as soon as practicable after the filing of the petition, and the mailing of copies of the notice shall be completed as soon as practicable after the filing of the list required by subsection (b).

“(e) **STAY OF ENFORCEMENT OF CLAIMS AGAINST PETITIONER.**—

“(1) **EFFECT OF FILING A PETITION.**—A petition filed under this chapter shall operate as a stay of the commencement or the continuation of any judicial or other proceeding against the petitioner, its property, or an officer or inhabitant of the petitioner, which seeks to enforce any claim against the petitioner, or of an act or the commencement or continuation of a judicial or other proceeding which seeks to enforce a lien upon the property of the petitioner or a lien on or arising out of taxes or assessments due the petitioner, and shall operate as a stay of the enforcement of any set-off or counterclaim relating to a contract, debt, or obligation of the petitioner.

“(2) **DURATION OF AUTOMATIC STAY.**—Except as it may be terminated, annulled, modified, or conditioned by the court under the terms of this subsection, the stay provided for in this subsection shall continue until the case is closed or dismissed, or the property subject to the lien is, with the approval of the court, abandoned or transferred.

Hearing.

“(3) **RELIEF FROM AUTOMATIC STAY.**—Upon the filing of a complaint seeking relief from a stay provided for by this section, the court shall set a hearing for the earliest possible date. The court may, for cause shown, terminate, annul, modify, or condition such stay.

“(4) OTHER STAYS.—The commencement or continuation of any other act or proceeding may be stayed, restrained, or enjoined by the court, upon notice to each person against whom such order would apply, and for cause shown. The court may issue an order under this paragraph without requiring the petitioner to give security as a condition to that order.

“(f) UNENFORCEABILITY OF CERTAIN CONTRACTUAL PROVISIONS.—A provision in a contract or lease, or in any law applicable to such a contract or lease, which terminates or modifies, or permits a party other than the petitioner to terminate or modify, the contract or lease because of the insolvency of the petitioner or the commencement of a case under this chapter is not enforceable if any defaults in prior performance of the petitioner are cured and adequate assurance of future performance is provided.

“(g) RECOVERY OF SET-OFF.—Any set-off which relates to a contract, debt, or obligation of the petitioner and which set-off was effected within four months prior to the filing of the petition, is voidable and recoverable by the petitioner after hearing on notice. The court may require as a condition to recovery that the petitioner furnish adequate protection for the realization by the person against whom or which recovery is sought of the claim which arises by reason of the recovery.

“(h) AVOIDING POWERS.—Sections 60a, 60c, 67a, 67d, 70c, 70e(1), and 70e(2), and the first three sentences of section 60b shall apply in cases under this chapter as though the petitioner were the bankrupt, debtor, or trustee. If the petitioner refuses to pursue a cause of action under a section or sentence made applicable to this chapter by this subsection, the court may, upon the application of any creditor, appoint a trustee to pursue such cause of action.

11 USC 96, 107,
111.

“SEC. 86. REPRESENTATION OF CREDITORS.—

11 USC 406.

“(a) REPRESENTATION AND DISCLOSURE.—Any creditor may act in that creditor's own behalf or by an attorney or a duly authorized agent or committee. Every person, not including governmental entities, representing more than one creditor shall file with the court a list of the creditors represented by such person, giving the name and address of each such creditor, together with a statement of the amount, class, and character of the claim held by that creditor, and shall attach to the list a copy of the instrument signed by the holder of such claim showing such person's authority, and shall file with the list a copy of the contract or agreement entered into between such person and the creditors represented by that person. Such person shall disclose all compensation incident to the case, received or to be received, directly or indirectly, by that person. That compensation shall be subject to modification and approval by the court.

“(b) MULTIPLE COMPENSATION.—The court shall examine all of the contracts, proposals, acceptances, deposit agreements, and all other papers relating to the plan, specifically for the purpose of ascertaining if any person, not including governmental entities, promoting the plan, or doing anything of such a nature, has been or is to be compensated, directly or indirectly, by both the petitioner and any of its creditors, and shall take evidence under oath to determine whether any such compensation has occurred or is to occur. After such examination the court shall make an adjudication of this issue, and if it be found that any such compensation has occurred or is to occur, the court shall dismiss the petition and tax all of the costs against the person promoting the plan or doing anything of such a nature and receiving such

multiple compensation, or against the petitioner, unless such plan is modified, within the time to be allowed by the court, so as to eliminate the possibility of such compensation, in which event the court may proceed to further consideration of the confirmation of the plan.

11 USC 407.

"SEC. 87. REFERENCE, EXPENSES, AND JOINT ADMINISTRATION.—

"(a) REFERENCE.—The court may refer any special issue of fact to a referee in bankruptcy for consideration, the taking of testimony, and a report upon such special issue of fact, if the court finds that the condition of its docket is such that it cannot take such testimony without unduly delaying the dispatch of other business pending in the court, and if it appears that such special issue is necessary to the determination of the case. A reference to a referee in bankruptcy shall be the exception and not the rule. The court shall not make a general reference of the case, but may only request findings of specific facts.

"(b) EXPENSES.—The court may allow reasonable compensation for the actual and necessary expenses incurred in connection with the case, including compensation for services rendered and expenses incurred in obtaining the deposit of securities and the preparation of the plan, whether such work has been done by the petitioner or by a representative of creditors, and may allow reasonable compensation for an attorney or agent of any of them. No fee, compensation, reimbursement, or other allowances for an attorney, agent, or representative of creditors shall be assessed against the petitioner or paid from any revenues, property, or funds of the petitioner except in the manner and in such sums, if any, as may be provided for in the plan. An appeal may be taken from any order allowing compensation to the United States court of appeals for the circuit in which the case under this chapter is pending, independently of any other appeal which may be taken in the case. The court of appeals shall hear and determine such appeal summarily.

"(c) JOINT ADMINISTRATION.—If two or more petitions by related entities are pending in the same court, the court may order joint administration of the cases.

11 USC 408.

"SEC. 88. CLAIMS.—

"(a) ALLOWANCE OF CLAIMS.—In the absence of an objection by a party in interest, or of a filing of a proof of claim, the claim of a creditor that is not disputed, contingent, or unliquidated as to amount, and that appears in the list or in a supplement to the list filed by the petitioner under section 85(b) shall be deemed allowed. The court may set a date by which proofs of other claims shall be filed. If the court does not set a date, such proofs of other claims shall be filed before the entry of an order confirming the plan. Within thirty days after the filing by the petitioner of the list or any supplement to the list under section 85(b), the court shall give written notice to each person whose claim is listed as disputed, contingent, or unliquidated as to amount, informing each such person that a proof of claim must be filed with the court within the time fixed under this subsection. If there is no objection to such claim, the claim shall be deemed allowed. If there is an objection, the court shall hear and determine the objection.

Written notice.

"(b) CLASSIFICATION OF CREDITORS.—The court shall designate classes of creditors whose claims are of substantially similar character and the members of which enjoy substantially similar rights, consistent with the provisions of section 89, except that the court may create a separate class of creditors having unsecured claims of less than \$250 for reasons of administrative convenience. If there is a controversy over the classification of a creditor, the court shall, after hearing on notice, summarily determine such controversy.

Hearing and notice.

“(c) **DAMAGES UPON REJECTION OF EXECUTORY CONTRACTS.**—If an executory contract or an unexpired lease is rejected under the plan or under section 82(b), any person injured by such rejection may assert a claim against the petitioner. The rejection of an executory contract or unexpired lease constitutes a breach of the contract or lease as of the date of the commencement of the case under this chapter. The claim of a landlord for injury resulting from the rejection of an unexpired lease of real estate or for damages or indemnity under a covenant contained in such lease shall be allowed, but shall be limited to an amount not to exceed the rent, without acceleration, reserved by such lease for the year next succeeding the date of the surrender of the premises to the landlord or the date of reentry of the landlord, whichever first occurs, whether before or after the filing of the petition, plus unpaid accrued rent, without acceleration, up to the date of such surrender or reentry. The court shall scrutinize the circumstances of an assignment of a future rent claim and the amount of the consideration paid for such assignment in determining the amount of damages allowed the assignee of that claim.

“**SEC. 89. PRIORITIES.**—The following shall be paid in full in advance of any distribution to creditors under the plan, in the following order: 11 USC 409.

“(1) The costs and expenses of administration which are incurred subsequent to the filing of a petition under this chapter.

“(2) Debts owed for services or materials actually provided within three months before the date of the filing of the petition under this chapter.

“(3) Debts owing to any person, which by the laws of the United States (other than this Act) are entitled to priority.

“**SEC. 90. FILING AND TRANSMISSION OF PLAN AND MODIFICATIONS.**— 11 USC 410.

“(a) **FILING.**—The petitioner shall file a plan for the adjustment of the petitioner's debts. If such plan is not filed with the petition, the petitioner shall file the plan at such later time as the court, upon its own motion or upon application of the petitioner, sets. At any time prior to the confirmation of a plan, the petitioner, or any creditor, if the petitioner has consented in writing to the modification to be filed by the creditor, may file a modification of the plan; but the modification shall comply with the provisions of this chapter.

“(b) **TRANSMISSION OF PLAN AND MODIFICATIONS.**—As soon as practicable after the plan or any modification of the plan has been filed, the court shall set a time, which shall be ninety days from the filing of the plan or any modification of the plan, unless the court, for good cause, sets some other time, within which creditors may accept or reject the plan and any modification of the plan. The petitioner or such other person as the court designates shall transmit by mail a copy of such plan or modification, or a summary and any analysis of such plan or modification, a notice of the time within which the plan or modification may be accepted or rejected, and a notice of the right to receive a copy, if it has not been sent, of such plan or modification, to each creditor whose claim is affected by the plan, to each special tax payer affected by the plan, and to any party in interest that the court designates. Upon request by a recipient of such summary and notice, the petitioner or such other person as the court designates shall transmit by mail a copy of the plan or modification to that recipient. The court shall, after hearing on notice, determine any controversy as to whether a claim of a creditor or class of creditors is a claim affected by the plan and as to whether a special tax payer is a special tax payer affected by the plan.

Notice and
hearing.

11 USC 411.

"SEC. 91. PROVISIONS OF PLAN.—A petitioner's plan may include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through issuance of new securities of any character, or otherwise, and may contain such other provisions and agreements not inconsistent with this chapter as the parties may desire, including provisions for the rejection of any executory contract or unexpired lease.

11 USC 412.

"SEC. 92. ACCEPTANCE.—

"(a) WHO MAY ACCEPT OR REJECT.—Unless a claim of a creditor who is included in the list or in a supplement to the list filed under section 85(b) or who files a proof of claim and whose claim is not then disputed, contingent, or unliquidated as to amount, or of a security holder of record as of the date of the transmittal of information under section 90(b), has been disallowed or is not a claim affected by the plan, that creditor or security holder may accept or reject the plan and any modification of the plan within the time set by the court. Notwithstanding an objection to a claim, the court may temporarily allow such claim in such amount as the court deems proper for the purpose of acceptance or rejection under this section.

"(b) GENERAL RULE.—Except as provided in subsection (d), the plan may be confirmed only if it has been accepted in writing by or on behalf of creditors holding at least two-thirds in amount of the claims of each class allowed under section 88 and more than 50 percent in number of the claims of each class allowed under section 88.

"(c) COMPUTING ACCEPTANCE.—The two-thirds majority required by subsection (b) is two-thirds in amount of the claims allowed under section 88 of creditors who file an acceptance or rejection within the time fixed by the court, but not including claims held or controlled by the petitioner, or claims of creditors specified in subsection (d). The more than 50 percent required by subsection (b) is more than 50 percent in number of the claims allowed under section 88 of creditors who file an acceptance or rejection within the time fixed by the court, but not including claims held or controlled by the petitioner, or claims of creditors specified in subsection (d).

"(d) EXCEPTION.—It is not requisite to the confirmation of the plan that there be such acceptance by any creditor or class of creditors—

"(1) whose claims are not affected by the plan;

"(2) if the plan makes provision for the payment of their claims in cash in full; or

"(3) if provision is made in the plan for the protection of the interests, claims, or lien of such creditor or class of creditors.

"(e) ACCEPTANCE OF MODIFICATION.—If the court finds that a proposed modification does not materially and adversely affect the interest of a creditor, the modification shall be deemed accepted by that creditor if that creditor has previously accepted the plan. If the court determines that a modification does materially and adversely affect the interest of a creditor, that creditor shall be given notice of the proposed modification and the time allowed for its acceptance or rejection. The number of acceptances of the plan as modified required by subsection (b) shall be obtained. The plan as modified shall be deemed to have been accepted by any creditor who accepted the plan and who fails to file a written rejection of the modification with the court within such reasonable time as shall be allowed in the notice to that creditor of the proposed modification.

Notice.

11 USC 413.

"SEC. 93. OBJECTION TO PLAN.—A creditor who holds a claim affected by the plan or a special tax payer affected by the plan may file with the court an objection to the confirmation of the plan. The Securities

and Exchange Commission may also file with the court an objection to the confirmation of the plan, but in the case of an objection filed under this section, the Securities and Exchange Commission may not appeal or file any petition for appeal. An objection to the confirmation of the plan may be filed with the court any time prior to ten days before the hearing on the confirmation of the plan, or within such other times set by the court.

"SEC 94. CONFIRMATION.—

11 USC 414.

"(a) HEARING ON CONFIRMATION.—Within a reasonable time after the expiration of the time set by the court within which the plan and any modifications of the plan may be accepted or rejected, the court shall hold a hearing on the confirmation of the plan and any modifications of the plan. The court shall give notice of the hearing and of the time allowed for filing objections to all parties entitled to object under section 93. The court may, for cause shown, permit a labor union or employees' association, that represents employees of the petitioner, to be heard on the economic soundness of the plan affecting the interests of the represented employees.

Notice.

"(b) CONDITIONS FOR CONFIRMATION.—The court shall confirm the plan if—

"(1) the plan is fair and equitable and feasible and does not discriminate unfairly in favor of any creditor or class of creditors;

"(2) the plan complies with the provisions of this chapter;

"(3) the plan has been accepted as required by section 92;

"(4) all amounts to be paid by the petitioner or by any person, not including other governmental entities, for services and expenses in the case or incident to the plan have been fully disclosed and are reasonable;

"(5) the offer of the plan and its acceptance are in good faith; and

"(6) the petitioner is not prohibited by law from taking any action necessary to be taken by it to carry out the plan.

"SEC. 95. EFFECT OF CONFIRMATION.—

11 USC 415.

"(a) PROVISIONS OF PLAN BINDING.—The provisions of a confirmed plan shall be binding on the petitioner and on any creditor who had timely notice or actual knowledge of the petition or plan, whether or not such creditor's claim has been allowed under section 88, and whether or not such creditor has accepted the plan.

"(b) DISCHARGE.—

"(1) The petitioner is discharged from all claims against it provided for in the plan except as provided in paragraph (2) of this subsection as of the time when—

"(A) the plan has been confirmed;

"(B) the petitioner has deposited the money, securities, or other consideration to be distributed under the plan with a disbursing agent appointed by the court; and

"(C) the court has determined—

"(i) that any security so deposited will constitute upon distribution a valid legal obligation of the petitioner; and

"(ii) that any provision made to pay or secure payment of such obligation is valid.

"(2) The petitioner is not discharged under paragraph (1) of this subsection from any claim—

"(A) excepted from discharge by the plan or order confirming the plan; or

"(B) whose holder, prior to confirmation, had neither timely notice nor actual knowledge of neither the petition nor the plan.

11 USC 416.

"SEC. 96. POSTCONFIRMATION MATTERS.—

"(a) TIME ALLOWED FOR DEPOSIT UNDER THE PLAN.—Prior to or promptly after confirmation of the plan, the court shall fix a time within which the petitioner shall deposit with the disbursing agent appointed by the court any consideration to be distributed under the plan.

"(b) DUTIES OF PETITIONER.—The petitioner shall comply with the plan and the orders of the court relative to the plan, and shall take all actions necessary to carry out the plan. The court may direct the petitioner and other necessary parties to execute and deliver or to join in the execution and delivery of any instrument required to effect a transfer of property under the plan and to perform such other acts including the satisfaction of a lien, as the court determines to be necessary for the consummation of the plan.

"(c) DISTRIBUTION.—Distribution shall be made in accordance with the provisions of the plan to creditors whose claims have been allowed under section 88. Distribution may be made at the date the order confirming the plan becomes final to holders of securities of record whose claims have not been disallowed.

"(d) COMPLIANCE DATE.—When a plan requires presentment or surrender of securities or the performance of any other action as a condition to participation under the plan, such action shall be taken not later than five years after the entry of the order of confirmation. A person who has not within such time presented or surrendered that person's securities or taken such other action required by the plan shall not participate in any distribution under the plan, and the consideration deposited with the disbursing agent for distribution to such person shall become the property of the petitioner.

"(e) CONTINUING JURISDICTION.—The court may retain jurisdiction over the case for such period of time as the court determines is necessary for the successful execution of the plan.

"(f) ORDER OR DECREE AS EVIDENCE AND NOTICE.—A certified copy of any order or decree entered by the court in a case under this chapter shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order was made. A certified copy of an order providing for the transfer of any property dealt with by the plan shall be evidence of the transfer of title accordingly, and, if recorded as conveyances are recorded, shall impart the same notice that a deed, if recorded, would impart.

11 USC 417.

"SEC. 97. EFFECT OF EXCHANGE OF DEBT SECURITIES BEFORE DATE OF THE PETITION.—The exchange of new debt securities under the plan for claims covered by the plan, whether the exchange occurred before or after the date of the petition, does not limit or impair the effectiveness of the plan or of any provision of this chapter. The written consents of the holders of any securities outstanding as the result of any such exchange under the plan shall be included as acceptances of such plan in computing the acceptance required under section 92.

“SEC. 98. DISMISSAL.—

11 USC 418.

“(a) PERMISSIVE DISMISSAL.—The court may dismiss the case after hearing on notice—

- “(1) for want of prosecution;
- “(2) if no plan is proposed within the time fixed or extended by the court;
- “(3) if no proposed plan is accepted within the time fixed or extended by the court; or
- “(4) where the court has retained jurisdiction after confirmation of a plan—

- “(A) if the petitioner defaults in any of the terms of the plan; or

- “(B) if a plan terminates by reason of the happening of a condition specified therein.

“(b) MANDATORY DISMISSAL.—The court shall dismiss the case if confirmation is refused.”.

SEC. 2. SEPARABILITY.—If any provision of this chapter or the application thereof to any agency, instrumentality, or subdivision is held invalid, the remainder of the chapter, or the application of such provision to any other agency or instrumentality or political subdivision shall not be affected by such holding.

11 USC 401 note.

SEC. 3. If the amendment made by this Act is judicially finally determined to be unconstitutional then chapter IX of the Bankruptcy Act, as such chapter IX existed on the day before the date of enactment of this Act, is revived and shall have full force and effect with respect to cases filed after such determination.

11 USC 401 note.

11 USC 401

et seq.

Approved April 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-686 (Comm. on the Judiciary) and No. 94-938 (Comm. of Conference).

SENATE REPORT No. 94-458 accompanying S. 2597 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 9, S. 2597 considered in Senate; considered and passed House.

Dec. 10, considered and passed Senate, amended, in lieu of S. 2597.

Vol. 122 (1976): Mar. 25, House receded and concurred in Senate amendments with amendments; Senate agreed to conference report, concurred in House amendments.

Public Law 94-261
94th Congress

An Act

Apr. 11, 1976
[S. 3060]

To amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes.

National Study
Commission on
Records and
Documents of
Federal Officials.
Extension.
44 USC 3318.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 33 of title 44, United States Code, is amended as follows:

(a) Section 3318 of chapter 33 is amended—

(1) by deleting subsection (a) (1) (E) in its entirety and substituting in lieu thereof the following:

“(E) one member of the Federal judiciary appointed by the Chief Justice of the United States.”; and

(2) by deleting “section 5703(b) of title 5, United States Code” from subsection (e) (2), and substituting in lieu thereof “section 5703 of title 5, United States Code”.

44 USC 3322.

(b) Section 3322 of chapter 33 is amended by deleting “March 31, 1976” and substituting in lieu thereof “March 31, 1977”.

Approved April 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-974 accompanying H.R. 11286 (Comm. on House Administration).

SENATE REPORT No. 94-713 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 00 (1976):

Mar. 30, considered and passed Senate.

Mar. 31, considered and passed House, in lieu of H.R. 11286.

Public Law 94-262
94th Congress

An Act

To convey certain federally owned land to the Twentynine Palms Park and Recreation District.

Apr. 11, 1976
[H.R. 1466]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in and to the following described land are hereby conveyed to the Twentynine Palms Park and Recreation District subject to the provisions of section 2.

Twentynine
Palms Park and
Recreation
District, Calif.
Land conveyance.

Commencing at a point on the west line of section 33, township 1 north, range 9 east, San Bernardino base and meridian, California, 139.5 feet north of the southwest corner of the northwest quarter of said section, thence north along west line of said section 208.71 feet, thence east parallel with the south line of said section 208.71 feet, thence south parallel with the west line of said section 208.71 feet; thence west parallel with the south line of said section 208.71 feet to the point of beginning, containing one acre, more or less.

SEC. 2. The land conveyed by this Act shall be used only as an Indian cemetery and historical museum site for the interest of the general public, and title to the land shall revert to the United States Government if the land is used for other purposes.

Indian cemetery
and museum.

Approved April 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. No. 94-477 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-729 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 6, considered and passed House.

Vol. 122 (1976): Apr. 1, considered and passed Senate.

Public Law 94-263
94th Congress

Joint Resolution

Apr. 13, 1976

[H.J. Res. 670]

To designate April 13, 1976, as "Thomas Jefferson Day".

Thomas Jefferson
Day.
Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 13, 1976, the birthday of Thomas Jefferson, is designated as "Thomas Jefferson Day", and the President is authorized and requested to issue a proclamation calling for the observance of such day with appropriate ceremonies and activities.

Approved April 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-979 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 5, considered and passed House and Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 16:

Apr. 13, Presidential statement.

Public Law 94-264
94th Congress

An Act

To name the building known as the Library of Congress Annex to be the Library of Congress Thomas Jefferson Building.

Apr. 13, 1976
[S. 2920]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in the block bounded by East Capitol Street, Second Street Southeast, Third Street Southeast, and Pennsylvania Avenue Southeast, in the District of Columbia (commonly known as the Library of Congress Annex), shall hereafter be known and designated as the "Library of Congress Thomas Jefferson Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Library of Congress Thomas Jefferson Building.

Library of
Congress Thomas
Jefferson
Building.
Designation.
2 USC 141 note.

Approved April 13, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-719 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 31, considered and passed Senate.

Apr. 12, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 16:

Apr. 13, Presidential statement.

Public Law 94-265
94th Congress

An Act

To provide for the conservation and management of the fisheries, and for other purposes.

Apr. 13, 1976
[H.R. 200]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Fishery Conservation and Management Act of 1976".

Fishery
Conservation and
Management Act
of 1976.
16 USC 1801
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SEC. 2. FINDINGS, PURPOSES AND POLICY

- (a) FINDINGS.—The Congress finds and declares the following: 16 USC 1801.
(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources.

These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by United States fishermen, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(b) PURPOSES.—It is therefore declared to be the purposes of the Congress in this Act—

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (A) a fishery conservation zone within which the United States will assume exclusive fishery management authority over all fish, except highly migratory species, and (B) exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans

which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

(5) to establish Regional Fishery Management Councils to prepare, monitor, and revise such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States; and

(6) to encourage the development of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska.

(c) **POLICY.**—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; promotes efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act; and

(5) to support and encourage continued active United States efforts to obtain an internationally acceptable treaty, at the Third United Nations Conference on the Law of the Sea, which provides for effective conservation and management of fishery resources.

SEC. 3. DEFINITIONS.

As used in this Act, unless the context otherwise requires—

16 USC 1802.

(1) The term “anadromous species” means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term “conservation and management” refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(3) The term “Continental Shelf” means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the super-

jacent waters admits of the exploitation of the natural resources of such areas.

(4) The term "Continental Shelf fishery resources" means the following:

COLEENTERATA

Bamboo Coral—*Acanella* spp.;
Black Coral—*Antipathes* spp.;
Gold Coral—*Callogorgia* spp.;
Precious Red Coral—*Corallium* spp.;
Bamboo Coral—*Keratoisis* spp.; and
Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionoecetes tanneri*;
Tanner Crab—*Chionoecetes opilio*;
Tanner Crab—*Chionoecetes angulatus*;
Tanner Crab—*Chionoecetes bairdi*;
King Crab—*Paralithodes camtschatica*;
King Crab—*Paralithodes platypus*;
King Crab—*Paralithodes brevipes*;
Lobster—*Homarus americanus*;
Dungeness Crab—*Cancer magister*;
California King Crab—*Paralithodes californiensis*;
California King Crab—*Paralithodes rathbuni*;
Golden King Crab—*Lithodes aequispinus*;
Northern Stone Crab—*Lithodes maja*;
Stone Crab—*Menippe mercenaria*; and
Deep-sea Red Crab—*Geryon quinquedens*.

MOLLUSKS

Red Abalone—*Haliotis rufescens*;
Pink Abalone—*Haliotis corrugata*;
Japanese Abalone—*Haliotis kamtschatkana*;
Queen Conch—*Strombus gigas*;
Surf Clam—*Spisula solidissima*; and
Ocean Quahog—*Artica islandica*.

SPONGES

Glove Sponge—*Hippiospongia canaliculata*;
Sheepswool Sponge—*Hippiospongia lachne*;
Grass Sponge—*Spongia graminea*; and
Yellow Sponge—*Spongia barbera*.

Publication in
Federal Register.

If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil,

of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this Act.

(5) The term "Council" means any Regional Fishery Management Council established under section 302.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

(7) The term "fishery" means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(8) The term "fishery conservation zone" means the fishery conservation zone established by section 101.

(9) The term "fishery resource" means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(10) The term "fishing" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(11) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(12) The term "foreign fishing" means fishing by a vessel other than a vessel of the United States.

(13) The term "high seas" means all waters beyond the territorial sea of the United States and beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States.

(14) The term "highly migratory species" means species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean.

(15) The term "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.

(16) The term "Marine Fisheries Commission" means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific Marine Fisheries Commission.

(17) The term "national standards" means the national standards for fishery conservation and management set forth in section 301.

(18) The term "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor.

(19) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(20) The term "Secretary" means the Secretary of Commerce or his designee.

(21) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(22) The term "stock of fish" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

USC prec. title 1.

(23) The term "treaty" means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.

(24) The term "United States", when used in a geographical context, means all the States thereof.

(25) The term "vessel of the United States" means any vessel documented under the laws of the United States or registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

SEC. 101. FISHERY CONSERVATION ZONE.

16 USC 1811.

There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. The inner boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

SEC. 102. EXCLUSIVE FISHERY MANAGEMENT AUTHORITY

16 USC 1812.

The United States shall exercise exclusive fishery management authority, in the manner provided for in this Act, over the following:

(1) All fish within the fishery conservation zone.

(2) All anadromous species throughout the migratory range of each such species beyond the fishery conservation zone; except that such management authority shall not extend to such species during the time they are found within any foreign nation's territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.

(3) All Continental Shelf fishery resources beyond the fishery conservation zone.

SEC. 103. HIGHLY MIGRATORY SPECIES.

16 USC 1813.

The exclusive fishery management authority of the United States shall not include, nor shall it be construed to extend to, highly migratory species of fish.

SEC. 104. EFFECTIVE DATE.

16 USC 1811
note.

This title shall take effect March 1, 1977.

TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

SEC. 201. FOREIGN FISHING.

(a) **IN GENERAL.**—After February 28, 1977, no foreign fishing is authorized within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond the fishery conservation zone, unless such foreign fishing—

- (1) is authorized under subsection (b) or (c);
- (2) is not prohibited by subsection (f); and
- (3) is conducted under, and in accordance with, a valid and applicable permit issued pursuant to section 204.

(b) **EXISTING INTERNATIONAL FISHERY AGREEMENTS.**—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (subject to the provisions of section 202(b) or (c)), if such agreement—

- (1) was in effect on the date of enactment of this Act; and
- (2) has not expired, been renegotiated, or otherwise ceased to be of force and effect with respect to the United States.

(c) **GOVERNING INTERNATIONAL FISHERY AGREEMENTS.**—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 203. Any such international fishery agreement shall hereafter in this Act be referred to as a “governing international fishery agreement”. Each governing international fishery agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this Act. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishing vessels, to comply with the following terms and conditions:

Terms and conditions.

(1) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by all regulations promulgated by the Secretary pursuant to this Act, including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan.

(2) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by the requirement that—

(A) any officer authorized to enforce the provisions of this Act (as provided for in section 311) be permitted—

Post, p. 358.

(i) to board, and search or inspect, any such vessel at any time,

(ii) to make arrests and seizures provided for in section 311(b) whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by section 307, and

Post, p. 355.

(iii) to examine and make notations on the permit issued pursuant to section 204 for such vessel;

(B) the permit issued for any such vessel pursuant to section 204 be prominently displayed in the wheelhouse of such vessel;

(C) transponders, or such other appropriate position-fixing and identification equipment as the Secretary of the department in which the Coast Guard is operating determines

to be appropriate, be installed and maintained in working order on each such vessel;

(D) duly authorized United States observers be permitted on board any such vessel and that the United States be reimbursed for the cost of such observers;

(E) any fees required under section 204(b)(10) be paid in advance;

(F) agents be appointed and maintained within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such owner or operator; and

(G) responsibility be assumed, in accordance with any requirements prescribed by the Secretary, for the reimbursement of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear, or catch which is caused by any fishing vessel of that nation;

and will abide by any other monitoring, compliance, or enforcement requirement related to fishery conservation and management which is included in such agreement.

(3) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, exceed such nation's allocation of the total allowable level of foreign fishing, as determined under subsection (e).

(4) The foreign nation will—

(A) apply, pursuant to section 204, for any required permits;

(B) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel; and

(C) abide by, and take appropriate steps under its own laws to assure that all such owners and operators comply with, section 204(a) and the applicable conditions and restrictions established under section 204(b)(7).

(d) **TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with the provisions of this Act.

(e) **ALLOCATION OF ALLOWABLE LEVEL.**—The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to any fishery subject to the exclusive fishery management authority of the United States. In making any such determination, the Secretary of State and the Secretary shall consider—

(1) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

(2) whether such nations have cooperated with the United States in, and made substantial contributions to, fishery research and the identification of fishery resources;

(3) whether such nations have cooperated with the United States in enforcement and with respect to the conservation and management of fishery resources; and

(4) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

(f) **RECIPROCITY.**—Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the

Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(g) **PRELIMINARY FISHERY MANAGEMENT PLANS.**—The Secretary, when notified by the Secretary of State that any foreign nation has submitted an application under section 204(b), shall prepare a preliminary fishery management plan for any fishery covered by such application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to title III, before March 1, 1977. To the extent practicable, each such plan— *Post, p. 346.*

(1) shall contain a preliminary description of the fishery and a preliminary determination as to the optimum yield from such fishery and the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 303(a)(5); and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation and management measures applicable to foreign fishing which—

(A) are determined to be necessary and appropriate for the conservation and management of such fishery,

(B) are consistent with the national standards, the other provisions of this Act, and other applicable law, and

(C) are described in section 303(b)(2), (3), (4), (5), and (7).

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to title III, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, United States Code, also prepare and promulgate interim regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan are promulgated pursuant to section 305. *Regulations.*

SEC. 202. INTERNATIONAL FISHERY AGREEMENTS.

(a) **NEGOTIATIONS.**—The Secretary of State— *16 USC 1822.*

(1) shall renegotiate treaties as provided for in subsection (b);

(2) shall negotiate governing international fishery agreements described in section 201(c);

(3) may negotiate boundary agreements as provided for in subsection (d);

(4) shall, upon the request of and in cooperation with the Secretary, initiate and conduct negotiations for the purpose of entering into international fishery agreements—

(A) which allow fishing vessels of the United States equitable access to fish over which foreign nations assert exclusive fishery management authority, and

(B) which provide for the conservation and management of anadromous species and highly migratory species; and

(5) may enter into such other negotiations, not prohibited by subsection (c), as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

(b) **TREATY RENEGOTIATION.**—The Secretary of State, in cooperation with the Secretary, shall initiate, promptly after the date of enactment of this Act, the renegotiation of any treaty which pertains to fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area, and which is in any manner inconsistent with the purposes, policy, or provisions of this Act, in order to conform such treaty to such purposes, policy, and provisions. It is the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after such date of enactment.

(c) **INTERNATIONAL FISHERY AGREEMENTS.**—No international fishery agreement (other than a treaty) which pertains to foreign fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area—

(1) which is in effect on June 1, 1976, may thereafter be renewed, extended, or amended; or

(2) may be entered into after May 31, 1976;

by the United States unless it is in accordance with the provisions of section 201(c).

(d) **BOUNDARY NEGOTIATIONS.**—The Secretary of State, in cooperation with the Secretary, may initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(e) **NONRECOGNITION.**—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent) beyond such nation's territorial sea, to the extent that such sea is recognized by the United States, if such nation—

(1) fails to consider and take into account traditional fishing activity of fishing vessels of the United States;

(2) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement; or

(3) imposes on fishing vessels of the United States any conditions or restrictions which are unrelated to fishery conservation and management.

SEC. 203. CONGRESSIONAL OVERSIGHT OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS.

(a) **IN GENERAL.**—No governing international fishery agreement shall become effective with respect to the United States before the close of the first 60 calendar days of continuous session of the Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

Transmittal to
Congress.
16 USC 1823.

(b) REFERRAL TO COMMITTEES.—Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce and Foreign Relations.

(c) COMPUTATION OF 60-DAY PERIOD.—For purposes of subsection (a)—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(d) CONGRESSIONAL PROCEDURES.—

(1) RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.—The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) DEFINITION.—For purposes of this subsection, the term “fishery agreement resolution” refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) PLACEMENT ON CALENDAR.—Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) FLOOR CONSIDERATION IN THE HOUSE.—

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

Debate
limitation.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agreement resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) FLOOR CONSIDERATION IN THE SENATE.—

(A) A motion in the Senate to proceed to the consideration of any fishery agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

Debate
limitation.

(B) Debate in the Senate on any fishery agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with any fishery agreement resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either of them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the applicable fishery agreement resolution.

(D) A motion in the Senate to further limit debate is not debatable. A motion to recommit any fishery agreement resolution is not in order.

SEC. 204. PERMITS FOR FOREIGN FISHING.

16 USC 1824.

(a) IN GENERAL.—After February 28, 1977, no foreign fishing vessel shall engage in fishing within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.

(b) APPLICATIONS AND PERMITS UNDER GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—

(1) ELIGIBILITY.—Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

(2) FORMS.—The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.

(3) CONTENTS.—Any application made under this subsection shall specify—

(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;

(B) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;

(C) each fishery in which each such vessel wishes to fish;

(D) the amount of fish or tonnage of catch contemplated for each such vessel during the time such permit is in force; and

(E) the ocean area in which, and the season or period during which, such fishing will be conducted;

and shall include any other pertinent information and material which the Secretary may require.

(4) TRANSMITTAL FOR ACTION.—Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish such application in the Federal Register and shall promptly transmit—

Publication in
Federal Register.

(A) such application, together with his comments and recommendations thereon, to the Secretary;

(B) a copy of the application to each appropriate Council and to the Secretary of the department in which the Coast Guard is operating; and

(C) a copy of such material to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committees on Commerce and Foreign Relations of the Senate.

Transmittal to
congressional
committees.

(5) ACTION BY COUNCIL.—After receipt of an application transmitted under paragraph (4) (B), each appropriate Council shall prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

Written
comments.

(6) APPROVAL.—After receipt of any application transmitted under paragraph (4) (A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve the application, if he determines that the fishing described in the application will meet the requirements of this Act.

(7) ESTABLISHMENT OF CONDITIONS AND RESTRICTIONS.—The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and the regulations promulgated to implement any such plan.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.

(C) The requirements described in section 201(c) (1), (2), and (3).

(D) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

(8) NOTICE OF APPROVAL.—The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to—

(A) the Secretary of State for transmittal to the foreign nation involved;

(B) the Secretary of the department in which the Coast Guard is operating;

(C) any Council which has authority over any fishery specified in such application; and

(D) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committees on Commerce and Foreign Relations of the Senate.

Transmittal to
congressional
committees.

(9) DISAPPROVAL OF APPLICATIONS.—If the Secretary does not approve any application submitted by a foreign nation under this subsection, he shall promptly inform the Secretary of State of the disapproval and his reasons therefore. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.

(10) FEES.—Reasonable fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees, which shall apply nondiscriminatorily to each foreign nation. In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement.

(11) ISSUANCE OF PERMITS.—If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Secretary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.

(12) SANCTIONS.—If any foreign fishing vessel for which a permit has been issued pursuant to this subsection has been used in the commission of any act prohibited by section 307 the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue the Secretary shall—

(A) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

(B) suspend such permit for the period of time deemed appropriate; or

(C) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Any permit which is suspended under this paragraph for non-payment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

(c) **REGISTRATION PERMITS.**—The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section 201(b) and which wishes to engage in fishing described in subsection (a). Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this Act (as provided for in section 311). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms of such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

SEC. 205. IMPORT PROHIBITIONS.

(a) **DETERMINATIONS BY SECRETARY OF STATE.**—If the Secretary of State determines that— 16 USC 1825.

(1) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international fishery agreement allowing fishing vessels of the United States equitable access to fisheries over which that nation asserts exclusive fishery management authority, as recognized by the United States, in accordance with traditional fishing activities of such vessels, if any, and under terms not more restrictive than those established under sections 201 (c) and (d) and 204 (b) (7) and (10), because such nation has (A) refused to commence negotiations, or (B) failed to negotiate in good faith;

(2) any foreign nation is not allowing fishing vessels of the United States to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement, whether or not such nation is a party thereto;

(3) any foreign nation is not complying with its obligations under any existing international fishery agreement concerning fishing by fishing vessels of the United States in any fishery over which that nation asserts exclusive fishery management authority; or

(4) any fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, is seized by any foreign nation—

- (A) in violation of an applicable international fishery agreement;
 - (B) without authorization under an agreement between the United States and such nation; or
 - (C) as a consequence of a claim of jurisdiction which is not recognized by the United States;
- he shall certify such determination to the Secretary of the Treasury.
- (b) PROHIBITIONS.—Upon receipt of any certification from the Secretary of State under subsection (a), the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the United States—
- (1) of all fish and fish products from the fishery involved, if any; and
 - (2) upon recommendation of the Secretary of State, such other fish or fish products, from any fishery of the foreign nation concerned, which the Secretary of State finds to be appropriate to carry out the purposes of this section.
- (c) REMOVAL OF PROHIBITION.—If the Secretary of State finds that the reasons for the imposition of any import prohibition under this section no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove such import prohibition.
- (d) DEFINITIONS.—As used in this section—
- (1) The term “fish” includes any highly migratory species.
 - (2) The term “fish products” means any article which is produced from or composed of (in whole or in part) any fish.

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

SEC. 301. NATIONAL STANDARDS FOR FISHERY CONSERVATION AND MANAGEMENT.

16 USC 1851.

(a) IN GENERAL.—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(b) **GUIDELINES.**—The Secretary shall establish guidelines, based on the national standards, to assist in the development of fishery management plans.

SEC. 302. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) **ESTABLISHMENT.**—There shall be established, within 120 days after the date of the enactment of this Act, eight Regional Fishery Management Councils, as follows:

16 USC 1852.
Establishment.

(1) **NEW ENGLAND COUNCIL.**—The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The New England Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(2) **MID-ATLANTIC COUNCIL.**—The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The Mid-Atlantic Council shall have 19 voting members, including 12 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(3) **SOUTH ATLANTIC COUNCIL.**—The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States. The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(4) **CARIBBEAN COUNCIL.**—The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States. The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(5) **GULF COUNCIL.**—The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States. The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary pursuant to subsection (b) (1) (C) (at least one of whom shall be appointed from each such State).

(6) **PACIFIC COUNCIL.**—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 8 appointed by the

Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

(7) **NORTH PACIFIC COUNCIL.**—The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b)(1)(C) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(8) **WESTERN PACIFIC COUNCIL.**—The Western Pacific Fishery Management Council shall consist of the State of Hawaii, American Samoa, and Guam and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Western Pacific Council shall have 11 voting members, including 7 appointed by the Secretary pursuant to subsection (b)(1)(C) (at least one of whom shall be appointed from each such State).

Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(b) **VOTING MEMBERS.**—(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary shall be appointed by the Secretary from a list of qualified individuals submitted by the Governor of each applicable constituent State. With respect to the initial such appointments, such Governors shall submit such lists to the Secretary as soon as practicable, not later than 45 days after the date of the enactment of this Act. As used in this subparagraph, (i) the term “list of qualified individuals” shall include the names (including pertinent biographical data) of not less than three such individuals for each applicable vacancy, and (ii) the term “qualified individual” means an individual who is knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest, of the fishery resources of the geographical area concerned.

“List of qualified individuals.”
“Qualified individual.”

Term.

(2) Each voting member appointed to a Council pursuant to paragraph (1)(C) shall serve for a term of 3 years; except that, with respect to the members initially so appointed, the Secretary shall designate up to one-third thereof to serve for a term of 1 year, up to one-third thereof to serve for a term of 2 years, and the remaining such members to serve for a term of 3 years.

(3) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(c) **NONVOTING MEMBERS.**—(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.

(B) The commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The executive director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

(d) **COMPENSATION AND EXPENSES.**—The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-18 of the General Schedule when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c) (1) (C), and the nonvoting member appointed pursuant to subsection (c) (2) shall be reimbursed for actual expenses incurred in the performance of such duties.

5 USC 5332 note.

(e) **TRANSACTION OF BUSINESS.**—

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet in the geographical area concerned at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement.

(f) **STAFF AND ADMINISTRATION.**—

(1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay—

(A) the compensation and expenses provided for in subsection (d);

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established under subsection (g); and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

(g) COMMITTEES AND PANELS.—

(1) Each Council shall establish and maintain, and appoint the members of, a scientific and statistical committee to assist it in the development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

(2) Each Council shall establish such other advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.

(h) FUNCTIONS.—Each Council shall, in accordance with the provisions of this Act—

Fishery
management
plan.

(1) prepare and submit to the Secretary a fishery management plan with respect to each fishery within its geographical area of authority and, from time to time, such amendments to each such plan as are necessary;

Comments.

(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4)(B), and any fishery management plan or amendment transmitted to it under section 304(c)(2);

Public hearings.

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act;

Reports.

(4) submit to the Secretary—

(A) a report, before February 1 of each year, on the Council's activities during the immediately preceding calendar year,

(B) such periodic reports as the Council deems appropriate, and

(C) any other relevant report which may be requested by the Secretary;

Review.

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) with respect to the optimum yield from, and the total allowable level of foreign fishing in, each fishery within its geographical area of authority; and

(6) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS.

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall— 16 USC 1853.

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3), and

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and

(5) specify the pertinent data which shall be submitted to the Secretary with respect to the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, and number of hauls.

(b) **DISCRETIONARY PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary with respect to any fishing vessel of the United States fishing, or wishing to fish, in the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors), which are necessary and appropriate for the conservation and management of the fishery;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery, and

(F) any other relevant considerations; and

(7) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

(c) **PROPOSED REGULATIONS.**—Any Council may prepare any proposed regulations which it deems necessary and appropriate to carry out any fishery management plan, or any amendment to any fishery management plan, which is prepared by it. Such proposed regulations shall be submitted to the Secretary, together with such plan or amendment, for action by the Secretary pursuant to sections 304 and 305.

(d) **CONFIDENTIALITY OF STATISTICS.**—Any statistics submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) shall be confidential and shall not be disclosed except when required under court order. The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such statistics in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such statistics.

SEC. 304. ACTION BY THE SECRETARY.

16 USC 1854.

(a) **ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.**—Within 60 days after the Secretary receives any fishery management plan, or any amendment to any such plan, which is prepared by any Council, the Secretary shall—

(1) review such plan or amendment pursuant to subsection (b);

and

(2) notify such Council in writing of his approval, disapproval, or partial disapproval of such plan or amendment.

In the case of disapproval or partial disapproval, the Secretary shall include in such notification a statement and explanation of the Secretary's objections and the reasons therefor, suggestions for improvement, a request to such Council to change such plan or amendment to satisfy the objections, and a request to resubmit the plan or amendment, as so modified, to the Secretary within 45 days after the date on which the Council receives such notification.

(b) **REVIEW BY THE SECRETARY.**—The Secretary shall review any fishery management plan, and any amendment to any such plan, prepared by any Council and submitted to him to determine whether

it is consistent with the national standards, the other provisions of this Act, and any other applicable law. In carrying out such review, the Secretary shall consult with—

(1) the Secretary of State with respect to foreign fishing; and

(2) the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(c) **PREPARATION BY THE SECRETARY.**—(1) The Secretary may prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—

(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management; or

(B) the Secretary disapproves or partially disapproves any such plan or amendment, and the Council involved fails to change such plan or amendment in accordance with the notification made under subsection (a) (2).

In preparing any such plan or amendment, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(2) Whenever, pursuant to paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall promptly transmit such plan or amendment to the appropriate Council for consideration and comment. Within 45 days after the date of receipt of such plan or amendment, the appropriate Council may recommend, to the Secretary, changes in such plan or amendment, consistent with the national standards, the other provisions of this Act, and any other applicable law. After the expiration of such 45-day period, the Secretary may implement such plan or amendment pursuant to section 305.

(3) Notwithstanding paragraph (1), the Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by him, a provision establishing a limited access system described in section 303(b) (6), unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

(d) **ESTABLISHMENT OF FEES.**—The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b) (1). Such level shall not exceed the administrative costs incurred by the Secretary in issuing such permits.

Regulations.

(e) **FISHERIES RESEARCH.**—The Secretary shall initiate and maintain a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management, including, but not limited to, biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

(f) **MISCELLANEOUS DUTIES.**—(1) If any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or

(B) may require that the plan and amendment be prepared jointly by the Councils concerned.

No jointly prepared plan or amendment may be submitted to the Secretary unless it is approved by a majority of the voting members, present and voting, of each Council concerned.

(2) The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils.

SEC. 305. IMPLEMENTATION OF FISHERY MANAGEMENT PLANS.

(a) IN GENERAL.—As soon as practicable after the Secretary—

(1) approves, pursuant to section 304 (a) and (b), any fishery management plan or amendment; or

(2) prepares, pursuant to section 304(c), any fishery management plan or amendment;

the Secretary shall publish in the Federal Register (A) such plan or amendment, and (B) any regulations which he proposes to promulgate to implement such plan or amendment. Interested persons shall be afforded a period of not less than 45 days after such publication within which to submit in writing data, views, or comments on the plan or amendment, and on the proposed regulations.

(b) HEARING.—The Secretary may schedule a hearing, in accordance with section 553 of title 5, United States Code, on any fishery management plan, any amendment to any such plan, and any regulations to implement any such plan or amendment. If any such hearing is scheduled, the Secretary may, pending its outcome—

(A) postpone the effective date of the regulations proposed to implement such plan or amendment; or

(B) take such other action as he deems appropriate to preserve the rights or status of any person.

(c) IMPLEMENTATION.—The Secretary shall promulgate regulations to implement any fishery management plan or any amendment to any such plan—

(1) after consideration of all relevant matters—

(A) presented to him during the 45-day period referred to in subsection (a), and

(B) produced in any hearing held under subsection (b); and

(2) if he finds that the plan or amendment is consistent with the national standards, the other provisions of this Act, and any other applicable law.

To the extent practicable, such regulations shall be put into effect in a manner which does not disrupt the regular fishing season for any fishery.

(d) JUDICIAL REVIEW.—Regulations promulgated by the Secretary under this Act shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated; except that (1) section 705 of such title is not applicable, and (2) the appropriate court shall only set aside any such regulation on a ground specified in section 706(2) (A), (B), (C), or (D) of such title.

(e) EMERGENCY ACTIONS.—If the Secretary finds that an emergency involving any fishery resources exists, he may—

(1) promulgate emergency regulations, without regard to subsections (a) and (c), to implement any fishery management plan, if such emergency so requires; or

(2) promulgate emergency regulations to amend any regulation which implements any existing fishery management plan, to the extent required by such emergency.

Publication in
Federal Register.
16 USC 1855.

Written
comments.

Regulations.

5 USC 701 *et seq.*

Emergency
regulations.

Any emergency regulation which changes any existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection (A) shall be published in the Federal Register together with the reasons therefor; (B) shall remain in effect for not more than 45 days after the date of such publication, except that any such regulation may be repromulgated for one additional period of not more than 45 days; and (C) may be terminated by the Secretary at any earlier date by publication in the Federal Register of a notice of termination.

Publication in
Federal Register.

Publication in
Federal Register.

Report to
Congress and
President.

(f) **ANNUAL REPORT.**—The Secretary shall report to the Congress and the President, not later than March 1 of each year, on all activities of the Councils and the Secretary with respect to fishery management plans, regulations to implement such plans, and all other activities relating to the conservation and management of fishery resources that were undertaken under this Act during the preceding calendar year.

(g) **RESPONSIBILITY OF THE SECRETARY.**—The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility or to carry out any other provision of this Act.

Regulations.

SEC. 306. STATE JURISDICTION.

(a) **IN GENERAL.**—Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries. No State may directly or indirectly regulate any fishing which is engaged in by any fishing vessel outside its boundaries, unless such vessel is registered under the laws of such State.

16 USC 1856.

(b) **EXCEPTION.**—(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that—

Notice and
hearing.

(A) the fishing in a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the fishery conservation zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan; the Secretary shall promptly notify such State and the appropriate Council of such finding and of his intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which he assumed such regulation no longer prevail, he shall promptly terminate such regulation.

SEC. 307. PROHIBITED ACTS.

It is unlawful—

16 USC 1857.

(1) for any person—

(A) to violate any provision of this Act or any regulation or permit issued pursuant to this Act;

(B) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to section 201(c);

(D) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 311) to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

(F) to resist a lawful arrest for any act prohibited by this section;

(G) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C); or

(H) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; and

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage in fishing—

(A) within the boundaries of any State; or

(B) within the fishery conservation zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 204 (b) or (c).

SEC. 308. CIVIL PENALTIES.

16 USC 1858.

(a) **ASSESSMENT OF PENALTY.**—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) **REVIEW OF CIVIL PENALTY.**—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found

or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) **ACTION UPON FAILURE TO PAY ASSESSMENT.**—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) **COMPROMISE OR OTHER ACTION BY SECRETARY.**—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

SEC. 309. CRIMINAL OFFENSES.

(a) **OFFENSES.**—A person is guilty of an offense if he commits any act prohibited by—

(1) section 307(1) (D), (E), (F), or (H); or

(2) section 307(2).

(b) **PUNISHMENT.**—Any offense described in subsection (a)(1) is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act (as provided for in section 311), or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000, or imprisonment for not more than 10 years, or both. Any offense described in subsection (a)(2) is punishable by a fine of not more than \$100,000, or imprisonment for not more than 1 year, or both.

(c) **JURISDICTION.**—There is Federal jurisdiction over any offense described in this section.

SEC. 310. CIVIL FORFEITURES.

(a) **IN GENERAL.**—Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 307 (other than any act for which the issuance of a citation under section 311(c) is sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) **JURISDICTION OF COURTS.**—Any district court of the United States which has jurisdiction under section 311(d) shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) **JUDGMENT.**—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to—

(1) the disposition of forfeited property,

(2) the proceeds from the sale of forfeited property,

- (3) the remission or mitigation of forfeitures, and
- (4) the compromise of claims,

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Secretary.

(d) PROCEDURE.—(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 311 (d) shall—

(A) stay the execution of such process; or

(B) discharge any fish seized pursuant to such process; upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (ii) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this Act may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 307 were taken or retained in violation of this Act.

SEC. 311. ENFORCEMENT.

16 USC 1861.

(a) RESPONSIBILITY.—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall report semiannually, to each committee of the Congress listed in section 203(b) and to the Councils, on the degree and extent of known and estimated compliance with the provisions of this Act.

(b) POWERS OF AUTHORIZED OFFICERS.—Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 307;

(B) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed

Reports to
congressional
committees.

in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act;

(D) seize any fish (wherever found) taken or retained in violation of any provision of this Act; and

(E) seize any other evidence related to any violation of any provision of this Act;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) **ISSUANCE OF CITATIONS.**—If any officer authorized to enforce the provisions of this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this Act, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) **JURISDICTION OF COURTS.**—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(e) **DEFINITION.**—For purposes of this section—

(1) The term “provisions of this Act” includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201 (b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term “violation of any provision of this Act” includes (A) the commission of any act prohibited by section 307, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

SEC. 312. EFFECTIVE DATE OF CERTAIN PROVISIONS.

Sections 307, 308, 309, 310, and 311 shall take effect March 1, 1977.

16 USC 1857
note.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON LAW OF THE SEA TREATY.

If the United States ratifies a comprehensive treaty, which includes provisions with respect to fishery conservation and management jurisdiction, resulting from any United Nations Conference on the Law of the Sea, the Secretary, after consultation with the Secretary of State, may promulgate any amendment to the regulations promulgated under this Act if such amendment is necessary and appropriate to

16 USC 1881.

conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

SEC. 402. REPEALS.

(a) The Act of October 14, 1966 (16 U.S.C. 1091-1094), is repealed as of March 1, 1977.

(b) The Act of May 20, 1964 (16 U.S.C. 1081-1086), is repealed as of March 1, 1977.

SEC. 403. FISHERMEN'S PROTECTIVE ACT AMENDMENTS.

(a) AMENDMENTS.—The Act of August 27, 1954 (22 U.S.C. 1972), is amended—

(1) by amending section 2 thereof to read as follows:

“SEC. 2. If—

“(1) any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or

“(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions—

“(A) are unrelated to fishery conservation and management,

“(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

“(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Fishery Conservation and Management Act of 1976), or

“(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive fishery management authority;

and there is no dispute as to the material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall immediately take such steps as are necessary—

“(i) for the protection of such vessel and for the health and welfare of its crew;

“(ii) to secure the release of such vessel and its crew; and

“(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 3(a) of this Act.”; and

(2) by amending section 3(a) thereof by inserting immediately before the last sentence thereof the following new sentence: “For purposes of this section, the term ‘other direct charge’ means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) (1) shall take effect March 1, 1977. The amendment made by subsection (a) (2) shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

SEC. 404. MARINE MAMMAL PROTECTION ACT AMENDMENT.

(a) AMENDMENT.—Section 3(15)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)(B)) is amended by striking

Ante, p. 331.

Infra.
22 USC 1973.

22 USC 1972
note.
22 USC 1973
note.

out "the fisheries zone established pursuant to the Act of October 14, 1966." and inserting in lieu thereof "the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect March 1, 1977. 16 USC 1362 note.

SEC. 405. ATLANTIC TUNAS CONVENTION ACT AMENDMENT.

(a) **AMENDMENT.**—Section 2(4) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(4)) is amended by striking out "the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094)," and inserting in lieu thereof "the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured,".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect March 1, 1977. 16 USC 971 note.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this Act, not to exceed the following sums: 16 USC 1882.

- (1) \$5,000,000 for the fiscal year ending June 30, 1976.
- (2) \$5,000,000 for the transitional fiscal quarter ending September 30, 1976.
- (3) \$25,000,000 for the fiscal year ending September 30, 1977.
- (4) \$30,000,000 for the fiscal year ending September 30, 1978.

Approved April 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-445 (Comm. on Merchant Marine and Fisheries) and No. 94-948 (Comm. of Conference).

SENATE REPORTS: No. 94-416 (Comm. on Commerce), No. 94-459 (Comm. on Foreign Relations), and No. 94-515 (Comm. on Armed Services) all accompanying S. 961, and No. 94-711 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 9, considered and passed House.

Dec. 19, S. 961 considered in Senate.

Vol. 122 (1976): Jan. 19-22, 27, S. 961 considered in Senate.

Jan. 28, considered and passed Senate, amended, in lieu of S. 961.

Mar. 29, Senate agreed to conference report.

Mar. 30, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 16 (1976): Apr. 13, Presidential statement.

Public Law 94-266
94th Congress

Joint Resolution

Apr. 15, 1976

[H.J. Res. 890]

Making emergency supplemental appropriations for public employment programs, summer youth programs, and preventive health services for the fiscal year ending June 30, 1976, and for other purposes

Emergency
supplemental
appropriations,
1976.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1976, namely:

TITLE I

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

CONSTRUCTION GRANTS

33 USC 1283.

For an additional amount for liquidation of obligations incurred pursuant to authority contained in section 203 of the Federal Water Pollution Control Act, as amended, \$300,000,000, to remain available until expended.

TITLE II

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

COMPREHENSIVE MANPOWER ASSISTANCE

For an additional amount for "Comprehensive manpower assistance", \$528,420,000, to remain available until September 30, 1976.

TEMPORARY EMPLOYMENT ASSISTANCE

For expenses necessary to carry out activities authorized by title II of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 841-851), \$1,200,000,000, to remain available until January 31, 1977.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

42 USC 3056.

To carry out title IX of the Older Americans Act, as amended, \$55,900,000, to remain available until June 30, 1977.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

For an additional amount for "Preventive Health Services" for carrying out, to the extent not otherwise provided, title III and section 431 of the Public Health Service Act for a comprehensive, nationwide influenza immunization program, \$135,064,000, to remain available until expended: *Provided*, That vaccines may be supplied to State and local health agencies without charge. 42 USC 241, 289a.

RELATED AGENCY

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

For an additional amount for "Community services program", \$23,000,000, to remain available until September 30, 1976.

Approved April 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1004 (Comm. on Appropriations).

SENATE REPORT No. 94-742 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 5, considered and passed House.

Apr. 9, considered and passed Senate, amended.

Apr. 12, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 16:

Apr. 15, Presidential statement.

Public Law 94-267
94th Congress

An Act

To amend the Internal Revenue Code of 1954 to permit tax-free rollovers of distributions from employee retirement plans in the event of plan termination.

Apr. 15, 1976
[H.R. 12725]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) TERMINATION OF EMPLOYEE TRUST, ETC.—Section 402(a) of the Internal Revenue Code of 1954 (relating to taxability of beneficiaries of exempt trusts) is amended—

Internal Revenue
Code of 1954,
amendments.
26 USC 402.

(1) by striking out paragraph (5)(A) and inserting in lieu thereof the following:

“(A) the balance to the credit of an employee is paid to him—

“(i) within one taxable year of the employee on account of a termination of the plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan, or

“(ii) in one or more distributions which constitute a lump-sum distribution within the meaning of subsection (e)(4)(A) (determined without reference to subsection (e)(4)(B)),”

(2) by striking out “the lump-sum distribution” in the last sentence of paragraph (5) and inserting in lieu thereof “a payment”, and

(3) by adding at the end thereof the following paragraph:

“(6) SPECIAL ROLLOVER RULES.—For purposes of paragraph (5)(A)(i)—

“(A) TIME OF TERMINATION.—A complete discontinuance of contributions under a profit-sharing or stock bonus plan shall be deemed to occur on the day the plan administrator notifies the Secretary or his delegate (in accordance with regulations prescribed by the Secretary or his delegate) that all contributions to the plan have been completely discontinued. For purposes of section 411(d)(3), the plan shall be considered to be terminated no later than the day such notice is filed with the Secretary or his delegate.

26 USC 411.

“(B) SALE OF SUBSIDIARY OR ASSETS.—

“(i) A payment of the balance to the credit of an employee of a corporation (hereinafter referred to as the employer corporation) which is a subsidiary corporation (within the meaning of section 425(f)) or which is a member of a controlled group of corporations (within the meaning of section 1563(a), determined by substituting ‘50 percent’ for ‘80 percent’ each place it appears therein) in connection with the liquidation, sale, or other means of terminating the parent-subsidary or controlled group relationship of the employer corporation with the parent corporation or controlled group, or

26 USC 425.

26 USC 1563.

“(ii) a payment of the balance to the credit of an employee of a corporation (hereinafter referred to as the acquiring corporation) in connection with the sale or

other transfer to the acquiring corporation of all or substantially all of the assets used by the previous employer of the employee (hereinafter referred to as the selling corporation) in a trade or business conducted by the selling corporation,

shall be treated as a payment or distribution on account of the termination of the plan with respect to such employee if the employees of the employer corporation or the acquiring corporation (whichever applies) are not active participants in such plan at the time of such payment or distribution. For purposes of this subparagraph, in no event shall a payment or distribution be deemed to be in connection with a sale or other transfer of assets, or a liquidation, sale, or other means of terminating such parent-subsidiary or controlled group relationship, if such payment or distribution is made later than the end of the second calendar year after the calendar year in which occurs such sale or other transfer of assets, or such liquidation, sale, or other means of terminating such parent-subsidiary or controlled group relationship.”

26 USC 403.

(b) TERMINATION OF ANNUITY PLAN.—Section 403(a) (relating to rollover amounts) is amended—

(1) by striking out subparagraph (4) (A) and inserting in lieu thereof the following:

“(A) the balance to the credit of an employee is paid to him—

“(i) within one taxable year of the employee on account of a termination of the plan of which such trust is a part or, in the case of a profit-sharing plan, a complete discontinuance of contributions under such plan, or

26 USC 402.

“(ii) in one or more distributions which constitutes a lump-sum distribution within the meaning of section 402 (e) (4) (A) (determined without reference to section 402 (e) (4) (B)).”

(2) by striking out “the lump-sum distribution” in the last sentence of paragraph (4) and inserting in lieu thereof “a payment”, and

(3) by adding at the end thereof the following paragraph:

“(5) SPECIAL ROLLOVER RULES.—For purposes of paragraph (4) (A) (i)—

26 USC 411.

“(A) TIME OF TERMINATION.—A complete discontinuance of contributions under a profit-sharing plan shall be deemed to occur on the day the plan administrator notifies the Secretary or his delegate (in accordance with regulations prescribed by the Secretary or his delegate) that all contributions to the plan have been completely discontinued. For purposes of section 411 (d) (3), the plan shall be considered to be terminated no later than the day such notice is filed with the Secretary or his delegate.

“(B) SALE OF SUBSIDIARY OR ASSETS.—

26 USC 425.

26 USC 1563.

“(i) A payment of the balance to the credit of an employee of a corporation (hereinafter referred to as the employer corporation) which is a subsidiary corporation (within the meaning of section 425 (f)) or which is a member of a controlled group of corporations (within the meaning of section 1563 (a)), determined by substituting ‘50 percent’ for ‘80 percent’ each place it appears therein) in connection with the liquidation, sale, or other

means of terminating the parent-subsidiary or controlled group relationship of the employer corporation with the parent corporation or controlled group, or

“(ii) A payment of the balance to the credit of an employee of a corporation (hereinafter referred to as the acquiring corporation) in connection with the sale or other transfer to the acquiring corporation of all or substantially all of the assets used by the previous employer of the employee (hereinafter referred to as the selling corporation) in a trade or business conducted by the selling corporation,

shall be treated as a payment or distribution on account of the the termination of the plan with respect to such employee if the employees of the employer corporation or the acquiring corporation (whichever applies) are not active participants in such plan at the time of such payment or distribution. For purposes of this subparagraph, in no event shall a payment or distribution be deemed to be in accordance with a sale or other transfer of assets, or a liquidation, sale, or other means of terminating such parent-subsidiary or controlled group relationship, if such payment or distribution is made later than the end of the second calendar year after the calendar year in which occurs such sale or other transfer of assets, or such liquidation, sale, or other means of terminating such parent-subsidiary or controlled group relationship.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 401(a) of such Code (relating to requirements for qualification) is amended by adding after paragraph (19) the following:

Qualification
requirements.
26 USC 401.

“(20) A trust forming part of a pension plan shall not be treated as failing to constitute a qualified trust under this section merely because the pension plan of which such trust is a part makes a payment or distribution described in section 402(a)(5)(A)(i) or 403(a)(4)(A)(i). This paragraph shall not apply to a defined benefit plan unless the employer maintaining such plan files a notice with the Pension Benefit Guaranty Corporation (at the time and in the manner prescribed by the Pension Benefit Guaranty Corporation) notifying the Corporation of such payment or distribution and the Corporation has approved such payment or distribution or, within 90 days after the date on which such notice was filed, has failed to disapprove such payment or distribution.”.

Ante, p. 365.
Ante, p. 366.

(2) The last sentence of section 401(a) of such Code is amended by striking out “and (19)” and inserting in lieu thereof “(19), and (20)”.

(3) Section 404(a)(2) of such Code (relating to employee annuities) is amended by striking out “and (19)” and inserting in lieu thereof “, (19), and (20)”.

26 USC 404.

(4) Section 805(d)(1)(C) of such Code (relating to pension plan reserves) is amended by striking out “and (19)” and inserting in lieu thereof “(19), and (20)”.

26 USC 805.

(d) TRANSITIONAL RULES.—

26 USC 402 note.

(1) IN GENERAL.—

(A) PERIOD FOR ROLLOVER CONTRIBUTION.—In the case of a payment described in section 402(a)(5)(A) (other than a payment described in section 402(a)(5)(A) as in effect on the day before the date of the enactment of this Act) or section 403(a)(4)(A) (other than a payment described in

26 USC 403.

26 USC 402.

26 USC 6402.

26 USC 1.

26 USC 1 *et seq.*

section 403(a)(4)(A) as in effect on the day before the date of the enactment of this Act) of the Internal Revenue Code of 1954 (relating to distributions of the balance to the credit of the employee) which is contributed by an employee after the date of the enactment of this Act to a trust, plan, account, annuity, or bond described in section 402(a)(5)(B) or 403(a)(4)(B) of such Code, the applicable period specified in section 402(a)(5)(B) or 403(a)(4)(B) of such Code (relating to rollover distributions to another plan or retirement account) shall not expire before December 31, 1976.

(B) TIME OF CONTRIBUTION.—

(i) **GENERAL RULE.**—If the initial portion of a payment the applicable period for which is determined under subparagraph (A) is contributed before December 31, 1976, by an individual to a trust, plan, account, annuity, or bond described in subparagraph (A) and the remaining portion of such payment is contributed by such individual to such a trust, plan, account, annuity, or bond not later than 30 days after the date a credit or refund is allowed by the Secretary of the Treasury or his delegate under section 6402 of the Internal Revenue Code of 1954 with respect to the contribution, then, for purposes of subparagraph (A) and sections 402(a)(5) and 403(a)(4) of such Code, at the election of the individual (made in accordance with regulations prescribed by the Secretary or his delegate), such remaining portion shall be considered to have been contributed on the date the initial portion of the payment was contributed. For purposes of this subparagraph, the initial portion of a payment is the amount by which such payment exceeds the amount of the tax imposed on such payment by chapter 1 of such Code (determined without regard to this subparagraph).

(ii) **REGULATIONS.**—For purposes of this subparagraph, the tax imposed on a payment by chapter 1 of the Internal Revenue Code of 1954, and the date a credit or refund is allowed by the Secretary of the Treasury or his delegate under section 6402 with respect to a contribution, shall be determined under regulations prescribed by the Secretary of the Treasury or his delegate.

(C) PERIOD OF LIMITATIONS.—If an individual has made the election provided by subparagraph (B), then—

(i) the period provided by the Internal Revenue Code of 1954 for the assessment of any deficiency for the taxable year in which the payment described in subparagraph (A) was made and each subsequent taxable year for which tax is determined by reference to the treatment of such payment under such Code or the status under such Code of any trust, plan, account, annuity, or bond described in subparagraph (A) shall, to the extent attributable to such treatment, not expire before the expiration of 3 years from the date the Secretary of the Treasury or his delegate is notified by the individual (in such manner as the Secretary of the Treasury or his delegate may prescribe) that such individual has made (or failed to make) the contribution of the remaining portion of the payment within the period specified in subparagraph (B)(i), and

(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) of such Code or the provisions of any other law or rule of law which would otherwise prevent such assessment. 26 USC 6212.

(2) **ROLLOVER CONTRIBUTION FOR CERTAIN PROPERTY SOLD.**—Sections 402(a)(5)(C) and 403(a)(4)(C) of the Internal Revenue Code of 1954 (relating to the requirement that rollover amount must consist of property received in a distribution) shall not apply with respect to that portion of the property received in a payment described in section 402(a)(5)(A) (other than a payment described in section 402(a)(5)(A) as in effect on the day before the date of the enactment of this Act) or 403(a)(4)(A) (other than a payment described in section 403(a)(4)(A) as in effect on the day before the date of the enactment of this Act) of such Code which is sold or exchanged by the employee on or before the date of the enactment of this Act, if the employee transfers an amount of cash equal to the proceeds received from the sale or exchange of such property in excess of the amount considered contributed by the employee (within the meaning of section 402(a)(4)(D)(i) of such Code). 26 USC 402, 403.

(3) **NONRECOGNITION OF GAIN OR LOSS.**—For purposes of the Internal Revenue Code of 1954, no gain or loss shall be recognized with respect to the sale or exchange of property described in paragraph (2) if the proceeds of such sale or exchange are transferred by an employee in accordance with this subsection and the applicable provisions of section 402(a)(5) or 403(a)(4) of such Code. *Ante*, p. 366.

(e) **EFFECTIVE DATE.**—The amendments made by this Act shall apply with respect to payments made to an employee on or after July 4, 1974. 26 USC 401 note.

Approved April 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1020 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 13, considered and passed House.
Apr. 14, considered and passed Senate.

Public Law 94-268
94th Congress

An Act

Apr. 16, 1976
[S. 2308]

To provide for the modification of the boundaries of the Bristol Cliffs Wilderness Area.

Bristol Cliffs
Wilderness Area,
Vt.
Boundaries
modification.
16 USC 1132
note.

16 USC 1131
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of modifying the boundaries of the Bristol Cliffs Wilderness, section 3 of the Act of January 3, 1975 (88 Stat. 2097), is amended as follows:

(a) Paragraph (10) of section 3(a) is deleted and paragraphs (11) through (15) of section 3(a) are respectively renumbered as paragraphs (10) through (14).

(b) Section 3(b) is revised to read:

“(b) In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

“(1) certain lands in the Chattahoochee and Cherokee National Forests, Georgia and Tennessee, which comprise about thirty-four thousand five hundred acres, are generally depicted on a map dated April 1973, entitled ‘Cohutta Wilderness Area—Proposed’, and shall be known as the Cohutta Wilderness.

“(2) certain lands in the Green Mountain National Forest, Vermont, which comprise about three thousand seven hundred and seventy-five acres, are generally depicted on a map dated October 1975, entitled ‘Bristol Cliffs Wilderness Area—Revised’, and shall be known as the Bristol Cliffs Wilderness.”.

SEC. 2. Upon enactment of this Act, the provisions of the Act of January 3, 1975 (88 Stat. 2096) and the Wilderness Act (78 Stat. 890) shall not be applicable to any lands previously designated as the Bristol Cliffs Wilderness that are not contained within the boundaries of the Bristol Cliffs Wilderness as depicted on the map described in section 1(b) of this Act.

Approved April 16, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-984 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-414 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 8, considered and passed Senate.

Vol. 122 (1976): Apr. 5, considered and passed House.

Public Law 94-269
94th Congress

An Act

To amend Public Law 94-187 to increase the authorization for appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

Apr. 16, 1976

[S. 3108]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS
FOR FISCAL YEAR 1976

Energy Research
and Development
Administration.
Appropriation
authorization.

That section 101(a)(5) of Public Law 94-187 is hereby amended by striking therefrom the figure “\$3,158,970,000” and substituting the figure “\$3,188,970,000”.

89 Stat. 1063.

SEC. 2. Section 101(b) of Public Law 94-187 is hereby amended by striking from subsection (15)(G), capital equipment, the figure “\$237,502,000” and substituting the figure “\$241,502,000”.

TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR
THE PERIOD JULY 1, 1976, THROUGH SEPTEMBER 30,
1976

That section 201(a)(5) of Public Law 94-187 is hereby amended by striking therefrom the figure “\$914,849,000” and substituting the figure “\$937,849,000”.

89 Stat. 1071.

Approved April 16, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-931 accompanying H.R. 12388 (Joint Committee on Atomic Energy).

SENATE REPORT No. 94-707 (Joint Committee on Atomic Energy).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 24, considered and passed Senate.

Apr. 6, considered and passed House, in lieu of H.R. 12388.

Public Law 94-270
94th Congress

Joint Resolution

Apr. 19, 1976
[S.J. Res. 101]

To authorize the President to issue a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week".

National Family
Week.
Designation
authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week beginning on November 21, 1976, as "National Family Week" and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such day with appropriate ceremonies and activities.

Approved April 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-982 (Comm. on Post Office and Civil Service).

SENATE REPORT No. 94-427 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 20, considered and passed Senate.

Vol. 122 (1976): Apr. 5, considered and passed House, amended.

Apr. 7, Senate concurred in House amendment.

Public Law 94-271
94th Congress

An Act

To provide for the division of assets between the Twenty-Nine Palms Band and the Cabazon Band of Mission Indians, California, including certain funds in the United States Treasury, and for other purposes.

Apr. 21, 1976
[H.R. 1465]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting for and on behalf of the United States and the Cabazon Band, is hereby authorized and directed to convey to the Twenty-Nine Palms Band of Mission Indians the beneficial interest in the northeast quarter northeast quarter northwest quarter and northeast quarter southeast quarter section 30, township 5 south, range 8 east, San Bernardino base and meridian, California, comprising two hundred and forty acres, more or less, as shown on Bureau of Land Management plat of survey approved July 30, 1927.

Twenty-Nine
Palms Band of
Mission Indians,
Calif.
Lands in trust.

SEC. 2. The conveyance authorized by this Act shall be by trust patent and title shall be held by the United States in trust for the Twenty-Nine Palms Band of Mission Indians.

SEC. 3. The Secretary of the Interior is authorized and directed to distribute from the tribal fund of the Cabazon Band of Mission Indians to the tribal fund of the Twenty-Nine Palms Band of Mission Indians the amount of \$2,825, plus interest earned on that amount.

Approved April 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-476 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-738 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 6, considered and passed House.

Vol. 122 (1976): Apr. 9, considered and passed Senate.

Public Law 94-272
94th Congress

An Act

Apr. 21, 1976
[H.R. 11598]

To authorize appropriations for the United States Information Agency for fiscal year 1976 and for the period July 1, 1976, through September 30, 1976.

United States
Information
Agency
Authorization
Act, Fiscal Year
1976.

22 USC 1431
note.
22 USC 2451
note.
22 USC 1461
note.

Slovenia
broadcast,
reinstatement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Information Agency Authorization Act, Fiscal Year 1976".

SEC. 2. (a) There are authorized to be appropriated for the United States Information Agency to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following:

(1) For fiscal year 1976:

(A) \$254,195,000 for "Salaries and Expenses" and "Salaries and Expenses (special foreign currency program)".

(B) \$6,187,000 for "Special International Exhibitions".

(C) \$3,295,000 for "Acquisition and Construction of Radio Facilities".

(D) \$3,100,000 for increases in salary, pay, retirement, other employee benefits authorized by law, and other non-discretionary costs.

(2) For the period July 1, 1976, through September 30, 1976:

(A) \$69,700,000 for "Salaries and Expenses" and "Salaries and Expenses (special foreign currency program)".

(B) \$1,940,000 for "Special International Exhibitions".

(C) \$260,000 for "Acquisition and Construction of Radio Facilities".

(b) Amounts appropriated under this section are authorized to remain available until expended.

(c) Of the funds appropriated under subparagraph (A) of subsection (a) (1), \$90,000 and such additional amounts as may be necessary shall be used to reinstate the daily one-half hour broadcast to Slovenia.

SEC. 3. Funds authorized to be appropriated by any subparagraph of paragraph (1) or paragraph (2) of section 2(a) may be appropriated for a purpose described in any other subparagraph of that paragraph, which appropriation shall be in addition to the appropriation specifically authorized for such purpose, except that the total amount appropriated for a purpose described in any such subparagraph may not exceed by more than 10 per centum the amount specifically authorized by such subparagraph for such purpose.

Approved April 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-849 (Comm. on International Relations).

SENATE REPORT No. 94-740 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 24, considered and passed House.

Apr. 9, considered and passed Senate.

Public Law 94-273
94th Congress

An Act

To provide permanent changes in laws necessary because of the October-September fiscal year.

Apr. 21, 1976
[S. 2445]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fiscal Year Adjustment Act".

Fiscal Year
Adjustment Act.
31 USC 701 note.

SEC. 2. The following provisions of law are amended by deleting "June", wherever it appears, and inserting "September" in lieu thereof:

(1) section 4(a)(2) of the Agriculture and Consumer Protection Act of 1973, as amended (Public Law 93-347; 7 U.S.C. 612c note);

(2) section 406(c) and 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 946(c) and 950(a));

(3) sections 5234, 5451, 5662(b), 5711(b), 5785, and 6386 of title 10, United States Code;

(4) section 203(d)(2) of the Federal Credit Union Act (12 U.S.C. 1783(d)(2));

(5) section 4(c)(6) of the Small Business Act (15 U.S.C. 633(c)(6));

(6) the paragraph headed "Reimbursement for Net Realized Losses" of title III of the Act of November 2, 1965 (15 U.S.C. 713a-11a);

(7) section 2 of the Land and Water Conservation Fund Act, as amended (16 U.S.C. 4601-5);

(8) section 4(c) of the Fish and Wildlife Act of 1956 (70 Stat. 1121), as amended (16 U.S.C. 742c(c));

(9) section 1 of the Act of September 18, 1972 (16 U.S.C. 576c);

(10) section 4 of the Central, Western, and South Pacific Fisheries Development Act (86 Stat. 744; 16 U.S.C. 758a note);

(11) section 16(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1287(b));

(12) section 102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241b);

(13) section 3 of the Act of September 23, 1950 (20 U.S.C. 633);

(14) section 3(a) of the Special Projects Act (20 U.S.C. 1852(a));

(15) paragraphs (1) and (2) of section 406(f) and section 409 of the Education Amendments of 1974 (20 U.S.C. 1865(f) (1) and (2), and 1867);

(16) the matter preceding paragraph (1) of section 20(a) of the Act of June 26, 1934, as amended (31 U.S.C. 725s);

(17) section 402 of the Act of November 13, 1966 (31 U.S.C. 757f), except for the reference to June 30, 1967;

(18) section 2 of the Act of May 6, 1974 (Public Law 93-274; 37 U.S.C. 313(e) note);

(19) section 756(e) of title 40, United States Code;

(20) section 903(a)(2)(A) of the Social Security Act, as amended (42 U.S.C. 1103(a)(2)(A));

37 USC 302 note.

(21) sections 435(b), 1305(d), and 1620 of the Public Health Service Act (42 U.S.C. 289c-2(b), 300e-4(d), and 300q);

(22) section 11(d) of the Railroad Unemployment Insurance Act (45 U.S.C. 361(d));

(23) sections 217(g)(2)(B), 217(g)(3) and (4), and 1118 of the Social Security Act (42 U.S.C. 417(g)(2)(B), 417(g)(3) and (4), 1318);

(24) section 3 of the Act of September 6, 1958 (42 U.S.C. 1893);

(25) sections 203 and 505(b) of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3143 and 3185(b));

(26) section 304(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4574(a));

(27) section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5656);

(28) subsection (b) of the first section of title II of the Act of August 28, 1937, as amended (43 U.S.C. 1181f(b));

(29) section 303(b) of the Act of September 8, 1950, as amended (50 U.S.C. App. 2093(b)); and

(30) section 15d of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831n-4(e)).

Sec. 3. The following provisions of law are amended by deleting "July", wherever it appears, and inserting "October" in lieu thereof—

(1) section 4 of the Act of August 30, 1890 (7 U.S.C. 326);

(2) section 7 of the Act of March 2, 1887, as amended (7 U.S.C. 361g);

(3) section 5(a) of the Commercial Fisheries Research and Development Act of 1964 (78 Stat. 198; 16 U.S.C. 779c(a));

(4) sections 5(b) and 201(b) of the Land and Water Conservation Fund Act (16 U.S.C. 460l-7(b) and 460l-11(b));

(5) sections 2, 3(b), 4(a), 5(e)(1), 7(a)(1)(A) and (B), and 303(a)(1) of the Act of September 30, 1950, as amended (20 U.S.C. 237, 238(b), 239(a), 240(e)(1), 241-1(a)(1)(A) and (B), and 241bb(a)(1));

(6) section 16(a)(1)(A) of the Act of September 23, 1950 (20 U.S.C. 646(a)(1)(A));

(7) sections 723(a)(2) and 731(c)(1) of the Bilingual Education Act (20 U.S.C. 880b-9(a)(2), and 880b-10(c)(1));

(8) sections 125, 148(c), 151(i), 305(c), and 309(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241c-5, 241l(c), 241o(i), 844a(c), and 847a(c));

(9) section 439(h)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087-2(h)(2));

(10) section 311(b) of the Adult Education Act (20 U.S.C. 1209(b));

(11) section 442(a) of the Education Amendments of 1972 (20 U.S.C. 1221g(a));

(12) section 412(b) of the General Education Provisions Act (20 U.S.C. 1225(b));

(13) section 104(a)(5) of the Vocational Education Act of 1963 (20 U.S.C. 1244(a)(5));

(14) section 604(b) of the Education of the Handicapped Act (20 U.S.C. 1403(b));

(15) section 3(c)(1) of the Environmental Education Act (20 U.S.C. 1532(c)(1));

- (16) section 306(c) of the Controlled Substances Act (21 U.S.C. 826(c));
- (17) section 7(e) of the Fisherman's Protective Act of 1967 (82 Stat. 729), as amended (22 U.S.C. 1977);
- (18) section 301(a) of the Rehabilitation Act of 1973 (29 U.S.C. 771(a));
- (19) section 8 of the Act of March 4, 1923, as amended (36 U.S.C. 131);
- (20) section 106(f) (3) of the Water Pollution Control Act (33 U.S.C. 1256(f) (3));
- (21) section 301a(e) of title 37, United States Code;
- (22) section 5(6) of the Wagner-O'Day Act, as amended (41 U.S.C. 48b(6));
- (23) sections 903(a) (2) and 903(b) (1) of the Social Security Act, as amended (42 U.S.C. 1103(a) (2) and 1103(b) (1)); and
- (24) section 715 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-14).

SEC. 4. The following provisions of law are amended by deleting "June" and "July", wherever they appear, and inserting "September" and "October", respectively, in lieu thereof—

- (1) section 4(a) of the Act of September 2, 1937 (50 Stat. 918), as amended (16 U.S.C. 669c(a));
- (2) section 4 of the Act of August 9, 1950 (64 Stat. 432), as amended (16 U.S.C. 777c);
- (3) section 2 of the Commercial Fisheries Research and Development Act of 1964 (78 Stat. 197; 16 U.S.C. 779);
- (4) section 410(a) (7) of the Act of November 19, 1969 (50 U.S.C. 1436(a) (7)); and
- (5) section 1310(d) of the Supplemental Appropriation Act, 1952, as amended (5 U.S.C. 3101 note).

SEC. 5. The following provisions of law are amended by deleting "December", wherever it appears, and inserting "March" in lieu thereof—

- (1) section 9(a) of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831h(a));
- (2) section 657(a) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2417(a));
- (3) section 8 of the Act of June 13, 1888, as amended (29 U.S.C. 6);
- (4) section 103(a) of the Act of June 6, 1972 (31 U.S.C. 1203(a));
- (5) section 519 of the Omnibus Crime Control and Safe Streets Act, as amended (42 U.S.C. 3767); and
- (6) section 410(d) of the Act of November 19, 1969 (50 U.S.C. 1436(d)).

SEC. 6. The following provisions of law are amended by deleting "December" and "June", wherever they appear, and inserting "March" and "September", respectively, in lieu thereof—

- (1) section 634(f) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2394(f));
- (2) section 35 of the Act of February 25, 1920, as amended (30 U.S.C. 191); and
- (3) section 2677(c) of title 10, United States Code.

SEC. 7. The following provisions of law are amended by deleting "September", wherever it appears and inserting "December" in lieu thereof—

(1) section 9(a) of the Act of July 22, 1963 (7 U.S.C. 390h(a));

(2) section 308(a) of the Public Health Service Act (42 U.S.C. 242m(a));

(3) sections 901(b) and 901(d) of the Agricultural Act of 1970 (42 U.S.C. 3122(b) and 3122(d)); and

(4) section 603(b)(4) of the Rural Development Act of 1972 (7 U.S.C. 2204(b)).

SEC. 8. The following provisions of law are amended by deleting "September 30", wherever it appears, and inserting "December 31" in lieu thereof—

(1) section 3(a) of the Act of July 25, 1956 (31 U.S.C. 703(a));

(2) section 1(i) of the Wagner-O'Day Act, as amended (41 U.S.C. 46); and

(3) section 204(b)(5) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614).

SEC. 9. The following provisions of law are amended by deleting "July" and "September", wherever they appear, and inserting "October" and "December", respectively, in lieu thereof—

(1) section 2 of the Act of August 30, 1890 (7 U.S.C. 324);

(2) section 5 of the Act of March 2, 1887, as amended (7 U.S.C. 361e); and

(3) section 103(d)(2) of the Vocational Education Act of 1963 (20 U.S.C. 1243(d)(2)).

SEC. 10. Section 8(a)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 707(a)(2)) is amended by deleting "July" and "September 30", wherever they appear, and inserting "October" and "December 31" in lieu thereof.

SEC. 11. The following provisions of law are amended by deleting "January", wherever it appears and inserting "April" in lieu thereof—

(1) section 10 of the Rural Electrification Act of 1936 (7 U.S.C. 910);

(2) sections 279, 686, and 2110(b) of title 10, United States Code;

(3) sections 3(f) and 4(g) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1862(f) and 1863(g));

(4) section 21 of the Interstate Commerce Act, as amended (49 U.S.C. 21); and

(5) section 6 of the Trading With the Enemy Act, as amended (50 U.S.C. App. 6).

SEC. 12. The following provisions of law are amended by deleting "March" and inserting "June" in lieu thereof—

(1) paragraph (1) of section 406(d) of the General Education Provisions Act (20 U.S.C. 1221e-1(d));

(2) section 105(a)(2) of the Act of October 20, 1972 (31 U.S.C. 1224(a)(2)); and

(3) section 204(b)(6) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614).

SEC. 13. The following provisions of law are amended by deleting "March 31" and inserting "June 30" in lieu thereof—

(1) section 442(b)(6) of the Education Amendments of 1972 (20 U.S.C. 1221g(b)(6)); and

(2) section 604(b) of the Education of the Handicapped Act (20 U.S.C. 1403(b)).

SEC. 14. Section 410(b)(1) of the Act of November 19, 1969 (50 U.S.C. 1436(b)(1)), is amended by deleting "November", wherever it appears, and inserting "February" in lieu thereof.

SEC. 15. Section 4 of the Act of May 8, 1914, as amended (7 U.S.C. 344), is amended by deleting "July" the first time it appears, and "January" the last time it appears, and inserting "October" and "April", respectively, in lieu thereof.

SEC. 16. Section 217(g)(1) of the Social Security Act (42 U.S.C. 417(g)(1)) is amended to read as follows:

"(g)(1) In September of 1965, 1970, and 1975, and in October 1980 and in every fifth October thereafter up to and including October 2010, the Secretary shall determine the amount which, if paid in equal installments at the beginning of each fiscal year in the period beginning—

"(A) with July 1, 1965, in the case of the first such determination, and

"(B) with the beginning of the first fiscal year commencing after the determination in the case of all other such determinations,

and ending with the close of September 30, 2015, would accumulate, with interest compounded annually, to an amount equal to the amount needed to place each of the Trust Funds and the Federal Hospital Insurance Trust Fund in the same position at the close of September 30, 2015, as he estimates they would otherwise be in at the close of that date if section 210 of this Act as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted. The rate of interest to be used in determining such amount shall be the rate determined under section 201(d) for public-debt obligations which were or could have been issued for purchase by the Trust Funds in the June preceding the September in which the determinations in 1965, 1970, and 1975 are made and in the September preceding the October in which all other determinations are made."

Veterans
benefits.

42 USC 410.

42 USC 301 note.

42 USC 401.

SEC. 17. Section 437(b) of the General Education Provisions Act (20 U.S.C. 1232f(b)), is amended by deleting "October" and inserting "January" in lieu thereof.

SEC. 18. Section 209(e)(1) of the Highway Revenue Act of 1956 (23 U.S.C. 120 note), is amended by deleting "March" and "June 30" and inserting "June" and "September 30", respectively, in lieu thereof.

SEC. 19. Section 522 of title 28, United States Code, is amended by deleting "at the beginning of each regular session of Congress" and inserting "by April 1 of each year" in lieu thereof.

SEC. 20. Section 2(b) of the Act of July 31, 1947 (30 U.S.C. 602(b)), is amended by deleting "January" and "July" and inserting "April" and "October", respectively, in lieu thereof.

SEC. 21. Section 13 of the National Capital Planning Act of 1952 (40 U.S.C. 74), is amended by deleting "December" and "September" and inserting "March" and "December", respectively, in lieu thereof.

SEC. 22. Sections 423(c) and 1101(a)(8)(B) of the Social Security Act (42 U.S.C. 623(c) and 1301(a)(8)(B)), are amended by deleting "July" and "August 31", wherever they appear, and inserting "October" and "November 30", respectively, in lieu thereof.

SEC. 23. Section 903(a)(2)(B) of the Social Security Act, as amended (42 U.S.C. 1103(a)(2)(B)) is amended by deleting "May", wherever it appears, and inserting "August" in lieu thereof.

SEC. 24. Section 6 of the National Aeronautics and Space Administration Authorization Act, 1970 (83 Stat. 196), as amended by section 7 of the National Aeronautics and Space Administration Authorization Act, 1971 (84 Stat. 372; 52 U.S.C. 2462), is further amended by deleting "July", "June", "November", and "December" in

42 USC 2462.

sections 6(a)(6), 6(b)(1), and 6(d), and inserting "October", "September", "February", and "March", respectively, in lieu thereof.

SEC. 25. Section 510 of the Public Works and Economic Development Act of 1965 as amended (42 U.S.C. 3189), is amended by deleting "January 31" and inserting "April 30" in lieu thereof.

SEC. 26. Section 707 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3217), is amended by deleting "January 3" and inserting "April 1" in lieu thereof.

SEC. 27. Section 213 of the Merchant Marine Act, 1936 (49 Stat. 1991), as amended (46 U.S.C. 1123), is amended by deleting "July" and inserting "October" in lieu thereof.

SEC. 28. Section 1111 of title 44, United States Code, is amended by deleting "November" and "December" wherever they appear, and inserting "February" and "March", respectively, in lieu thereof.

SEC. 29. Section 10(5) of the Service Contract Act of 1965, as amended (41 U.S.C. 358(5)), is amended by deleting "For the fiscal year ending June 30, 1977, and for each fiscal year thereafter" and inserting "On or after July 1, 1976" in lieu thereof.

SEC. 30. Section 139 of title 2, United States Code, is amended by deleting "at the beginning of each regular session" and inserting "not later than April 1" in lieu thereof.

SEC. 31. Section 27(j) of the Consumer Product Safety Act (15 U.S.C. 2076(j)), is amended by deleting "on or before October 1 of each year" and inserting "at the beginning of each regular session of Congress" in lieu thereof.

SEC. 32. (a) Section 263(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 note), is amended by deleting "thirty-first day of the eighth" and inserting "thirtieth day of the eleventh" in lieu thereof.

42 USC 5671.

(b) Section 261 of such Act is amended by striking "June 30, 1977" and inserting in lieu thereof "September 30, 1977".

42 USC 5751.

(c) Section 331 of such Act is amended by striking "June 30, 1975, 1976, and 1977" and inserting in lieu thereof "June 30, 1975, and 1976, and September 30, 1977".

SEC. 33. Section 704 of the Social Security Act (42 U.S.C. 904) is amended by deleting "at the beginning" and inserting "within one hundred and twenty days after the beginning" in lieu thereof.

SEC. 34. The Migratory Bird Hunting Stamp Act of March 16, 1934 (48 Stat. 452), as amended (16 U.S.C. 718 et seq.), is amended by deleting the word "fiscal" wherever it appears therein.

SEC. 35. (a) Section 15d(f) of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831n-4(f)), is amended by adding the following at the end thereof: "As of October 1, 1975, the five-year periods described herein shall be computed as beginning on October 1 of that year and of each fifth year thereafter."

(b) Section 26 of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y), is amended by deleting "at the end of each calendar year" and inserting "on March 31 of each year" in lieu thereof.

SEC. 36. Section 208 of the Merchant Marine Act, 1936 (49 Stat. 1988), as amended (46 U.S.C. 1118), is amended by deleting "at the beginning of each regular session" and inserting "by April 1 each year" in lieu thereof.

SEC. 37. Section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) is amended by deleting "every six months" and inserting "not less often than twice annually" in lieu thereof.

SEC. 38. Sections 6(a)(1)(D) and (E) of the Alaska Native Claims Settlement Act (43 U.S.C. 1605) are amended to read as follows:

“(D) \$40,000,000 during the period beginning July 1, 1976, and ending September 30, 1976; and

“(E) \$30,000,000 during each of the next five fiscal years, for transfer to the Alaska Native Fund in the fourth quarter of each fiscal year.”.

SEC. 39. Section 901(f)(3)(A) of the Social Security Act (42 U.S.C. 1101(f)(3)(A)) is amended by deleting “fiscal” the last time it appears therein.

SEC. 40. Section 1304(j) of the Public Health Service Act (42 U.S.C. 300e-3(j)) is amended by (1) striking out “the fiscal year ending June 30, 1976” and inserting in lieu thereof “September 30, 1976”, and (2) striking out “June 30, 1977” and inserting in lieu thereof “September 30, 1977”.

SEC. 41. Section 903(c)(2)(D) of the Social Security Act (42 U.S.C. 1103(c)(2)(D)), and the sentence following subparagraph (D), are amended to read as follows:

“(D) the appropriation law limits the total amount which may be obligated during a twelve-month period (as prescribed in the law of the State), or during a transitional period of less than twelve months caused by a change in the twelve-month period (as prescribed in the law of the State), to an amount which does not exceed the amount by which (i) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b) during such twelve-month period or transitional period of less than twelve months and the twenty-four preceding twelve-month periods (including the transitional period of less than twelve months if it is within such twenty-four twelve-month periods) exceeds (ii) the aggregate of the amounts used by the State pursuant to this subsection and charged against the amounts transferred to the account of such State during such twenty-four twelve-month periods (and the transitional period of less than twelve months if it is within the twenty-four twelve-month periods).

For the purposes of subparagraph (D), amounts used by a State during any twelve-month period or transitional period of less than twelve months shall be charged against equivalent amounts which were transferred and which have not previously been so charged; except that no amount obligated for administration during any such period may be charged against any amount transferred during a twelve-month period or transitional period of less than twelve months earlier than the twenty-fourth preceding twelve-month period (including the transitional period of less than twelve months if it is within such twenty-four twelve-month periods).”.

SEC. 42. Section 8147(b) of title 5, United States Code (Federal Employees' Compensation Act), is amended by (1) striking out “fiscal year” in the first sentence and inserting “July 1 through June 30 expense period” in lieu thereof, (2) striking out “next” and, after “fiscal year”, inserting “beginning in the next calendar year”, in the second sentence, and (3) inserting “during the first fifteen days of October following the furnishing of the statement” after “control” in the fourth sentence.

SEC. 43. Section 313(e) of title 37, United States Code, is amended by deleting “April 30” and inserting “July 31” in lieu thereof.

SEC. 44. Section 221(b)(4)(B) of the Community Mental Health Centers Act (42 U.S.C. 2689i(b)(4)(B)) is amended by striking out “October”, “December”, and “July” and inserting in lieu thereof “January”, “March”, and “October”, respectively; and by striking out “even-numbered” and inserting in lieu thereof “odd-numbered”.

SEC. 45. (a) Subsection (b) (1) (A) of the first section of the Act of July 25, 1956 (31 U.S.C. 701), as amended by section 503(b) of the Congressional Budget Act of 1974, is amended to read as follows:

“(A) for any fiscal year or years ending on or before June 30, 1976, on that September 30 which falls in the first month of September which occurs twenty-four months after the end of such fiscal year or years for which the appropriation is available for obligation; and”.

(b) Subsection (b) (2) (A) of such section is amended by deleting “September 30” and inserting in lieu thereof “November 15”.

SEC. 46. Section 613(c) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2363(c)) is further amended by inserting at the end thereof the following: “After submission of the reports required to reflect inventories as of December 31, 1975, inventories shall be reported as of September 30, 1976, and semiannually thereafter.”.

SEC. 47. Subsection (c) of section 5008 of the Internal Revenue Code of 1954 (26 U.S.C. 5008(c)) is amended by striking “fiscal year” each place it appears (including in the schedule contained in paragraph (3) (A)) and inserting in lieu thereof “computation year”.

SEC. 48. (a) Section 843(d) of the Education Amendments of 1974 (20 U.S.C. 241c note) is amended by striking out “June 30, 1977, and June 30, 1978,” and inserting in lieu thereof “September 30, 1977, and September 30, 1978,”.

(b) Paragraph (2) (A) (i) of section 305(a) of the Education Amendments of 1974 (Public Law 93-380; 88 Stat. 533) is amended by striking out “July 1, 1978” and “July 1, 1977” and inserting in lieu thereof “October 1, 1978” and “October 1, 1977”, respectively.

SEC. 49. (a) Section 103(c) (2) (B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241c(c) (2) (B)) is amended by striking out “January” wherever it appears and inserting in lieu thereof “October”.

(b) Section 103(c) (2) (B) is also amended by striking out “April 1 of the calendar year” and inserting in lieu thereof “January 1 of the fiscal year”.

(c) Section 103(c) (2) (B) is also amended by striking out “second calendar year” and by inserting in lieu thereof “calendar year”.

(d) Section 403(16) of the Act of September 30, 1950 (20 U.S.C. 244(16)), as added by section 101(a) (9) (K) of the Education Amendments of 1974, is amended by striking out “during the second fiscal year” and inserting in lieu thereof “during the third fiscal year” in lieu thereof.

Approved April 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1000 accompanying H.R. 12605 (Comm. on Government Operations).

SENATE REPORT No. 94-469 (Comm. on Government Operations).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 1, considered and passed Senate.

Vol. 122 (1976): Apr. 6, considered and passed House, amended, in lieu of H.R. 12605.

Apr. 8, Senate concurred in House amendment.

Public Law 94-274
94th Congress

An Act

To provide for the orderly transition to the new October 1 to
September 30 fiscal year.

Apr. 21, 1976

[S. 2444]

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,* That this Act may
be cited as the "Fiscal Year Transition Act".

Fiscal Year
Transition Act.
31 USC 701 note.

TITLE I

SEC. 101. (a) For the purposes of sections 222(d) (1), 421, 506(d), 516, 705, 901 (e) (2) and (f), 902, 905(b) (2), 1108, 1115, and 2002 (a) (2) of the Social Security Act, the term "fiscal year" includes the period of July 1, 1976, through September 30, 1976, and the exercise of authority pursuant to these provisions for that period shall be subject to the conditions stated in the following paragraphs:

42 USC 422 note.

(1) notwithstanding the provisions of section 222(d) (1) (42 U.S.C. 422(d) (1)), the amount authorized to be transferred from the trust funds pursuant to that section in the period beginning July 1, 1976, and ending September 30, 1976, may not exceed 1.5 per centum of the total of the benefits certified for payment in the first quarter of the fiscal year beginning July 1, 1975, and the amount authorized to be transferred from the Trust Funds in the fiscal year beginning October 1, 1976, may not exceed 1.5 per centum of the total of the benefits certified for payment in the preceding twelve months;

(2) the fixed dollar allotment to each State under section 421 (42 U.S.C. 621) shall be \$17,500;

(3) the reduction required by section 506(d) (42 U.S.C. 706 (d)) shall be the amount by which the sum expended from non-Federal sources for that period is less than one-fourth the sum expended from such sources for the fiscal year ending June 30, 1968;

(4) the amount allotted to each State under section 516 (42 U.S.C. 716) shall be the excess of one-fourth the amount of the allotment for the State under sections 503 and 504 of the Social Security Act (42 U.S.C. 703 and 704), for the fiscal year ending June 30, 1973, plus the amount of any grants to the State under sections 508, 509, and 510 of that Act (42 U.S.C. 708, 709, and 710), over the amount of the allotment of the State under sections 503 and 504 of that Act for the period;

(5) the limitation imposed by section 705(b) (42 U.S.C. 906 (b)) on the amount that may be available for carrying out section 705(f) shall be \$500,000 for that period;

(6) the percentage referenced in the second sentence of section 901(e) (2) (42 U.S.C. 1101(e) (2)) shall be reduced to 10 per centum for the purpose of advances to be made in that period;

(7) notwithstanding the provisions of section 901(f) (3) (A) (42 U.S.C. 1101(f) (3) (A)), for the fiscal year beginning October 1, 1976, the excess in the employment administration account shall be retained until the amount in such account is equal to 160

per centum of the amount of the total appropriation by the Congress out of the account for the period July 1, 1976, through September 30, 1976, and \$37,500,000 or three thirty-seconds of the amount in the employment security administration account, whichever is the lesser, is authorized to be made available for that period under the conditions provided therein;

(8) the determinative calendar year for the purpose of a transfer to the unemployment account pursuant to section 902(a) (42 U.S.C. 1102(a)), at the beginning of the fiscal year beginning October 1, 1976, shall be calendar year 1975;

(9) the determinative calendar year for the purposes of a transfer to the extended unemployment compensation account pursuant to section 905(b)(2)(B) (42 U.S.C. 1105(b)(2)(B)), at the beginning of the fiscal year beginning October 1, 1976, shall be calendar year 1975;

(10) the limitations imposed by section 1108 (42 U.S.C. 1308) on amounts certified by the Secretary shall be one-fourth of the limitations imposed by that section with respect to the fiscal year ending June 30, 1976;

(11) the dollar limitation imposed by section 1115 (42 U.S.C. 1315) on the amount available for payments to the States for the cost of projects under that section shall be \$1,000,000 of the aggregate amount appropriated for payments to the States for the period; and

(12) notwithstanding the provisions of subparagraph (A) of section 2002(a)(2) (42 U.S.C. 1397a(a)(2)), the limitation imposed by that subparagraph on payments with respect to expenditures by a State for the period shall be one-fourth of the limitation imposed on such payments with respect to expenditures by the State for the fiscal year beginning July 1, 1975; and notwithstanding the provisions of subparagraph (D) of section 2002(a)(2), the maximum allotments under that subparagraph for the period shall be \$3,750,000 for Puerto Rico, \$125,000 for Guam, and \$125,000 for the Virgin Islands, but nothing in this Act shall apply to the second sentence of section 2002(a)(2)(A).

42 USC 703 note.

(b) Notwithstanding the provisions of sections 503 and 504 of the Social Security Act (42 U.S.C. 703 and 704), the fixed dollar allotment to each State under each of these sections for the period of July 1, 1976, through September 30, 1976, shall be \$17,500.

42 USC 1301 note.

(c) Notwithstanding the provisions of section 1101(a)(8)(B) of the Social Security Act (42 U.S.C. 1301(a)(8)(B)), the Federal percentages promulgated under that subparagraph in 1974 shall be conclusive for each of the nine quarters in the period beginning on July 1, 1975, and ending on September 30, 1977.

42 USC 1397e note.

(d) Notwithstanding the provisions of section 2006(c) of the Social Security Act (42 U.S.C. 1397e(c)), the report on the operation of the program established by title XX of that Act during the fiscal year ending June 30, 1976, shall include the operation of that program during the period of July 1, 1976, through September 30, 1976, and shall be submitted to the Congress prior to April 1, 1977.

SEC. 102. For the purposes of section 401 of the Social Security Amendments of 1972 (42 U.S.C. 1382e note), the term "fiscal year" includes the period of July 1, 1976, through September 30, 1976, and the limitations imposed by section 401(a) on the amount payable to the Secretary by a State shall be one-fourth of the non-Federal share of expenditures as aid or assistance for quarters in calendar year 1972, as determined under that section.

SEC. 103. For the purposes of the provisions of sections 110 and 120 of the Rehabilitation Act of 1973 (29 U.S.C. 730 and 740), the term "fiscal year" includes the period of July 1, 1976, through September 30, 1976, and the exercise of authority pursuant to those provisions for that period shall be subject to the conditions stated in the following paragraphs:

29 USC 730 note.

(1) the fixed dollar minimum allotment for any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under section 110 shall be \$500,000, and

(2) the minimum allotment to any State under section 120 shall be \$12,500.

SEC. 104. For the purpose of the second sentence of section 319(h) (2) of the Public Health Service Act (42 U.S.C. 247d(h)(2)), the period of July 1, 1976, through September 30, 1976, shall be treated as part of fiscal year 1976, and the 90 per centum limitation specified in that sentence shall be increased to 112.5 per centum for that period.

42 USC 247d note.

SEC. 105. (a) For the purposes of sections 210(a), 305(a), and 307(c) of the Older Americans Act of 1965 (42 U.S.C. 3020(a), 3025(a), and 3027(c)), the period of July 1, 1976, through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the exercise of authority pursuant to those provisions shall be subject to the conditions stated in the following paragraphs:

42 USC 3020 note.

(1) the term "appropriation Act" in section 210(a) (42 U.S.C. 3020(a)) shall be considered to include any appropriation Act for the period of July 1, 1975, through September 30, 1976;

(2) notwithstanding the provisions of section 307(c) (42 U.S.C. 3027(c)), a State's allotment under section 303 for the period of July 1, 1975, through September 30, 1976, shall be reduced by the percentage by which its expenditures for such period from State sources under its State plan approved under section 305 are less than 125 per centum of its expenditures from such sources of the preceding fiscal year, and, notwithstanding the provisions of section 307(c), a State's allotment under section 303 for the fiscal year ending September 30, 1977, shall be reduced by the percentage by which its expenditures for that year from State sources under its State plan, approved under section 305, are less than 80 per centum of its expenditures for the period of July 1, 1975, through September 30, 1976; and

(3) the assurances required by that portion of paragraph (10) of section 305(a) of the Act preceding the exception clause shall be that not less than 50 per centum of the amount by which the allotment for the period of July 1, 1976, through September 30, 1977, exceeds 125 per centum of the allotment for fiscal year 1975, shall be used for the purposes of section 305(b).

(b) For the purposes of sections 303(b) and 306(b) of the Older Americans Act of 1965 (42 U.S.C. 3023(b) and 3026(b)), the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year, and the exercise of authority pursuant to those provisions shall be subject to the conditions stated in the following paragraphs:

42 USC 3023 note.

(1) the amount specified in section 303(b)(2)(C) shall be decreased by 75 per centum for that period;

(2) the amount of \$200,000 specified in section 306(b)(1)(A) shall be decreased to \$50,000 for that period; and

(3) the amount of \$62,500 specified in section 306(b)(1)(B) shall be decreased to \$15,625 for that period, and the amount

specified in section 306(b)(3) shall be decreased by 75 per centum for that period.

42 USC 297j
note.

SEC. 106. (a) For the purposes of sections 845(b) and (c)(1)(A), 1516(c)(2), 1525(b), 1610(b), and 1640(b) of the Public Health Service Act, the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year and the exercise of authority pursuant to those provisions for the period shall be subject to the conditions stated in the following paragraphs:

(1) the amount of \$3,000 specified in section 845(b) (42 U.S.C. 297j(b)) shall be reduced to \$750 for that period, and the regulations regarding scholarships in section 845(c)(1)(A) (42 U.S.C. 297j(c)(1)(A)) for fiscal year 1977 shall apply to that period;

(2) notwithstanding the provisions in the exception clause in section 1516(c)(2) (42 U.S.C. 300l-5(c)(2)), the amount of \$175,000 specified shall be reduced to \$43,750 for that period;

(3) notwithstanding the provisions of the exception clause in section 1525(b) (42 U.S.C. 300m-4(b)), the amount concerning which assurances are required in respect to the period shall be 75 per centum less than the amount specified, and funds expended in previous years shall not, for the purposes of that clause, include funds expended during that period;

(4) notwithstanding the provisions in section 1610(b)(1) (42 U.S.C. 300p(b)(1)), the amounts of \$1,000,000 and \$500,000 specified shall be decreased to \$250,000 and \$125,000, respectively, for that period; and

(5) notwithstanding the provisions of section 1640(b)(2) (42 U.S.C. 300t(b)(2)), the amount of \$1 specified in section 1640(b)(2) shall be decreased to 25 cents for that period.

42 USC 242b
note.

(b) Section 308(c) of the Public Health Service Act (42 U.S.C. 242m(c)) shall not apply to any funds obligated or grants or contracts made or entered into for the period of July 1, 1975, through September 30, 1976. The aggregate number of grants and contracts made or entered into under sections 304 and 305 of the Act (42 U.S.C. 242b and 242c), for the period of July 1, 1975, through September 30, 1976, respecting a particular means of delivery of health services, or another particular aspect of health services, may not exceed twenty-five, and the aggregate amount of funds obligated under grants and contracts for that period under those sections respecting a particular means a delivery of health services may not exceed \$6,250,000.

42 USC 280b-7
note.

(c) No grant under section 395 of the Public Health Service Act (42 U.S.C. 280b-7) for the period of July 1, 1976, through September 30, 1976, shall exceed \$50,000.

42 USC 289a
note.

(d) Of the sums appropriated under the Public Health Service Act for the National Institutes of Health for the period of July 1, 1976, through September 30, 1976, not less than \$125,000 shall be obligated for basic and clinical orthopedic research as prescribed under section 431(c) (42 U.S.C. 289a(c)).

42 USC 300l-5
note.

(e) Notwithstanding the provisions of section 1516(b) of the Public Health Service Act (42 U.S.C. 300l-5(b)), the amounts specified in sections 1516(b)(1)(A), 1516(b)(1)(B), 1516(b)(2)(A)(i), 1516(b)(2)(A)(ii)(II), and 1516(b)(3) for purposes of grants made under section 1516 in the period of July 1, 1976, through September 30, 1976, shall be reduced by 75 per centum.

42 USC 300e-4
note.

(f) For the purposes of section 1305(b)(1) of the Public Health Service Act (42 U.S.C. 300e-4(b)(1)), the period of July 1, 1976,

through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the limitation specified in the second sentence of section 1305(b)(1) shall be \$1,250,000 for the period beginning July 1, 1975, and ending September 30, 1976.

Sec. 107. For the purposes of the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 6001 et seq.) (1) the term "fiscal year" includes the period of July 1, 1976, through September 30, 1976, (2) for purposes of paragraphs (3) and (4) of section 132(a) of that Act (42 U.S.C. 6062(a)(3) and (4)) that period shall be considered part of the fiscal year beginning July 1, 1975; and (3) the minimum allotment of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands for that period under section 132(a)(1) of that Act (42 U.S.C. 6062(a)(1)) shall be \$12,500 and the minimum allotment of each State for that period shall be \$37,500.

42 USC 6001
note.

Sec. 108. (a) For the purposes of section 302(c) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4572(c)), the period of July 1, 1976, through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the limitation of \$50,000 specified in section 302(c) shall be increased to \$62,500 for that period.

42 USC 4572
note.

(b) For the purposes of section 302(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4572(a)), the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year and the amount of \$200,000 specified in section 302(a) shall be decreased to \$50,000 for that period.

42 USC 4572
note.

(c) For the purposes of section 304(c) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4574(c)), the period of July 1, 1975, through September 30, 1976, shall be considered a fiscal year, and the 10 per centum limitation specified in section 304(c) shall be increased to 40 per centum for that period.

42 USC 4574
note.

Sec. 109. For the purposes of sections 227, and 237(d) of the Community Mental Health Centers Act, the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year and the exercise of authority pursuant to those provisions for that period shall be subject to the conditions stated in the following paragraphs:

42 USC 2689o
note.

(1) the \$100,000 minimum, specified in section 227(a) (42 U.S.C. 2689o(a)), shall be \$25,000 for that period, and the time limitation in that section respecting the availability of unobligated funds shall not take into consideration the period of July 1, 1976, through September 30, 1976; and

(2) the amount of \$50,000 specified in section 237(d)(1) (42 U.S.C. 2689t(d)(1)), shall be \$12,500 for that period, the time limitation specified in the second sentence shall not take that period into consideration, and the amount specified in section 237(d)(2) (42 U.S.C. 2689t(d)(2)), shall be reduced by 75 per centum for that period.

Sec. 110. For the purposes of sections 1079 and 1086 of title 10, United States Code, the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year, except that for the purposes of computing the minimum fixed dollar amounts prescribed by sections 1079(b) and 1086(b), that period shall be considered as part of the fiscal year ending June 30, 1976.

10 USC 1079
note.

42 USC 1752
note.

SEC. 111. (a) Except where the context otherwise requires, or where otherwise provided in this section, the phrase "fiscal year" shall include the period of July 1, 1976, through September 30, 1976, wherever it appears in sections 3, 4, 6(a), 7, 8, 10, and 11 of the National School Lunch Act, as amended (42 U.S.C. 1752, 1753, 1755(a), 1756, 1757, 1759, and 1759a).

(b) (1) The phrase "fiscal year ending June 30, 1972", in section 4 of the National School Lunch Act (42 U.S.C. 1753) shall be construed to mean the period of July 1, 1971, through September 30, 1971, in computing the minimum aggregate amount of food assistance payments to be made by the Secretary to each State educational agency for the period of July 1, 1976, through September 30, 1976.

(2) For the purpose of the sixth sentence of section 7 of the National School Lunch Act, as amended (42 U.S.C. 1756), for the period of July 1, 1976, through September 30, 1976, State revenue shall constitute at least 8 per centum of the matching requirement for the same three-month period in the preceding fiscal year.

22 USC 2514
note.

SEC. 112. (a) For the period of July 1, 1976, through September 30, 1976, the limitations on expenditures in sections 15(d)(5) and 15(d)(7) of the Peace Corps Act (22 U.S.C. 2514(d)(5) and 2514(d)(7)) shall be \$1,500.

22 USC 2501a
note.

(b) For the period of July 1, 1976, through September 30, 1976, the limitation on expenditures in section 301(b)(2) of the Peace Corps Act (22 U.S.C. 2501a(b)(2)) shall be \$100,000.

7 USC 361c note.

SEC. 113. For the purposes of section 3(d) of the Act of March 2, 1887, as amended (7 U.S.C. 361c(d)), the period of July 1, 1976, through September 30, 1976, shall be treated as a fiscal year and the figure \$90,000 in section 3(d) shall be construed to be \$22,500 for that period.

16 USC 831/
note.
16 USC 831/.

SEC. 114. (a) For the purposes of section 13 of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831), the Corporation shall, for the period of July 1, 1976, through September 30, 1976, make payments in lieu of taxes on such bases and in a manner which is consistent, to the fullest extent practicable, with the payments authorized and made for the immediately preceding fiscal year and to be made for the fiscal year immediately following, in accordance with the applicable provisions of that section.

16 USC 831n-4
note.

(b) Pursuant to the provisions of section 15d of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831n-4), the Corporation shall make a payment of \$5,000,000, on September 30, 1976, as repayment of the appropriation investment plus a payment as a return on the appropriation investment for the period of July 1, 1976, through September 30, 1976, computed at the average interest rate payable by the Treasury upon its total marketable public obligations as of July 1, 1976, applied to the balance of said appropriations as of July 1, 1976.

21 USC 1176
note.

SEC. 115. For the purposes of sections 409(b) and 409(c)(1) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(b) and (c)(1)), the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year and the exercise of authority pursuant to these provisions for that period shall be subject to the conditions stated in the following paragraphs:

(1) notwithstanding the provision in section 409(b)(3)), the limitation of \$50,000 specified in section 409(b)(3) shall be decreased to \$12,500 for that period; and

(2) notwithstanding the provision in section 409(c)(1), the amount of \$100,000 specified in section 409(c)(1) shall be decreased to \$25,000 for that period.

SEC. 116. Notwithstanding the provisions of section 406(d) of the General Education Provisions Act (20 U.S.C. 1221e-1(d)), the report of the Assistant Secretary for the Department of Health, Education, and Welfare required by section 406(d) to be submitted in 1976 shall include a description of the activities of the National Center for Education Statistics during the period of July 1, 1976, through September 30, 1976.

20 USC 1221e-1 note.

SEC. 117. For the purpose of the Comprehensive Employment and Training Act, Public Law 93-203, the period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning on July 1, 1975, except that such period shall not be included in such fiscal year in applying the percentages specified in sections 103(a)(4) and 103(f) of that Act.

29 USC 801 note.

SEC. 118. (a) For the purposes of sections 201(a) and 202(a) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1151(a) and 1152(a)), the period of July 1, 1976, through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the limitations of 170,000 specified in section 201(a) and 20,000 specified in section 202(a), shall be increased to 212,500 and 25,000, respectively, for the period of July 1, 1975, through September 30, 1976.

29 USC 813.
8 USC 1151 note.

(b) For the purposes of section 21(e) of the Act of October 3, 1965 (79 Stat. 921), the period of July 1, 1976, through September 30, 1976, shall be considered part of the fiscal year beginning July 1, 1975, and the limitation of 120,000 specified in section 21(e) shall be increased to 150,000 for the period of July 1, 1975, through September 30, 1976.

SEC. 119. In case of any applicable program within the meaning of the General Education Provisions Act, except as otherwise specifically provided by this Act, for the purpose of comparison of activities between fiscal years, amounts applicable to the period July 1, 1975, through September 30, 1976, and the statistical measurements pertaining to those amounts, shall be reduced by 20 per centum where such period is to be by the terms of this Act made or considered to be a part of the fiscal year 1976 or the fiscal year ending September 30, 1977. Notwithstanding any other provision of this Act, where the period July 1, 1976, through September 30, 1976, is to be by the terms of this Act made or considered to be a separate fiscal year, it shall not be considered a fiscal year for the purpose of such comparison of activities between fiscal years and such measurements in the case of any such program.

20 USC 1221 note.

SEC. 120. For the purposes of section 8147(b) of title 5, United States Code, each agency and instrumentality of the United States dependent upon an annual appropriation and having an employee who is or may be entitled to compensation benefits under this subchapter or any extension or application thereof shall deposit in the Treasury to the credit of the Employees' Compensation Fund, no later than July 15, 1976, but no earlier than July 1, 1976, 25 per centum of the amount stated in the August 15, 1975, statement.

5 USC 8147 note.

SEC. 121. For the purposes of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), the term "fiscal year" includes the period of July 1, 1976, through September 30, 1976, and the amount to be transferred to the Secretary of Agriculture pursuant to that section and for that period is 7.5 per centum of the gross receipts collected under the customs laws during calendar year 1975.

7 USC 612c note.

15 USC 713c-3
note.

SEC. 122. For the purposes of section 2(a) of the Act of August 11, 1939 (53 Stat. 1412), as amended (15 U.S.C. 713c-3), the term "fiscal year" includes the period of July 1, 1976, through September 30, 1976, and the amount to be transferred to the Secretary of Commerce pursuant to that section and for that period is 7.5 per centum of the gross receipts collected under the customs laws on fishery products during calendar year 1975.

39 USC 2005
note.

SEC. 123. For the purposes of section 2005(a) of title 39, United States Code, the period of July 1, 1975, through September 30, 1976, shall be considered a fiscal year and the maximum net increase in the amount of United States Postal Service obligations outstanding imposed by that section for such period shall be deemed to be \$1,875,000,000 for obligations issued for the purpose of capital improvements and \$625,000,000 for obligations issued for the purpose of defraying operating expenses of the Postal Service.

42 USC 3056
note.

SEC. 124. For the purposes of the Older American Community Service Employment Act (42 U.S.C. 3056 et seq.) the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year, and the amounts of \$100,000 and \$50,000 specified in section 906(a)(2) shall be reduced to \$25,000 and \$12,500, respectively, for that period.

42 USC 296e
note.

SEC. 125. For the purposes of section 810(c)(1) of the Public Health Service Act (42 U.S.C. 296e(c)(1)) the period July 1, 1976, through September 30, 1976, shall be considered part of fiscal year 1977, but that period shall not be considered in the calculation of average expenditures for any fiscal year, and the amount which a school must expend during that fifteen-month period is increased 125 per centum of the average of non-Federal expenditures in the preceding three fiscal years.

42 USC 296j
note.

42 USC 296j.

SEC. 126. For the purposes of section 815 of the Public Health Service Act (42 U.S.C. 926j) the period of July 1, 1976, through September 30, 1976, shall be considered part of fiscal year 1976, but that period shall not be considered in the calculation of average expenditures for any fiscal year for assurances required by section 815(b)(2) (42 U.S.C. 296j(b)(2)), and the amount which a school must expend during that fifteen-month period is increased to 125 per centum of the average of non-Federal expenditures in the preceding three fiscal years.

TITLE II

7 USC 343 note.

SEC. 201. The period of July 1, 1976, through September 30, 1976, shall be treated as a fiscal year for the purpose of the following provisions of law:

- (1) section 3(b)(2) of the Act of March 2, 1887, as amended (7 U.S.C. 361c(b)(2));
- (2) section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b));
- (3) section 16(b) of the Food Stamp Act of 1964 (7 U.S.C. 2025(b));
- (4) the Act of June 30, 1932 (16 U.S.C. 577a);
- (5) section 1 of the Act of June 29, 1966 (Public Law 89-473; 31 U.S.C. 628a);
- (6) section 2 of the Act of December 23, 1944 (chapter 716, as amended, 31 U.S.C. 492b);
- (7) section 3(a) of the Act of July 15, 1957 (chapter 509, 31 U.S.C. 581d);
- (8) section 10(c) of the Act of June 29, 1935, as added by the Act of August 14, 1946, as amended (7 U.S.C. 427i(c));

16 USC 557a.

(9) section 208(d) of the District of Columbia Public Post Secondary Education Reorganization Act (Public Law 93-471);

D.C. Code
31-1718.

(10) sections 2209, 2210, 3201, 3202, 5401, 5402, 7581, 8201, and 8202 of title 10, United States Code;

(11) section 305(b) of the Social Security Amendments of 1972 (Public Law 92-603, 42 U.S.C. 401 note);

(12) sections 201 (a), (b), and (g) (1), 302(a), 403(g), 424, 431, 502, 901 (b), (c), and (f), 903 (a) (1) and (b) (1), 1203, 1817(a), and 1841 (h) and (i) of the Social Security Act (42 U.S.C. 401 (a), (b), and (g) (1), 502(a), 603(g), 624, 631, 702, 1101 (b), (c), and (f), 1103 (a) (1) and (b) (1), 1323, 1395i(a), and 1395t (h) and (i));

(13) part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751-56a);

42 USC
2751-2756a.

(14) section 7652(b) of the Internal Revenue Code of 1954 (26 U.S.C. 7652);

(15) the second sentence of section 3(b) (2) of the Act of May 8, 1914, as added by the Act of June 23, 1972 (7 U.S.C. 343(b) (2));

(16) section 15(b) of the Peace Corps Act (22 U.S.C. 2514 (b));

(17) sections 206(d), 209(c), 311(c), 313(b), 314(d) (4) and (5), 317 (b), (d) (4), and (f), 318 (f) and (g), 324(b), 328(b), 331, 820(d), 838(a), 838(b) (2), 841, 846, 1206(e), 1516(a), 1610 (a), 1611(c), and 1640(a) of the Public Health Service Act (42 U.S.C. 207(d), 210b(c), 243(c), 245a(b), 246(d) (4) and (5), 247b (b), (d) (4), and (f), 247c (f) and (g), 251(b), 254a(b), 255, 296k(d), 297d (a) and (b) (2), 297h, and 297k, 300d-5(e), 300l-5(a), 300p(a), 300p-1(c), and 300t(a));

42 USC 300l-5.

(18) sections 303 (c) and (e), 306(c), 307(a), 501(b), 703, 705 (a) (2) (B), and 706 of the Older Americans Act of 1965 (42 U.S.C. 3023 (c) and (e), 3026(c), 3027(a), 3041(b), 3045b, 3045d (a) (2) (B), and 3045e);

(19) for purposes of continuation grants under the Community Mental Health Centers Act, section 264(a) and the first sentence of section 221(c) of that Act as in effect prior to July 29, 1975 (42 U.S.C. 2688a(c) and 2688r(a));

(20) section 513(a) of the Headstart-Follow Through Act (42 U.S.C. 2928b(a)), except the material following the semicolon in the third sentence of that section shall not apply to funds appropriated for the period of July 1, 1976, through September 30, 1976;

(21) section 4(b) of the Act of July 22, 1963 (7 U.S.C. 390c (b));

(22) section 3(c) of the Act of May 8, 1914, as amended (7 U.S.C. 343(c));

(23) the last sentence of section 520(a) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3768(a));

(24) section 401 of the Act of June 15, 1935 (49 Stat. 383), as amended (16 U.S.C. 715s);

(25) section 203(d) of the Act of June 26, 1934, as amended (12 U.S.C. 1783(d));

(26) section 4 of the Act of July 18, 1958, as amended (15 U.S.C. 633);

(27) section 316 of the Act of August 10, 1965 (15 U.S.C. 694);

(28) section 2(e) of the Act of August 4, 1950 (31 U.S.C. 181a(e));

- (29) section 7 of the Act of February 22, 1921 (31 U.S.C. 491);
- (30) section 4 of the Act of June 26, 1934 (31 U.S.C. 725c);
- (31) sections 102 and 103 of the Act of December 6, 1946 (31 U.S.C. 847 and 848);
- (32) section 257 of the Revised Statutes (31 U.S.C. 1027);
- (33) section 15 of the Act of July 31, 1894 (31 U.S.C. 1029);
- (34) section 1 of the Act of February 26, 1907 (31 U.S.C. 1030);
- (35) section 401 of the Act of December 31, 1970 (31 U.S.C. 1033);
- (36) sections 103(e) and 111(d) of the Social Security Amendments of 1965 (42 U.S.C. 426a(c) and 1395i-1); and
- (37) section 102(a)(11) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(11)).

7 USC 2652 note.

SEC. 202. The period of July 1, 1976, through September 30, 1976, shall be treated as a fiscal year for the purposes of the following provisions of law insofar as they relate to matching requirements:

- (1) section 2 of the Act of March 1, 1911 (16 U.S.C. 563);
- (2) sections 2, 4, and 5 of the Act of June 7, 1924, as amended (16 U.S.C. 565, 567, and 568);
- (3) section 4 of the Act of October 10, 1962 (16 U.S.C. 582a-3);
- (4) section 2 of the Cooperative Forest Management Act, as amended (16 U.S.C. 568d); and
- (5) section 402 of the Rural Development Act of 1972 (7 U.S.C. 2652).

15 USC
713a-11a note.

SEC. 203. For the purposes of the paragraph captioned "Commodity Credit Corporation", "Reimbursement for Net Realized Losses" of title III of the Department of Agriculture and Related Agencies Appropriation Act, 1966 (15 U.S.C. 713a-11a), the period of July 1, 1976, through September 30, 1976, shall be considered a fiscal year and the words "June 30 of the fiscal year" shall be construed to mean September 30, 1976, for that period.

7 USC 390e note.

SEC. 204. The period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning July 1, 1975, for the purposes of the following provisions of law:

- (1) the following provisions of the Public Health Service Act:
 - section 207(b) (42 U.S.C. 209(b));
 - section 301(c) (42 U.S.C. 241(c));
 - section 308(a), and the second sentence of section 308(i) (1) (42 U.S.C. 242m(a) and 242m(i)(1));
 - sections 314 (d)(2)(C) and (d)(6) (42 U.S.C. 246 (d)(2)(C) and (d)(6));
 - section 398 (42 U.S.C. 280b-10);
 - the last sentence of section 419B (42 U.S.C. 287i);
 - section 434(f) (42 U.S.C. 289c-1(f));
 - section 436 (42 U.S.C. 289c-3);
 - section 437 (42 U.S.C. 289c-4);
 - section 439(f) (42 U.S.C. 289c-6(e));
 - the last sentence of section 439(h) (42 U.S.C. 289c-6(g));
 - section 513 (42 U.S.C. 229b);
 - section 805(f)(2) (42 U.S.C. 296d(f)(2));
 - section 1006(a) (42 U.S.C. 300a-4);
 - section 1009 (42 U.S.C. 300a-6a);
 - section 1207(a)(2) (42 U.S.C. 300d-6(a)(2));
 - section 1303(i) (42 U.S.C. 300e-2(i));
 - section 1304(k) (42 U.S.C. 300e-3(k));
 - section 1305(e) (42 U.S.C. 300e-4(e));

section 1610(c) (42 U.S.C. 300p(c));
 section 1611(d) (42 U.S.C. 300p-1(d));
 section 1621 (42 U.S.C. 300q-1);
 section 1625 (42 U.S.C. 300r);

(2) sections 208, 304(a), 307(b), 505(b), 707(a) (4), and the last sentence of section 708 of the Older Americans Act of 1965 (42 U.S.C. 3018, 3024(a), 3027(b), 3041(b), 3045f(a) (4), and 3045g);

(3) section 503(d) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4843(d));

(4) sections 203(d) (2), 204(e) (1), 206(e), 221(b) (2) and (b) (4) (B) of the Community Mental Health Centers Act (42 U.S.C. 2689b(d) (2), 2689c(e) (1), 2689e, 2689i (b) (2) and (b) (4) (B));

(5) section 417(a) (1) and 437(a) of the General Education Provisions Act (20 U.S.C. 1226c(a) (1) and 1232f(a));

(6) section 2(c) of the Sudden Infant Death Syndrome Act of 1974 (42 U.S.C. 289g note);

(7) the following provisions of the Social Security Act:

section 201(c) (42 U.S.C. 401(c));
 sections 403 (c) and (f) (42 U.S.C. 603 (c) and (f));
 section 423(c) (42 U.S.C. 623(c));
 section 1118 (42 U.S.C. 1318);
 section 1817(b) (42 U.S.C. 1395i(b));
 section 1841(b) (42 U.S.C. 1395t(b));
 section 1842(b) (3) (42 U.S.C. 1395u(b) (3));

(8) sections 409(c) (2) and 412(d) (2) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(c) (2) and 1179(d) (2));

(9) section 302(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4572(b));

(10) section 7 of the Act of September 30, 1950 (20 U.S.C. 241-1);

(11) section 410 of the Act of November 19, 1969 (Public Law 91-121, 50 U.S.C. 1436);

(12) sections 1012, 1013, and 1014(e) (1) of the Impoundment Control Act of 1974 (Public Law 93-344, 31 U.S.C. 1402, 1403, and 1404(e) (1));

(13) the Library Services and Construction Act (20 U.S.C. 351-364);

(14) section 207(b) of the National Productivity and Quality of Working Life Act of 1975 (15 U.S.C. 2417(b)); and

(15) section 6(b) of the Act of July 22, 1963 (7 U.S.C. 390e (b)).

SEC. 205. The period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning October 1, 1976, for the purposes of the following provisions of law: 5 USC 5532 note.

(1) section 5532(c) (ii) of title 5, United States Code;

(2) sections 3, 4, and 5 of the Act of September 2, 1937 (50 Stat. 917, 918), as amended (16 U.S.C. 669b, 669c, 669d);

(3) sections 3, 4, and 5 of the Act of August 9, 1950 (64 Stat. 432), as amended (16 U.S.C. 777b, 777c, 777d);

(4) section 1 of the Act of August 12, 1955 (69 Stat. 698; 16 U.S.C. 669b-1);

(5) section 26 of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y);

20 USC
241a-241o,
821-827,
841-847a,
1801-1832,
861-869a.

31 USC 703, 705.

21 USC 1176
note.

(6) section 303 of the Act of September 30, 1950 (20 U.S.C. 241bb);

(7) titles I, II, III, IV, and V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a-o, 821-27, 841a, 861-69a and 1801-32);

(8) section 612 of the Education of the Handicapped Act (20 U.S.C. 1412);

(9) sections 704 and 705 of the Emergency School Aid Act (20 U.S.C. 1603 and 1604);

(10) section 713 of the Education Amendments of 1974 (20 U.S.C. 1943);

(11) sections 404, 501(d), and 502(g) of the Rehabilitation Act of 1973 (29 U.S.C. 784, 791(d), and 792(g));

(12) section 3646 of the Revised Statutes (31 U.S.C. 528(c));

(13) section 40 of the Act of August 10, 1965, as amended (31 U.S.C. 649c);

(14) sections 3 and 5 of the Act of July 25, 1956 (31 U.S.C. 705 and 706);

(15) section 103 of the Act of June 6, 1972 (31 U.S.C. 1203);

(16) section 105(a)(2) of the Act of October 20, 1972 (31 U.S.C. 1224(a)(2));

(17) section 407(b) of title 37, United States Code;

(18) section 413 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5053);

(19) section 701(b) and (f) of title 10, United States Code;

(20) section 1 of the Act of July 11, 1947, as amended (31 U.S.C. 132);

(21) sections 110, 111(d), and 210(f)(5) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 757, 759, and 490(f)(5));

(22) the final paragraph under the heading "PUBLIC BUILDINGS ADMINISTRATION" in the Act of May 3, 1945 (59 Stat. 115; 40 U.S.C. 293);

(23) Public Law 90-469 (82 Stat. 666);

(24) sections 802(a), 810(b), 810(c)(2), 810(e), and 811(a) of the Public Health Service Act (42 U.S.C. 296a(a), 296e(b), 296e(c)(2), 296e(e) and 296f(a));

(25) sections 3 and 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1772, 1773(b)); and

(26) sections 2, 3, and 4 of the Act of September 30, 1950 (20 U.S.C. 237, 238, 239).

SEC. 206. The period of July 1, 1975, through September 30, 1976, shall be considered one year for the purposes of the following provisions of law—

(1) sections 314(d)(2)(C)(ii) and (d)(3), 435(b), 646, 1210, and 1315 of the Public Health Service Act (42 U.S.C. 246(d)(2)(C)(ii) and (d)(3), 289c-2(b), 291o-1, 300d-9, and 300e-14);

(2) section 409(e) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(e));

(3) section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4573);

(4) sections 203(e)(1) and 237(a)(1)(C) of the Community Mental Health Centers Act (42 U.S.C. 2689b(e)(1) and 2689t(a)(1)(C)); and

(5) section 205(b)(1) of the Water Pollution Control Act (33 U.S.C. 1285(b)(1)).

SEC. 207. A grant received under section 203(e)(1) of the Community Mental Health Centers Act (42 U.S.C. 2689b(e)(1)) from appropriations for the period of July 1, 1976, through September 30, 1976, shall not be considered a grant for the purposes of section 203(e)(1)(A)(i) (42 U.S.C. 2689b(e)(1)(A)(i)).

42 USC 2689b
note.

SEC. 208. For the purposes of section 206(c)(4) of the Community Mental Health Centers Act (42 U.S.C. 2689(c)(4)), the period July 1, 1976, through September 30, 1976, shall be treated as part of fiscal year 1976 and the 2 per centum minimum specified in that section shall be 2.5 per centum in respect to grants received for that period, and 1.6 per centum in respect to grants received for fiscal year 1977.

42 USC 2689e
note.

SEC. 209. The funds appropriated to an account for the period July 1, 1976, through September 30, 1976, shall be merged on July 1, 1976, with the balances available from the appropriations made for the fiscal year 1976 for such account.

31 USC 701 note.

Approved April 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1001 accompanying H.R. 12606 (Comm. on Government Operations).

SENATE REPORT No. 94-468 (Comm. on Government Operations).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 1, considered and passed Senate.

Vol. 122 (1976): Apr. 6, considered and passed House, amended, in lieu of H.R. 12606.

Apr. 8, Senate concurred in House amendment.

Public Law 94-275
94th Congress

Joint Resolution

Apr. 21, 1976
[S.J. Res. 35]

To provide for the designation of the week beginning March 13, 1977, as
"National Employ the Older Worker Week".

National Employ
the Older Worker
Week.
Designation
authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week beginning March 13, 1977, as "National Employ the Older Worker Week", and calling upon employer and employee organizations officially concerned with employment, and upon all the people of the United States to observe such week with appropriate ceremonies, activities, and programs designed to promote employment opportunities for older workers.

Approved April 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-981 (Comm. on Post Office and Civil Service).

SENATE REPORT No. 94-638 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 23, considered and passed Senate.

Apr. 5, considered and passed House, amended.

Apr. 9, Senate concurred in House amendments.

Public Law 94-276
94th Congress

An Act

To amend the Foreign Assistance Act of 1961 to provide emergency relief, rehabilitation, and humanitarian assistance to the people who have been victimized by the recent earthquakes in Guatemala.

Apr. 21, 1976

[S. 3056]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Guatemala Relief and Rehabilitation Act of 1976".

SEC. 2. Chapter 9 of part 1 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 495A. GUATEMALA RELIEF AND REHABILITATION.—(a) The President is authorized to provide assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of the people who have been victimized by the recent earthquakes in Guatemala. There is authorized to be appropriated to the President to carry out the purposes of this section \$25,000,000 for the fiscal year 1976, which amount is authorized to remain available until expended, except that not more than \$4,000,000 of this amount shall be available for repairs to the Puerto Barrios highway in Guatemala. Assistance under this section shall be provided in accordance with the policy and general authority of section 491 of this Act. Obligations incurred prior to the enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Guatemala may be charged to the appropriations authorized under this section.

"(b) Assistance made available under this section shall be distributed to the maximum extent practicable through United States voluntary relief agencies and other international relief and development organizations.

"(c) In order to limit the extent of deaths, injuries, and destruction in future earthquakes, assistance provided under this section which is used for the construction of housing in the Republic of Guatemala shall, to the maximum extent possible, be used for housing which is constructed of seismic resistant materials or which will otherwise minimize the danger of injury to occupants during future earthquakes; and the President should encourage the Government of the Republic of Guatemala to promote the use of such materials.

"(d) Notwithstanding any other provision of law, the amount authorized to be appropriated in subsection (a) of this section may be used only for the purposes specified in this section. The authority contained in section 610(a) of this Act may not be used to transfer funds made available under this section.

Guatemala Relief
and
Rehabilitation
Act of 1976.
22 USC 2292g
note.
22 USC 2292g.

22 USC 2292.

22 USC 2360.

Report to
congressional
committees.

“(e) Not later than sixty days after the date of enactment of appropriations to carry out this section, and at the end of each quarter thereafter, the President shall transmit a report to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives on the programing and obligations of funds under this section.”.

Approved April 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-891 accompanying H.R. 12046 (Comm. on International Relations) and No. 94-1009 (Comm. of Conference).

SENATE REPORT No. 94-679 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 5, considered and passed Senate.

Mar. 22, considered and passed House, amended, in lieu of H.R. 12046.

Apr. 12, House agreed to conference report.

Apr. 13, Senate agreed to conference report.

Public Law 94-277
94th Congress

Joint Resolution

To extend support under the joint resolution providing for Allen J. Ellender fellowships to disadvantaged secondary school students, and for other purposes.

Apr. 21, 1976

[H.J. Res. 491]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(b)(1) of the joint resolution entitled a "Joint resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program" approved October 19, 1972, is amended by striking out "not more than one thousand five hundred", and by striking out "in any fiscal year".

Allen J. Ellender
fellowships.
Extension.
86 Stat. 908.

SEC. 2. Section 5 of such joint resolution is amended by striking out "two succeeding fiscal years" and inserting in lieu thereof the following: "three succeeding fiscal years, \$750,000 each for fiscal year 1977 and fiscal year 1978, and \$1,000,000 each for fiscal year 1979 and fiscal year 1980,".

SEC. 3. Section 2(b) of such joint resolution is further amended—

- (1) by striking "and" at the end of paragraph (2);
- (2) by inserting immediately after such paragraph the following new paragraph:
"(3) that every effort will be made to achieve participation of students and teachers from rural and small town areas, as well as from urban areas, in the program; and"; and
- (3) by redesignating paragraph (3) as paragraph (4).

Approved April 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-972 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 5, considered and passed House.
Apr. 8, considered and passed Senate.

Public Law 94-278
94th Congress

An Act

To amend the Public Health Service Act to revise and extend the program under the National Heart and Lung Institute, to revise and extend the program of National Research Service Awards, and to establish a national program with respect to genetic diseases; and to require a study and report on the release of research information.

Apr. 22, 1976
[H.R. 7988]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) This Act may be cited as the "Health Research and Health Services Amendments of 1976".

(b) Whenever in this Act (other than in titles III, V, VI, VII, and XI) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Health Research
and Health
Services
Amendments of
1976.

42 USC 201 note.

42 USC 201 note.

TITLE I—REVISION OF NATIONAL HEART AND LUNG
INSTITUTE PROGRAMS

Sec. 101. (a) Congress finds and declares that—

42 USC 287 note.

(1) diseases of the heart, blood, and blood vessels collectively cause more than half of all the deaths each year in the United States and the combined effect of the disabilities and deaths from such diseases is having a major social and economic impact on the Nation;

(2) elimination of heart and blood vessel diseases as significant causes of disability and death could increase the average American's life expectancy by about eleven years and could provide for annual savings to the economy in lost wages, productivity, and cost of medical care of more than \$40,000,000,000 per year;

(3) chronic lung diseases have been gaining steadily in recent years as important causes of disability and death, with emphysema being among the fastest rising causes of death in the United States;

(4) chronic respiratory diseases affect an estimated ten million Americans, emphysema an estimated one million, chronic bronchitis an estimated four million, and asthma an estimated five million;

(5) thrombosis (the formation of blood clots in the vessels) may cause, directly or in combination with other problems, many deaths and disabilities from heart disease and stroke which can now be prevented;

(6) blood and blood products are essential human resources whose value in saving life and promoting health cannot be assessed in terms of dollars;

(7) the provision of prompt and effective emergency medical services utilizing to the fullest extent possible advances in transportation and communications and other electronic systems and specially trained professional and paraprofessional health care personnel can reduce substantially the number of fatalities and

severe disabilities due to critical illnesses in connection with heart, blood vessel, lung, and blood diseases;

(8) blood diseases, including nutritional anemia, anemia due to inherited abnormalities (such as sickle cell anemia and Cooley's anemia (thalassemia)), anemias resulting from failure of the bone marrow, hemorrhagic defects (a common cause of death in patients with leukemia and other malignancies, and of disability from inherited diseases such as hemophilia), and malignancies of the lymph nodes and bone marrow, such as leukemia, have a devastating impact in spite of recent advances, and constitute an important category of illness that requires major attention; and

(9) the greatest potential for advancement against heart, blood vessel, lung, and blood diseases lies in the National Heart, Lung, and Blood Institute, but advancement against such diseases depends not only on the research programs of that Institute but also on the research programs of other research institutes of the National Institutes of Health.

(b) It is the purpose of this title to enlarge the authority of the National Heart, Lung, and Blood Institute in order to advance the national attack upon heart, blood vessel, lung, and blood diseases and to enlarge its authority with respect to blood resources.

National Heart,
Lung, and Blood
Institute.
42 USC 287,
287g, 287h.
42 USC 287a.

SEC. 102. Sections 411, 418(a) (6), and 419A(c) are each amended by striking out "National Heart and Lung Institute" and inserting in lieu thereof "National Heart, Lung, and Blood Institute".

SEC. 103. (a) Section 412 is amended—

(1) by inserting "and with respect to the use of blood and blood products and the management of blood resources" after "diseases" in the matter preceding paragraph (1);

(2) by inserting "and to the use of blood and blood products and the management of blood resources" before the semicolon at the end of paragraph (1);

(3) by inserting "and to the use of blood and blood products and the management of blood resources" after "diseases" in paragraph (4);

(4) by inserting "and on the use of blood and blood products and the management of blood resources" after "diseases" in paragraph (5);

(5) by striking out "heart diseases" in paragraph (6) and inserting in lieu thereof "heart, blood vessel, lung, and blood diseases and the management of blood resources";

(6) by inserting "and to the use of blood and blood products and the management of blood resources" after "diseases" in paragraph (7); and

(7) by inserting at the end of the section heading "AND IN THE MANAGEMENT OF BLOOD RESOURCES".

National Heart,
Lung, and Blood
Advisory Council.
42 USC 287b.

(b) Section 412 is amended by striking out "National Heart and Lung Advisory Council" and inserting in lieu thereof "National Heart, Lung, and Blood Advisory Council".

SEC. 104 (a) Section 413(a) is amended—

(1) by striking out "Disease" in the first sentence and inserting in lieu thereof "Diseases and Blood Resources"; and

(2) by inserting "and blood resources" after "diseases" in such sentence and in paragraph (7).

(b) Section 413(b) is amended—

(1) by striking out "calendar" each place it occurs in paragraph

(2) and inserting in lieu thereof "fiscal"; and

(2) by adding at the end of such paragraph the following: "Each such plan shall contain (A) an estimate of the number and type of personnel which will be required by the Institute to carry out the Program during the five years with respect to which the plan is submitted, and (B) recommendations for appropriations to carry out the program during such five years".

(c) Section 413(c)(1) is amended by striking out "fifty" and inserting in lieu thereof "one hundred". 42 USC 287b.

(d) Section 413(c)(2) is amended—

(1) by striking out "operate" and inserting in lieu thereof "operate, alter, renovate"; and
(2) by inserting "and blood resource" after "disease".

(e) Section 413(d) is amended—

(1) by striking out "Assistant Director for Health Information Programs" each place it occurs and inserting in lieu thereof "Assistant Director for Prevention Education, and Control";

Assistant
Director for
Prevention
Education, and
Control.

(2) by striking out "and pulmonary" in the second sentence and inserting in lieu thereof "blood, and pulmonary" and by inserting "and blood" after "pulmonary" in the third sentence; and

(3) by inserting "and blood resources" after "diseases" in the second sentence.

(f) The section heading of section 413 is amended by striking out "DISEASE" and inserting in lieu thereof "DISEASES AND BLOOD RESOURCES".

SEC. 105. Section 414(b) is amended (1) by striking out "and" after "1974," and (2) by inserting before the period a comma and the following: "\$10,000,000 for fiscal year 1976, and \$30,000,000 for fiscal year 1977". 42 USC 287c.

SEC. 106. (a)(1) Subsection (a)(1)(A) of section 415 is amended by—

National research
and
demonstration
centers.
42 USC 287d.

(A) striking out "fifteen" and inserting in lieu thereof "ten",
and
(B) striking out "blood vessel, and blood diseases" and inserting in lieu thereof "diseases".

(2) Subsection (a)(1)(B) of such section is amended by striking out "fifteen" and inserting in lieu thereof "ten".

(3) Subsection (a)(1) of such section is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "and", and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) ten new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood, blood vessel diseases, research in the use of blood products, and research in the management of blood resources."

(b) Section 415(a) is further amended—

(1) by inserting "and for research in the use of blood and blood products and in the management of blood resources" after "diseases" in paragraph (1)(A);

(2) by striking out "chronic" in paragraph (1)(B);

(3) by striking out "paragraph (1)(A)" in paragraph (2) and inserting in lieu thereof "paragraph (1)";

(4) by inserting “, pulmonary, and blood” before “diseases” in paragraph (2);

(5) by striking out “cardiovascular disease” in paragraph (2) (A) and inserting in lieu thereof “cardiovascular, pulmonary, and blood diseases”; and

(6) by striking out “such disease” in subparagraphs (B), (C), and (D) of paragraph (2) and inserting in lieu thereof “such diseases”.

42 USC 287d.

(c) Section 415(b) is amended—

(1) by inserting “the management of blood resources and” before “advanced”; and

Aggregate of
payments,
limitation.

(2) by amending the first sentence after paragraph (4) to read as follows: “The aggregate of payments (other than payments for construction) made to any center under such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed \$5,000,000 in any year, except that the aggregate of such payments in any year may exceed such amount to the extent that the excess amount is attributable to increases in such year in appropriate costs as reflected in the Consumer Price Index published by the Bureau of Labor Statistics.”

(d) The section heading of section 415 is amended by inserting “AND BLOOD RESOURCES” after “DISEASES”.

42 USC 287f.

SEC. 107. (a) Section 417(a) (1) is amended by striking out “Director of the Office of Science and Technology” and inserting in lieu thereof “Director of the National Science Foundation”.

(b) Section 417 is amended by striking out “National Heart and Lung Advisory Council” in subsection (a) and in subsection (b) (3) and inserting in lieu thereof “National Heart, Lung, and Blood Advisory Council”.

(c) The section heading of section 417 is amended by striking out “AND LUNG” and inserting in lieu thereof “, LUNG, AND BLOOD”.

42 USC 287g.

SEC. 108. Section 418 is amended—

(1) by inserting “and to the use of blood and blood products and the management of blood resources” after “diseases” in paragraphs (1), (2), (3), and (4) of subsection (a);

(2) by redesignating paragraphs (4), (5), and (6) of subsection (a) as paragraphs (5), (6), and (7), respectively, and by adding after paragraph (3) the following new paragraph:

“(4) recommend to the Secretary (A) areas of research in heart, blood vessels, lung, and blood diseases and in the use of blood and blood products and the management of blood resources which it determines should be supported by the awarding of contracts in order to best carry out the purposes of this part, and (B) the percentage of the budget of the Institute which should be expended for such contracts;” and

(3) (A) by amending paragraph (2) of subsection (b) to read as follows:

“(2) The Council shall submit a report to the Secretary for simultaneous transmittal, not later than November 30 of each year, to the President and to the Congress on the progress of the Program toward the accomplishment of its objectives during the preceding fiscal year.”.

(B) For purposes of section 418(b) (2) of the Public Health Service Act (as amended by subparagraph (A)), the period beginning July 1, 1975, and ending September 30, 1976, shall be considered a fiscal year.

(C) The amendment made by subparagraph (A) shall take effect as of January 1, 1976.

Report to
Secretary for
transmittal to
President and
Congress.
42 USC 287g
note.

Effective date.
42 USC 287g
note.

SEC. 109. Section 419A is amended—

Administration.
42 USC 287h.

(1) by inserting “and projects with respect to the use of blood and blood products and the management of blood resources” after “training projects” in subsection (a);

(2) by inserting “and into the use of blood and blood products and the management of blood resources” after “diseases” in subsection (b);

(3) by inserting “and for research and training in the use of blood and blood products and the management of blood resources” after “diseases” in subsection (c);

(4) by striking out “in amounts not to exceed \$35,000” in paragraph (1) of subsection (c) and inserting in lieu thereof “if the direct costs of such research and training do not exceed \$35,000, but only”; and

(5) by striking out “in amounts exceeding \$35,000” in paragraph (2) of subsection (c) and inserting in lieu thereof “if the direct costs of such research and training exceed \$35,000, but only”.

SEC. 110. Section 419B is amended—

(1) by striking out “and” after “1974,” and by inserting before the period at the end of the first sentence a comma and the following: “\$339,000,000 for fiscal year 1976, and \$373,000,000 for fiscal year 1977”; and

(2) by striking out “diseases of the blood” and inserting in lieu thereof “blood diseases and blood resources”.

SEC. 111. (a) Section 301 is amended by striking out “heart diseases” in paragraphs (c) and (h) and inserting in lieu thereof “heart, blood vessel, lung, and blood diseases and blood resources”.

(b) Section 301 is amended by striking out “National Heart and Lung Advisory Council” in paragraphs (c) and (h) and inserting in lieu thereof “National Heart, Lung, and Blood Advisory Council”.

SEC. 112. The title of Part B of title IV is amended to read as follows:

“PART B—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE”.

TITLE II—NATIONAL RESEARCH SERVICE AWARDS

SEC. 201. (a) (1) Subsection (a) (1) (A) (i) of section 472 is amended (A) by striking out “in matters” and inserting in lieu thereof “or under programs administered by the Division of Nursing of the Health Resources Administration, in matters”, and (ii) by inserting before “are directed” the following: “or Division of Nursing”.

(2) Subsections (a) (1) (A) (iii) and (a) (1) (B) of such section are each amended by striking out “non-Federal”.

(b) Subsection (c) (1) (A) (i) of such section is amended by striking out “health research or teaching” and inserting in lieu thereof “health research or teaching or any combination thereof which is in accordance with usual patterns of academic employment”.

(c) Subsection (c) (2) (A) of such section is amended by striking out “health research or teaching” and inserting in lieu thereof “health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment”.

(d) The first sentence of subsection (d) of such section is amended by inserting a comma before the period and the following: “\$165,000,000 for fiscal year 1976, and \$185,000,000 for fiscal year 1977”.

42 USC 289l-1.

42 USC 241.

42 USC 289l-1.

SEC. 202. (a) Subsection (a) (1) (A) (i) of section 472 is amended by striking out "the disease or (diseases) or other health problems to which the activities of the Institutes and Administration are directed" and inserting in lieu thereof "diseases or other health problems".

(b) Subsection (b) (2) of section 472 is amended by striking out "to the entities of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "within the Department of Health, Education, and Welfare".

42 USC 289l-1.

SEC. 203. (a) (1) Subparagraph (A) of the first paragraph (4) of subsection (c) of section 472 is amended by striking out "and the interest on such amount" down through and including "was made".

(2) The last sentence of subparagraph (B) of such paragraph is amended by striking out "at the same rate as that fixed by the Secretary of the Treasury under subparagraph (A) to determine the amount due the United States" and inserting in lieu thereof "at a rate fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date the United States becomes entitled to such amount".

(b) The amendments made by subsection (a) shall apply with respect to National Research Awards under section 472 which are made from appropriations for fiscal years ending on or after June 30, 1975.

Biomedical and
behavioral
research
personnel,
studies.

42 USC 289l-2.

SEC. 204. Section 473(b) is amended by adding after paragraph (2) the following new paragraph:

"(3) The National Academy of Sciences or other group or association conducting the study required by subsection (a) shall conduct such study in consultation with the Director of the National Institutes of Health."

Report to
congressional
committees.

42 USC 289l-2.

SEC. 205. Subsection (c) of section 473 is amended by striking out "March 31" and inserting in lieu thereof "September 30".

TITLE III—DISCLOSURE OF RESEARCH INFORMATION

Investigations
and study.
42 USC 289l-1
note.

42 USC 289l-1
note.

SEC. 301. (a) (1) The President's Biomedical Research Panel (established by section 201(a) of the National Cancer Act Amendments of 1974 (Public Law 93-352)) and the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (established by section 201 of the National Research Act (Public Law 93-348)) shall each conduct an investigation and study of the implication of the disclosure to the public of information contained in research protocols, research hypotheses, and research designs obtained by the Secretary of Health, Education, and Welfare (hereinafter in the subsection referred to as the "Secretary") in connection with an application or proposal submitted, during the period beginning January 1, 1975, and ending December 31, 1975, to the Secretary for a grant, fellowship, or contract under the Public Health Service Act. In making such investigation and study the Panel and the Commission shall each determine the following:

(A) The number of requests made to the Secretary for the disclosure of information contained in such research protocols, hypotheses, and designs and the interests represented by the persons for whom such requests were made.

(B) The purposes for which information disclosed by the Secretary pursuant to such requests was used.

(C) The effect of the disclosure of such information on—

(i) proprietary interests in the research protocol, hypothesis, or design from which such information was disclosed and on patent rights;

42 USC 201 note.

(ii) the ability of peer review systems to insure high quality federally funded research; and

(iii) the (I) protection of the public against research which presents an unreasonable risk to human subjects of such research and (II) the adequacy of informed consent procedures.

(2) (A) Not later than May 31, 1976, the Panel shall complete the investigation and study required to be made by the Panel by paragraph (1), and, not later than June 30, 1976, the Panel shall submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a report on such investigation and study. The report shall contain such recommendations for legislation as the Panel deems appropriate.

Report to congressional committees.

(B) Not later than November 30, 1976, the Commission shall complete the investigation and study required to be made by the Commission by paragraph (1), and, not later than December 31, 1976, the Commission shall submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a report on such investigation and study. The report shall contain such recommendations for legislation as the Commission deems appropriate.

Report to congressional committees.

(b) Section 211(b) of the National Research Act (Public Law 93-348) is amended by striking out "July 1, 1976" and inserting in lieu thereof "January 1, 1977".

42 USC 218 note.

TITLE IV—GENETIC DISEASES

SEC. 401. This title may be cited as the "National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act".

SEC. 402. In order to preserve and protect the health and welfare of all citizens, it is the purpose of this title to establish a national program to provide for basic and applied research, research training, testing, counseling, and information and education programs with respect to genetic diseases, including sickle cell anemia, Cooley's anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, and muscular dystrophy.

SEC. 403. (a) Title XI is amended by striking out parts A and B and inserting in lieu thereof the following:

National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act.
42 USC 300b note.

42 USC 300b note.

"PART A—GENETIC DISEASES

"TESTING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1101. (a) (1) The Secretary, through an identifiable administrative unit within the Department of Health, Education, and Welfare, may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects to establish and operate voluntary genetic testing and counseling programs primarily in conjunction with other existing health programs, including programs assisted under title V of the Social Security Act.

42 USC 300b.

42 USC 701.

"(2) The Secretary shall carry out, through an identifiable administrative unit within the Department of Health, Education, and Welfare, a program to develop information and educational materials

relating to genetic diseases and to disseminate such information and materials to persons providing health care, to teachers and students, and to the public generally in order to most rapidly make available the latest advances in the testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. The Secretary may, under such program, make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the development and dissemination of such materials.

Appropriation
authorization.

“(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated \$30,000,000 for fiscal year 1976, \$30,000,000 for fiscal year 1977, and \$30,000,000 for fiscal year 1978.

“RESEARCH PROJECT GRANTS AND CONTRACTS

42 USC 300b-1.
42 USC 241.

“SEC. 1102. In carrying out section 301, the Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) basic or applied research leading to the understanding, diagnosis, treatment, and control of genetic diseases, (2) planning, establishing, demonstrating, and developing special programs for the training of genetic counselors, social and behavioral scientists, and other health professionals, (3) the development of programs to educate practicing physicians, other health professionals, and the public regarding the nature of genetic processes, the inheritance patterns of genetic diseases, and the means, methods, and facilities available to diagnose, control, counsel, and treat genetic diseases, and (4) the development of counseling and testing programs and other programs for the diagnosis, control, and treatment of genetic diseases. In making grants and entering into contracts for projects described in clause (1) of the preceding sentence, the Secretary shall give priority to applications for such grants or contracts which are submitted for research on sickle cell anemia and for research on Cooley's anemia.

Sickle cell
anemia and
Cooley's anemia
research, priority.

“VOLUNTARY PARTICIPATION

42 USC 300b-2.

“SEC. 1103. The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

“APPLICATIONS; ADMINISTRATION OF GRANTS AND CONTRACT PROGRAMS

42 USC 300b-3.

“SEC. 1104. (a) A grant or contract under this part may be made upon application submitted to the Secretary at such time, in such manner, and containing and accompanied by such information, as the Secretary may require. Each applicant shall—

“(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

“(2) provide for strict confidentiality of all test results, medical records, and other information regarding testing, diagnosis, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) gives informed consent to be released, or (B) statistical data compiled without reference to the identity of any such patient;

“(3) provide for community representation where appropriate in the development and operation of voluntary genetic testing or counseling programs funded by a grant or contract under this part;

“(4) in the case of an applicant for a grant or contract under section 1101(a) (1) for the delivery of services, provide assurances satisfactory to the Secretary that (A) the services for community-wide testing and counseling to be provided under the program for which the application is made (i) will take into consideration widely prevalent diseases with a genetic component and high-risk population groups in which certain genetic diseases occur, and (ii) where appropriate will be directed especially but not exclusively to persons who are entering their child-producing years, and (B) appropriate arrangements will be made to provide counseling to persons found to have a genetic disease and to persons found to carry a gene or chromosome which may cause a deleterious effect in their offspring; and

“(5) establish fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of Federal funds paid to the applicant under this part.

“(b) In making any grant or entering into any contract for testing and counseling programs under section 1101, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons who will benefit from and are in need of the services provided under such programs.

“(c) In making grants and entering into contracts for any fiscal year under section 301 for projects described in section 1102 or under section 1101 the Secretary shall give special consideration to applications from entities that received grants from, or entered into contracts with, the Secretary for the preceding fiscal year for the conduct of comprehensive sickle cell centers or sickle cell screening and education clinics.

42 USC 241.

“PUBLIC HEALTH SERVICE FACILITIES

“SEC. 1105. The Secretary shall establish a program within the Service to provide voluntary testing, diagnosis, counseling, and treatment of individuals respecting genetic diseases. Services under such program shall be made available through facilities of the Service to persons requesting such services, and the program shall provide appropriate publicity of the availability and voluntary nature of such services.

42 USC 300b-4.

“REPORTS

“SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

Report to President for transmittal to Congress.

“(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary.”

42 USC 300b-5.

(b) (1) Section 1121(b) (5) is amended by striking out “ending June 30,” each place it occurs.

42 USC 300c-11.

(2) Parts C and D are redesignated as parts B and C, respectively.

42 USC 300c-11, 300c-21.

(3) The heading of such title is amended to read as follows:

“TITLE XI—GENETIC DISEASES, HEMOPHILIA PROGRAMS, AND SUDDEN INFANT DEATH SYNDROME.”

Effective date.
42 USC 300b
note.

(c) The amendments made by subsections (a) and (b) shall take effect July 1, 1976.

TITLE V—FEDERAL FOOD, DRUG, AND COSMETIC ACT AMENDMENTS

SEC. 501 (a) Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 410 (21 U.S.C. 349) the following new section:

“VITAMINS AND MINERALS

21 USC 350.

21 USC 321, 341,
343.

“SEC. 411. (a) (1) Except as provided in paragraph (2)—

“(A) the Secretary may not establish, under section 201(n), 401, or 403, maximum limits on the potency of any synthetic or natural vitamin or mineral within a food to which this section applies;

“(B) the Secretary may not classify any natural or synthetic vitamin or mineral (or combination thereof) as a drug solely because it exceeds the level of potency which the Secretary determines is nutritionally rational or useful;

“(C) the Secretary may not limit, under section 201(n), 401, or 403, the combination or number of any synthetic or natural—

“(i) vitamin,

“(ii) mineral, or

“(iii) other ingredient of food,

within a food to which this section applies.

“(2) Paragraph (1) shall not apply in the case of a vitamin, mineral, other ingredient of food, or food, which is represented for use by individuals in the treatment or management of specific diseases or disorders, by children, or by pregnant or lactating women. For purposes of this subparagraph, the term ‘children’ means individuals who are under the age of twelve years.

“Children.”

Food labeling.

“(b) (1) A food to which this section applies shall not be deemed under section 403 to be misbranded solely because its label bears, in accordance with section 403(i) (2), all the ingredients in the food or its advertising contains references to ingredients in the food which are not vitamins or minerals.

“(2) (A) The labeling for any food to which this section applies may not list its ingredients which are not vitamins or minerals (i) except as a part of a list of all the ingredients of such food, and (ii) unless such ingredients are listed in accordance with applicable regulations under section 403. To the extent that compliance with clause (i) of this subparagraph is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary.

“(B) Notwithstanding the provisions of subparagraph (A), the labeling and advertising for any food to which this section applies may not give prominence to or emphasize ingredients which are not—

“(i) vitamins,

“(ii) minerals, or

“(iii) represented as a source of vitamins or minerals.

“Food to which
this section
applies.”

“(c) (1) For purposes of this section, the term ‘food to which this section applies’ means a food for humans which is a food for special dietary use—

“(A) which is or contains any natural or synthetic vitamin or mineral, and

“(B) which—

“(i) is intended for ingestion in tablet, capsule, or liquid form, or

“(ii) if not intended for ingestion in such a form, does not simulate and is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet.

“(2) For purposes of paragraph (1)(B)(i), a food shall be considered as intended for ingestion in liquid form only if it is formulated in a fluid carrier and it is intended for ingestion in daily quantities measured in drops or similar small units of measure.

“(3) For purposes of paragraph (1) and of section 403(j) insofar as that section is applicable to food to which this section applies, the term ‘special dietary use’ as applied to food used by man means a particular use for which a food purports or is represented to be used, including but not limited to the following:

“Special dietary use.”
21 USC 343.

“(A) Supplying a special dietary need that exists by reason of a physical, physiological, pathological, or other condition, including but not limited to the condition of disease, convalescence, pregnancy, lactation, infancy, allergic hypersensitivity to food, underweight, overweight, or the need to control the intake of sodium.

“(B) Supplying a vitamin, mineral, or other ingredient for use by man to supplement his diet by increasing the total dietary intake.

“(C) Supplying a special dietary need by reason of being a food for use as the sole item of the diet.”

(b) The Secretary of Health, Education, and Welfare shall amend any regulation promulgated under the Federal Food, Drug, and Cosmetic Act which is inconsistent with section 411 of such Act (as added by subsection (a)) and such amendments shall be promulgated in accordance with section 553 of title 5, United States Code.

21 USC 350 note.

SEC. 502. (a) (1) Section 403(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(a)) is amended (A) by inserting “(1)” after “If”, and (B) by inserting before the period at the end a comma and the following: “or (2) in the case of a food to which section 411 applies, its advertising is false or misleading in a material respect or its labeling is in violation of section 411(b)(2)”.

21 USC 301.
Ante, p. 410.

(2)(A) Section 201(n) of such Act is amended by inserting “or advertising” after “labeling” each time it occurs.

21 USC 321.

(B) Section 303 of such Act is amended by adding at the end the following new subsection:

21 USC 333.

“(d) No person shall be subject to the penalties of subsection (a) of this section for a violation of section 301 involving misbranded food if the violation exists solely because the food is misbranded under section 403(a)(2) because of its advertising, and no person shall be subject to the penalties of subsection (b) of this section for such a violation unless the violation is committed with the intent to defraud or mislead.”

Misbranded food, penalties, exemption.
21 USC 331.

(C) Section 304(a) of such Act (21 U.S.C. 334(a)) is amended by adding after paragraph (2) the following new paragraph:

“(3)(A) Except as provided in subparagraph (B), no libel for condemnation may be instituted under paragraph (1) or (2) against any food which—

Libel for condemnation.

“(i) is misbranded under section 403(a)(2) because of its advertising, and

Supra.

“(ii) is being held for sale to the ultimate consumer in an establishment other than an establishment owned or operated by a manufacturer, packer, or distributor of the food.

“(B) A libel for condemnation may be instituted under paragraph (1) or (2) against a food described in subparagraph (A) if—

Ante, p. 411.

“(i) (I) the food’s advertising which resulted in the food being misbranded under section 403(a)(2) was disseminated in the establishment in which the food is being held for sale to the ultimate consumer,

“(II) such advertising was disseminated by, or under the direction of, the owner or operator of such establishment, or

“(III) all or part of the cost of such advertising was paid by such owner or operator; and

“(ii) the owner or operator of such establishment used such advertising in the establishment to promote the sale of the food.”.

(b) Chapter VII of such Act is amended by adding after section 706 (21 U.S.C. 376) the following new section:

“ADVERTISING OF CERTAIN FOODS

21 USC 378.

21 USC 331.

Ante, p. 411.

Notice to FTC.

“SEC. 707. (a) (1) Except as provided in subsection (c), before the Secretary may initiate any action under chapter III—

“(A) with respect to any food which the Secretary determines is misbranded under section 403(a)(2) because of its advertising, or

“(B) with respect to a food’s advertising which the Secretary determines causes the food to be so misbranded, the Secretary shall, in accordance with paragraph (2), notify in writing the Federal Trade Commission of the action the Secretary proposes to take respecting such food or advertising.

“(2) The notice required by paragraph (1) shall—

“(A) contain (i) a description of the action the Secretary proposes to take and of the advertising which the Secretary has determined causes a food to be misbranded, (ii) a statement of the reasons for the Secretary’s determination that such advertising has caused such food to be misbranded, and

“(B) be accompanied by the records, documents, and other written materials which the Secretary determines supports his determination that such food is misbranded because of such advertising.

“(b) (1) If the Secretary notifies the Federal Trade Commission under subsection (a) of action proposed to be taken under chapter III with respect to a food or food advertising and the Commission notifies the Secretary in writing, within the 30-day period beginning on the date of the receipt of such notice, that—

15 USC 58.

“(A) it has initiated under the Federal Trade Commission Act an investigation of such advertising to determine if it is prohibited by such Act or any order or rule under such Act,

15 USC 45, 53,
57b.

“(B) it has commenced (or intends to commence) a civil action under section 5, 13, or 19 with respect to such advertising or the Attorney General has commenced (or intends to commence) a civil action under section 5 with respect to such advertising,

“(C) it has issued and served (or intends to issue and serve) a complaint under section 5(b) of such Act respecting such advertising, or

15 USC 56.

“(D) pursuant to section 16(b) of such Act it has made a certification to the Attorney General respecting such advertising, the Secretary may not, except as provided by paragraph (2), initiate the action described in the Secretary’s notice to the Federal Trade Commission.

“(2) If, before the expiration of the 60-day period beginning on the date the Secretary receives a notice described in paragraph (1) from the Federal Trade Commission in response to a notice of the Secretary under subsection (a)—

“(A) the Commission or the Attorney General does not commence a civil action described in subparagraph (B) of paragraph (1) of this subsection respecting the advertising described in the Secretary’s notice,

“(B) the Commission does not issue and serve a complaint described in subparagraph (C) of such paragraph respecting such advertising, or

“(C) the Commission does not (as described in subparagraph (D) of such paragraph) make a certification to the Attorney General respecting such advertising, or, if the Commission does make such a certification to the Attorney General respecting such advertising, the Attorney General, before the expiration of such period, does not cause appropriate criminal proceedings to be brought against such advertising,

the Secretary may, after the expiration of such period, initiate the action described in the notice to the Commission pursuant to subsection (a). The Commission shall promptly notify the Secretary of the commencement by the Commission of such a civil action, the issuance and service by it of such a complaint, or the causing by the Attorney General of criminal proceedings to be brought against such advertising.

“(c) The requirements of subsections (a) and (b) do not apply with respect to action under chapter III with respect to any food or food advertising if the Secretary determines that such action is required to eliminate an imminent hazard to health.

21 USC 331.

“(d) For the purpose of avoiding unnecessary duplication, the Secretary shall coordinate any action taken under chapter III because of advertising which the Secretary determines causes a food to be misbranded with any action of the Federal Trade Commission under the Federal Trade Commission Act with respect to such advertising.”

15 USC 58.

(c) The amendments made by subsection (a) shall take effect 180 days after the date of the enactment of this Act.

Effective date.

21 USC 334 note.

TITLE VI—ARTHRITIS ACT AMENDMENTS

SEC. 601. This title may be cited as the “National Arthritis Act Technical Amendments of 1976”.

SEC. 602. (a) Section 2 of the National Arthritis Act of 1974 (Public Law 93-640) (hereinafter in this section referred to as the “Act”) is amended by—

National Arthritis Act Technical Amendments of 1976.

42 USC 289c-1 note.

42 USC 289c-1 note.

- (1) inserting “(a)” after “SEC. 2.”;
- (2) inserting a comma and “including \$2,500,000,000 in medical expenses,” after “\$9,200,000,000” in paragraph (3); and
- (3) inserting a new subsection (b) at the end thereof as follows:

“(b) It is therefore the purpose of this Act to provide for—

“(1) the formulation of a long-range plan—

“(A) to expand and coordinate the national research, treatment, and control effort against arthritis;

“(B) to advance educational activities for patients, professional and allied health personnel, and the public which will alert the citizens of the United States to the early indications of arthritis; and

“(C) to emphasize the significance of early detection and proper control of these diseases and of the complications which may evolve from them;

“(2) the establishment and support of programs to develop new and improved methods of arthritis screening, detection, prevention, and referral;

“(3) the establishment of a central arthritis screening and detection data bank; and

“(4) the development, modernization, and operation of centers for arthritis screening, detection, diagnosis, prevention, control, treatment, education, rehabilitation, and research and training programs.”

42 USC 289c-1
note.

(b) Section 3 of the Act is amended by striking out “chief medical officer” and inserting in lieu thereof “Chief Medical Director” in subsection (b) (4).

(c) The section heading for section 4 of the Act is amended by striking out “DEMONSTRATION” after “COMMITTEE.”

42 USC 289a.

SEC. 603. (a) (1) Section 431(c) of the Public Health Service Act is amended by inserting “(hereinafter in this part collectively referred to as ‘arthritis’)” after “musculoskeletal diseases”.

42 USC 289c-1

(2) The fourth sentence of section 434(b) of such Act is amended by striking out “and related musculoskeletal diseases”.

(3) Section 434(e) of such Act is amended by striking out “and related musculoskeletal diseases (hereinafter in this part collectively referred to as ‘arthritis’)”.

42 USC 289c-5.

(b) Section 438 of such Act is amended by—

(1) inserting “the” before “health” the first time it appears in the first sentence of subsection (a); and

(2) inserting “established” after “bank” in the second sentence of subsection (a).

42 USC 289c-6.

(c) Section 439 of such Act is amended by—

(1) inserting “new and existing” before “centers” in the first sentence of subsection (a);

(2) striking out “\$13,000,000” and inserting in lieu thereof “\$8,000,000”, and striking out “\$15,000,000” and inserting in lieu thereof “\$20,000,000” in subsection (h); and

(3) redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

TITLE VII—DIABETES PLAN

42 USC 289c-2
note.

SEC. 701. Section 3(i) (2) of the National Diabetes Mellitus Research and Education Act (42 U.S.C. 289c-2) is amended to read as follows: “(2) The Commission shall cease to exist after September 30, 1976.”

TITLE VIII—HEALTH SERVICES

AMBULATORY SURGICAL SERVICES

42 USC 247d.

SEC. 801. (a) Section 319(a) (7) is amended by—

(1) inserting after subparagraph (K) the following new subparagraph:

“(L) ambulatory surgical services;” and

(2) redesignating subparagraphs (L) and (M) as subparagraphs (M) and (N), respectively.

(b) Section 330(b) (2) is amended by—

(1) inserting after subparagraph (K) the following new subparagraph:

“(L) ambulatory surgical services;” and

(2) redesignating subparagraphs (L) and (M) as subparagraphs (M) and (N), respectively.

42 USC 254c.

TITLE IX—INDIAN HEALTH SERVICE

SEC. 901. Section 225 is amended by adding at the end thereof the following new subsection—

“(j) Notwithstanding any other provision of law, the Secretary may, where he deems advisable, allow the Indian Health Service to utilize nonprofit recruitment agencies to assist in obtaining personnel for the Public Health Service.”.

42 USC 234.

TITLE X—APPOINTMENT OF ADVISORY COMMITTEES

SEC. 1001. All appointments to advisory committees established to assist in implementing the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, shall be made without regard to political affiliation.

42 USC 217a-1.
42 USC 201 note.
42 USC 2661
note.
42 USC 4551
note.

TITLE XI—MISCELLANEOUS PROVISIONS

SEC. 1101. Section 212 of the Public Health Service Act is amended by adding after subsection (d) the following new subsection:

42 USC 213.

“(e) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.).”.

SEC. 1102. (a) The second paragraph (4) of subsection (c) of section 472 of the Public Health Service Act is redesignated as paragraph (5).

42 USC 289l-1.

(b) Section 507 of the Public Health Service Act is amended by striking out “hospitals of the Service, of the Veterans' Administration, or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital, except that grants to such” and insert in lieu thereof “Federal institutions, except that grants to”.

42 USC 225a.

SEC. 1103. Title IV of the Public Health Service Act is amended by adding after section 475 the following new section:

“VISITING SCIENTIST AWARDS

“SEC. 476. (a) The Secretary may make awards (referred to as ‘Visiting Scientist Awards’) to outstanding scientists who agree to serve as visiting scientists at institutions of post-secondary education which have significant enrollments of disadvantaged students. Visiting Scientist Awards shall be made by the Secretary to enable the faculty and students of such institutions to draw upon the special talents of scientists from other institutions for the purpose of receiving guidance, advice, and instruction with regard to research, teaching, and curriculum development in the biomedical and behavioral sciences and such other aspects of these sciences as the Secretary shall deem appropriate.

42 USC 289l-5.

- “(b) The amount of each Visiting Scientist Award shall include such sum as shall be commensurate with the salary or remuneration which the individual receiving the award would have been entitled to receive from the institution with which the individual has, or had, a permanent or immediately prior affiliation. Eligibility for and terms of Visiting Scientist Awards shall be determined in accordance with regulations the Secretary shall prescribe.”
- Eligibility requirements.**
 42 USC 295g-23. SEC. 1104. Section 786 of the Public Health Service Act is amended by inserting before the period at the end of the first sentence “and \$3,500,000 for the fiscal year ending June 30, 1975 and \$2,000,000 for the fiscal year ending June 30, 1976”.
- 42 USC 294b. SEC. 1105. (a) Section 742(a) of the Public Health Service Act is amended by striking out “and” after “1974,” and by inserting after “1975” the following: “, and \$60,000,000 for the fiscal year ending June 30, 1976”.
- 42 USC 294. (b) Section 740(b)(4) of such Act is amended by striking out “1975” and inserting in lieu thereof “1976”.
- 42 USC 300l. SEC. 1106. Section 1511(b)(5) of the Public Health Service Act is amended by striking out “1535” and inserting in lieu thereof “1536”.
- 42 USC 300p-3. (b) Section 1613 of such Act is amended by striking out “1510” and inserting in lieu thereof “1610”.
- Repeal.**
 42 USC 300s-1. (c) The last sentence of section 1631 of such Act is repealed.
- 42 USC 6064. SEC. 1107. (a) Section 132(a)(1)(A) of the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 6062) (hereinafter in this section referred to as the “Act”) is amended by striking out “134” and inserting in lieu thereof “133”.
- (b) Section 134(b)(1) of the Act is amended by striking out “134” and inserting in lieu thereof “133”.
- (c) Section 134(b)(1) of the Act is amended by striking out “136” and inserting in lieu thereof “135”.
- (d) Section 301(a) of the Developmentally Disabled Assistance and Bill of Rights Act is amended by striking out “101(7)” and inserting in lieu thereof “102(7)”.
- 42 USC 6001 note.

Approved April 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-498 (Comm. on Interstate and Foreign Commerce) and No. 94-1005 (Comm. of Conference).

SENATE REPORTS: No. 94-509 accompanying S. 988 (Comm. on Labor and Public Welfare) and No. 94-743 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 20, considered and passed House.

Dec. 11, considered and passed Senate, amended, in lieu of S. 988.

Vol. 122 (1976): Apr. 12, House and Senate agreed to conference report.

Public Law 94-279
94th Congress

An Act

To amend the Act of August 24, 1966, as amended, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes.

Apr. 22, 1976

[S. 1941]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Animal Welfare Act Amendments of 1976".

SEC. 2. Section 1 of the Act of August 24, 1966 (80 Stat. 350, as amended by the Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C. 2131-2135) is amended to read as follows:

"SECTION 1. (a) This Act may be cited as the 'Animal Welfare Act'.

"(b) The Congress finds that animals and activities which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

"(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;

"(2) to assure the humane treatment of animals during transportation in commerce; and

"(3) to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this Act, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use."

SEC. 3. Section 2 of such Act is amended—

(1) by striking out subsection (c) and (d) thereof and inserting in lieu thereof the following:

"(c) The term 'commerce' means trade, traffic, transportation, or other commerce—

"(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia;

"(2) which affects trade, traffic, transportation, or other commerce described in paragraph (1).

"(d) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States;"

(2) by striking out the term "affecting commerce" in subsections (e) and (f) and inserting in lieu thereof "in commerce";

(3) by revising paragraph (f) thereof to read as follows:

"(f) The term 'dealer' means any person who, in commerce, for compensation or profit, delivers for transportation, or transports,

Animal Welfare
Act Amendments
of 1976.

7 USC 2131 note.

7 USC 2131 note.

7 USC 2131.

Definitions.

7 USC 2132.

except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

“(i) a retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

“(ii) any person who does not sell, or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than \$500 gross income from the sale of other animals during any calendar year;”,

(4) by deleting “; and” at the end of paragraph (g) and inserting in lieu thereof the following: “. With respect to a dog, the term means all dogs including those used for hunting, security, or breeding purposes;”, and

(5) by deleting the period at the end of paragraph (h) and inserting a semicolon in lieu thereof.

7 USC 2132.

SEC. 4. Section 2 of such Act is further amended by adding thereto two new paragraphs to read:

“Intermediate handler.”

“(i) The term ‘intermediate handler’ means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, any person excluded from the definition of a dealer, research facility, or exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce; and

“Carrier.”

“(j) The term ‘carrier’ means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise, which is engaged in the business of transporting any animals for hire.”.

7 USC 2134,
2141, 2142.

SEC. 5. Sections 4, 11, and 12 of such Act are amended by striking out “affecting commerce” and inserting in lieu thereof “in commerce”.

7 USC 2136.

SEC. 6. Section 6 of such Act is amended by inserting after the term “research facility”, a comma and the term “every intermediate handler, every carrier,”.

7 USC 2139.

SEC. 7. Section 9 of such Act is amended by inserting after the term “section 12 of this Act,” the term “or an intermediate handler, or a carrier,” and by deleting the term “or an operator of an auction sale as well as of such person.” at the end of section 9 and substituting therefor the following term: “operator of an auction sale, intermediate handler, or carrier, as well as of such person.”.

7 USC 2140.

SEC. 8. Section 10 of such Act is amended by deleting the phrase “, upon forms supplied by the Secretary” from the first sentence and by inserting between the second and third sentences thereof the following: “At the request of the Secretary, any regulatory agency of the Federal Government which requires records to be maintained by intermediate handlers and carriers with respect to the transportation, receiving, handling, and delivery of animals on forms prescribed by the agency, shall require there to be included in such forms, and intermediate handlers and carriers shall include in such forms, such information as the Secretary may require for the effective administration of this Act. Such information shall be retained for such reasonable period of time as the Secretary may prescribe. If regulatory agencies of the Federal Government do not prescribe requirements for any such forms, intermediate handlers and carriers shall make and retain for such reasonable period as the Secretary may prescribe such records with respect to the transportation, receiving, handling, and delivery of animals as the Secretary may prescribe.”.

Record retention.

7 USC 2143.

SEC. 9. Section 13 of such Act is amended by designating the provisions thereof as subsection (a) and by adding, after the second

sentence therein, new sentences to read: "The Secretary shall also promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers, air carriers, or other carriers, of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary shall have authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling."

Standards.

Rules and regulations.

SEC. 10. Section 13 of such Act, as amended, is further amended by adding at the end thereof new subsections (b), (c), and (d) to read:

7 USC 2143.

"(b) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, to any intermediate handler or carrier for transportation in commerce, or received by any such handler or carrier for such transportation from any such person, department, agency, or instrumentality, unless the animal is accompanied by a certificate issued by a veterinarian licensed to practice veterinary medicine, certifying that he inspected the animal on a specified date, which shall not be more than ten days before such delivery, and, when so inspected, the animal appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health: *Provided, however,* That the Secretary may by regulation provide exceptions to this certification requirement, under such conditions as he may prescribe in the regulations, for animals shipped to research facilities for purposes of research, testing or experimentation requiring animals not eligible for such certification. Such certificates received by the intermediate handlers and the carriers shall be retained by them, as provided by regulations of the Secretary, in accordance with section 10 of this Act.

7 USC 2140.

"(c) No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary, shall be delivered by any person to any intermediate handler or carrier for transportation in commerce except to registered research facilities if they are less than such age as the Secretary may by regulation prescribe. The Secretary shall designate additional kinds and classes of animals and may prescribe different ages for particular kinds or classes of dogs, cats, or designated animals, for the purposes of this section, when he determines that such action is necessary or adequate to assure their humane treatment in connection with their transportation in commerce.

"(d) No intermediate handler or carrier involved in the transportation of any animal in commerce shall participate in any arrangement or engage in any practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, unless the consignor guarantees in writing the payment of transportation charges for any animal not claimed within a period of 48 hours after notice to the consignee of arrival of the animal, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animals."

SEC. 11. Section 15 of such Act is amended by inserting after the term "exhibition" in the first sentence, a comma and the term "or

7 USC 2145.

Consultation.	administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals", and by adding the following at the end of the sentence: "Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes in its provisions are necessary in the interest of flight safety. The Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it."
7 USC 2146.	SEC. 12. (a) Subsection (a) of section 16 of such Act is amended by inserting the term "intermediate handler, carrier," in the first sentence after the term "exhibitor," each time the latter term appears in the sentence; by inserting before the period in the second sentence, a comma and the term "or (5) such animal is held by an intermediate handler or a carrier"; and by deleting the term "or" before the term "(4)" in the second sentence.
	(b) Subsection (c) of section 16 of such Act is amended by striking the words "sections 19(b) and 20(b)" in the last sentence and inserting in lieu thereof the words "section 19(c)".
7 USC 2149.	SEC. 13. Section 19 of such Act is amended to read as follows:
License suspension and revocation.	"(a) If the Secretary has reason to believe that any person licensed as a dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, has violated or is violating any provision of this Act, or any of the rules or regulations or standards promulgated by the Secretary hereunder, he may suspend such person's license temporarily, but not to exceed 21 days, and after notice and opportunity for hearing, may suspend for such additional period as he may specify, or revoke such license, if such violation is determined to have occurred.
7 USC 2142.	
Notice and hearing.	"(b) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, that violates any provision of this Act, or any rule, regulation, or standard promulgated by the Secretary thereunder, may be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation, and the Secretary may also make an order that such person shall cease and desist from continuing such violation. Each violation and each day during which a violation continues shall be a separate offense. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing with respect to the alleged violation, and the order of the Secretary assessing a penalty and making a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States Court of Appeals. The Secretary shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person involved, the gravity of the violation, the person's good faith, and the history of previous violations. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed by a final order under this section, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States or other United States court for any district in which such person is found or resides or transacts business, to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. Any person who knowingly fails to obey a cease and desist order made by the Secretary under this section shall be subject to a
Civil penalty.	
Notice and hearing.	
Civil action.	
Penalty.	

civil penalty of \$500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

“(c) Any dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale subject to section 12 of this Act, aggrieved by a final order of the Secretary issued pursuant to this section may, within 60 days after entry of such an order, seek review of such order in the appropriate United States Court of Appeals in accordance with the provisions of section 2341, 2343 through 2350 of title 28, United States Code, and such court shall have exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary’s order.

Review.
7 USC 2142.

“(d) Any dealer, exhibitor, or operator of an auction sale subject to section 12 of this Act, who knowingly violates any provision of this Act shall, on conviction thereof, be subject to imprisonment for not more than 1 year, or a fine of not more than \$1,000, or both. Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrates as provided in section 636 of title 28, United States Code, and sections 3401 and 3402 of title 18, United States Code, and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture.”

Penalties.

SEC. 14. Section 20 of such Act is hereby repealed.

Repeal.
7 USC 2150.
7 USC 2154.

SEC. 15. Section 24 of such Act is amended by inserting the following at the end of the section: “Notwithstanding the other provisions of this section, compliance by intermediate handlers, and carriers, and other persons with those provisions of this Act, as amended by the Animal Welfare Act Amendments of 1976, and those regulations promulgated thereunder, which relate to actions of intermediate handlers and carriers, shall commence 90 days after promulgation of regulations under section 13 of this Act, as amended, with respect to intermediate handlers and carriers, and such regulations shall be promulgated no later than 9 months after the enactment of the Animal Welfare Act Amendments of 1976; and compliance by dealers, exhibitors, operators of auction sales, and research facilities with other provisions of this Act, as so amended, and the regulations thereunder, shall commence upon the expiration of 90 days after enactment of the Animal Welfare Act Amendments of 1976: *Provided, however,* That compliance by all persons with paragraphs (b), (c), and (d) of section 13 and with section 26 of this Act, as so amended, shall commence upon the expiration of said ninety-day period. In all other respects, said amendments shall become effective upon the date of enactment.”

Infra.
Effective date.

SEC. 16. Section 25 of such Act is amended by deleting from subsection (2) the word “and” where it last appears, deleting the period at the end of subsection (3) and inserting “; and” in lieu thereof, and by inserting after subsection (3) the following new subsection:

7 USC 2155.

“(4) recommendations and conclusions concerning the aircraft environment as it relates to the carriage of live animals in air transportation.”

SEC. 17. Such Act is amended by adding at the end thereof the following new section:

“SEC. 26. (a) It shall be unlawful for any person to knowingly sponsor or exhibit an animal in any animal fighting venture to which any animal was moved in interstate or foreign commerce.

Animal fighting
venture,
prohibition.
7 USC 2156.

“(b) It shall be unlawful for any person to knowingly sell, buy, transport, or deliver to another person or receive from another person for purposes of transportation, in interstate or foreign commerce, any dog or other animal for purposes of having the dog or other animal participate in an animal fighting venture.

“(c) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States.

“(d) Notwithstanding the provisions of subsections (a), (b), or (c) of this section, the activities prohibited by such subsections shall be unlawful with respect to fighting ventures involving live birds only if the fight is to take place in a State where it would be in violation of the laws thereof.

Penalties.

“(e) Any person who violates subsection (a), (b), or (c) shall be fined not more than \$5,000 or imprisoned for not more than 1 year, or both, for each such violation.

Investigations.

“(f) The Secretary or any other person authorized by him shall make such investigations as the Secretary deems necessary to determine whether any person has violated or is violating any provision of this section, and the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of such investigations, under cooperative agreements with such agencies. A warrant to search for and seize any animal which there is probable cause to believe was involved in any violation of this section may be issued by any judge of the United States or of a State court of record or by a United States magistrate within the district wherein the animal sought is located. Any United States marshal or any person authorized under this section to conduct investigations may apply for and execute any such warrant, and any animal seized under such a warrant shall be held by the United States marshal or other authorized person pending disposition thereof by the court in accordance with this paragraph (f). Necessary care including veterinary treatment shall be provided while the animals are so held in custody. Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means, as the court may direct. Costs incurred by the United States for care of animals seized and forfeited under this section shall be recoverable from the owner of the animals if he appears in such forfeiture proceeding or in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

Costs, recovery.

Definitions.

“(g) For purposes of this section—

“(1) the term ‘animal fighting venture’ means any event which involves a fight between at least two animals and is conducted for purposes of sport, wagering, or entertainment except that the term ‘animal fighting venture’ shall not be deemed to include any activity the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting;

“(2) the term ‘interstate or foreign commerce’ means—

“(A) any movement between any place in a State to any place in another State or between places in the same State through another State; or

“(B) any movement from a foreign country into any State;

“(3) the term ‘interstate instrumentality’ means telegraph, telephone, radio, or television operating in interstate or foreign commerce;

“(4) the term ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

“(5) the term ‘animal’ means any live bird, or any live dog or other mammal, except man; and

“(6) the conduct by any person of any activity prohibited by this section shall not render such person subject to the other sections of this Act as a dealer, exhibitor, or otherwise.

“(h) (1) The provisions of this Act shall not supersede or otherwise invalidate any such State, local, or municipal legislation or ordinance relating to animal fighting ventures except in case of a direct and irreconcilable conflict between any requirements thereunder and this Act or any rule, regulation, or standard hereunder.

“(2) Section 3001(a) of title 39, United States Code, is amended by adding immediately after the words ‘title 18’ a comma and the words ‘or section 26 of the Animal Welfare Act’.”.

Ante, p. 421.

7 USC 2153.

Appropriation
authorization.

SEC. 18. Section 23 of such Act is amended by inserting immediately before the period at the end of the third sentence “: *Provided*, That there is authorized to be appropriated to the Secretary of Agriculture for enforcement by the Department of Agriculture of the provisions of section 26 of this Act an amount not to exceed \$100,000 for the transition quarter ending September 30, 1976, and not to exceed \$400,000 for each fiscal year thereafter”.

SEC. 19. Section 14 of such Act is amended by inserting in the first sentence after the term “standards” the phrase “and other requirements”.

7 USC 2144.

Approved April 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-801 accompanying H.R. 5808 (Comm. on Agriculture) and No. 94-976 (Comm. of Conference).

SENATE REPORTS: No. 94-580 (Comm. on Commerce) and No. 94-727 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 18, considered and passed Senate.

Vol. 122 (1976): Feb. 9, considered and passed House, amended, in lieu of H.R. 5808.

Apr. 6, House agreed to conference report.

Apr. 7, Senate agreed to conference report.

Public Law 94-280
94th Congress

An Act

To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

May 5, 1976

[H.R. 8235]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1976".

Highway construction and safety.
Appropriation authorization.
Federal-Aid Highway Act of 1976.
23 USC 101 note.

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of \$3,250,000,000 for the fiscal year ending June 30, 1978, and the additional sum of \$3,250,000,000 for the fiscal year ending June 30, 1979.", and by inserting in lieu thereof the following: "the additional sum of \$3,250,000,000 for the fiscal year ending September 30, 1978, the additional sum of \$3,250,000,000 for the fiscal year ending September 30, 1979, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1980, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1981, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1982, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1983, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1984, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1985, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1986, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1987, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1988, the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1989, and the additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1990.".

23 USC 101 note.

(b) (1) At least 30 per centum of the apportionment made to each State for each of the fiscal years ending September 30, 1978, and September 30, 1979, of the sums authorized in subsection (a) of this section shall be expended by such State for projects for the construction of intercity portions (including beltways) which will close essential gaps in the Interstate System and provide a continuous System.

(2) The Secretary of Transportation shall report to Congress before October 1, 1976, on those intercity portions of the Interstate System the construction of which would be needed to close essential gaps in the System.

Report to Congress.

(3) A State which does not have sufficient projects to meet the 30 per centum requirement of paragraph (1) of this subsection may, upon approval of the Secretary of Transportation, be exempt from the requirements of such paragraph to the extent of such inability.

23 USC 101 note. (c) No part of the funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for the Interstate System, shall be obligated for any project for resurfacing, restoring, or rehabilitating any portion of the Interstate System.

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF
INTERSTATE FUNDS

23 USC 101 note. SEC. 103. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1978, the sums authorized to be appropriated for such periods by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of Committee Print 94-38 of the Committee on Public Works and Transportation of the House of Representatives.

TRANSITION QUARTER AUTHORIZATION

23 USC 142. SEC. 104. (a) There is hereby authorized to be appropriated, out of the Highway Trust Fund, \$1,637,390,000 for the transition quarter ending September 30, 1976, for those projects authorized by title 23 of the United States Code, the approval of which creates a contractual obligation of the United States for payment out of the Highway Trust Fund of the Federal share of such projects except those authorized by section 142 of such title, and those on the Interstate System (other than as permitted in subsection (b)). Such sums shall be apportioned or allocated on the date of enactment of this Act among the States, as follows:

(1) 60 per centum according to the formula established under section 104(b)(1) of title 23, United States Code, as such section is in effect on the day preceding the date of enactment of this Act.

(2) 40 per centum in the ratio which the population of each State bears to the total population of all the States shown by the latest available Federal census.

(b) Any State which received less than one-half of 1 per centum of the apportionment made under section 104(b)(5) of title 23, United States Code, for the Interstate System for fiscal year 1977 may expend all or any part of its apportionment under this section for projects on the Interstate System in such State.

(c) There is hereby authorized to be appropriated out of the Highway Trust Fund, for the transition quarter ending September 30, 1976, \$8,250,000 for forest highways, and \$4,000,000 for public lands highways. Such sums shall be apportioned or allocated on the date of enactment of this Act in accordance with section 202 of title 23, United States Code.

(d) There is authorized to be appropriated, out of the Highway Trust Fund, for the transition quarter ending September 30, 1976, \$120,000 to the Virgin Islands, \$120,000 to Guam, and \$120,000 to American Samoa, for projects and programs under sections 152, 153, and 402 of title 23, United States Code, such sums shall be apportioned on the date of enactment of this Act in accordance with section 402(c) of title 23, United States Code.

HIGHWAY AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, \$1,350,000,000 for the fiscal year ending September 30, 1977, and \$1,350,000,000 for the fiscal year ending September 30, 1978. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, \$400,000,000 for the fiscal year ending September 30, 1977, and \$400,000,000 for the fiscal year ending September 30, 1978.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, \$800,000,000 for the fiscal year ending September 30, 1977, and \$800,000,000 for the fiscal year ending September 30, 1978.

(3) For forest highways, out of the Highway Trust Fund, \$33,000,000 for the fiscal year ending September 30, 1977, and \$33,000,000 for the fiscal year ending September 30, 1978.

(4) For public lands highways, out of the Highway Trust Fund, \$16,000,000 for the fiscal year ending September 30, 1977, and \$16,000,000 for the fiscal year ending September 30, 1978.

(5) For forest development roads and trails, \$35,000,000 for the three-month period ending September 30, 1976, \$140,000,000 for the fiscal year ending September 30, 1977, and \$140,000,000 for the fiscal year ending September 30, 1978.

(6) For public lands development roads and trails, \$2,500,000 for the three-month period ending September 30, 1976, \$10,000,000 for the fiscal year ending September 30, 1977, and \$10,000,000 for the fiscal year ending September 30, 1978.

(7) For park roads and trails, \$7,500,000 for the three-month period ending September 30, 1976, \$30,000,000 for the fiscal year ending September 30, 1977, and \$30,000,000 for the fiscal year ending September 30, 1978.

(8) For parkways, \$11,250,000 for the three-month period ending September 30, 1976, \$45,000,000 for the fiscal year ending September 30, 1977, and \$45,000,000 for the fiscal year ending September 30, 1978, except that the entire cost of any parkway project on any Federal-aid system paid under the authorization contained in this paragraph shall be paid from the Highway Trust Fund.

(9) For Indian reservation roads and bridges, \$20,750,000 for the three-month period ending September 30, 1976, \$83,000,000 for the fiscal year ending September 30, 1977, and \$83,000,000 for the fiscal year ending September 30, 1978.

(10) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, \$50,000,000 for the fiscal year ending September 30, 1977, and \$50,000,000 for the fiscal year ending September 30, 1978.

(11) For necessary administrative expenses in carrying out section 131 and section 136 of title 23, United States Code, \$375,000 for the three-month period ending September 30, 1976, \$1,500,000 for the fiscal year ending September 30, 1977, and \$1,500,000 for the fiscal year ending September 30, 1978.

(12) For carrying out section 215(a) of title 23, United States Code— 23 USC 215 note.

(A) for the Virgin Islands, not to exceed \$1,250,000 for the three-month period ending September 30, 1976, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$5,000,000 for the fiscal year ending September 30, 1978.

(B) for Guam, not to exceed \$1,250,000 for the three-month period ending September 30, 1976, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$5,000,000 for the fiscal year ending September 30, 1978.

(C) for American Samoa, not to exceed \$250,000 for the three-month period ending September 30, 1976, not to exceed \$1,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$1,000,000 for the fiscal year ending September 30, 1978.

Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

23 USC 101 *et seq.*

(13) For authorized landscaping, including, but not limited to, the planting of flowers and shrubs indigenous to the area, and for litter removal an additional \$25,000,000 for the fiscal year ending September 30, 1977 and \$25,000,000 for the fiscal year ending September 30, 1978.

(14) For the Great River Road, \$2,500,000 for the three-month period ending September 30, 1976, \$10,000,000 for the fiscal year ending September 30, 1977, and \$10,000,000 for the fiscal year ending September 30, 1978, for construction or reconstruction of roads not on a Federal-aid highway system; and out of the Highway Trust Fund, \$6,250,000 for the three-month period ending September 30, 1976, \$25,000,000 for the fiscal year ending September 30, 1977, and \$25,000,000 for the fiscal year ending September 30, 1978, for construction or reconstruction of roads on a Federal-aid highway system.

(15) For control of outdoor advertising under section 131 of title 23, United States Code, \$25,000,000 for the fiscal year ending September 30, 1977, and \$25,000,000 for the fiscal year ending September 30, 1978.

(16) For control of junkyards under section 136 of title 23, United States Code, \$15,000,000 for the fiscal year ending September 30, 1977, and \$15,000,000 for the fiscal year ending September 30, 1978.

(17) For safer off-system roads under section 219 of title 23, United States Code, \$200,000,000 for the fiscal year ending September 30, 1977, and \$200,000,000 for the fiscal year ending September 30, 1978.

(18) For access highways under section 155 of title 23, United States Code, \$3,750,000 for the three-month period ending September 30, 1976, \$15,000,000 for the fiscal year ending September 30, 1977, and \$15,000,000 for the fiscal year ending September 30, 1978.

(19) Nothing in the first ten paragraphs or in paragraph (12), (13), (14), (17), or (18) of this section shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or chapter 4 of title 23, United States Code.

23 USC 401 *et seq.*
23 USC 104 note.

(b) (1) For each of the fiscal years 1978 and 1979, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b) (5) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, and rehabilitation of the Interstate System within such State, the excess amount shall be transferred to and added to the

amounts last apportioned to such State under paragraphs (1), (2) and (6) of section 104(b) in the ratio which these respective amounts bear to each other in that State, and shall thereafter be available for expenditure in the same manner and to the same extent as the amounts to which they are added. In order to carry out this subsection, there are authorized to be appropriated, out of the Highway Trust Fund, not to exceed \$91,000,000 for the fiscal year ending September 30, 1978, and \$125,000,000 for the fiscal year ending September 30, 1979.

23 USC 104.

(2) In addition to funds otherwise authorized, \$65,000,000 for the fiscal year ending September 30, 1977, and \$65,000,000 for the fiscal year ending September 30, 1978, out of the Highway Trust Fund, are hereby authorized for the purpose of completing projects approved under the urban high density traffic program prior to the enactment of this paragraph. Such sums shall be in addition to sums previously authorized.

(c)(1) In the case of priority primary routes, \$50,000,000 of the sum authorized for fiscal year ending September 30, 1977, by the amendment made by subsection (a)(1) of this section, shall not be apportioned. Such \$50,000,000 shall be available for obligation on July 1, 1976, in the same manner and to the same extent as sums apportioned for fiscal year 1977 except that such \$50,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost which require long periods of time for their construction. Any part of such \$50,000,000 not obligated by such Secretary before October 1, 1977, shall be immediately apportioned in the same manner as funds apportioned on October 1, 1977, for priority primary routes and available for obligation for the same period as such apportionment.

(2) In the case of priority primary routes, \$50,000,000 of the sum authorized for the fiscal year ending September 30, 1978, by the amendment made by subsection (a)(1) of this section, shall not be apportioned. Such \$50,000,000 of such authorized sum shall be available for obligation on the date of such apportionment, in the same manner and to the same extent as the sums apportioned on such date, except that such \$50,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost which require long periods of time for their construction. Any part of such \$50,000,000 not obligated by such Secretary before October 1, 1978, shall be immediately apportioned in the same manner as funds apportioned on October 1, 1978, for such routes, and available for obligation for the same period as such apportionment.

INTERSTATE SYSTEM RESURFACING

Sec. 106. (a) In addition to any other funds authorized for the Interstate System, there is authorized to be appropriated out of the Highway Trust Fund not to exceed \$175,000,000 for the fiscal year ending September 30, 1978, and \$175,000,000 for the fiscal year ending September 30, 1979. Such sums shall be obligated only for projects for resurfacing, restoring, and rehabilitating those lanes on the Interstate System which have been in use for more than five years and which are not on toll roads.

(b) Paragraph (5) of subsection (b) of section 104 of title 23, United States Code, is amended by inserting "(A) Except as provided in subparagraph (B)—" immediately after "(5)" and by adding at the end of such paragraph the following:

"(B) For resurfacing, restoring, and rehabilitating the Interstate System:

"In the ratio which the lane miles on the Interstate System which have been in use for more than five years (other than those on toll roads) in each State bears to the total of the lane miles on the Interstate System which have been in use for more than five years (other than those on toll roads) in all States."

EXTENSION OF TIME FOR COMPLETION OF SYSTEM

SEC. 107. (a) The second sentence of the second paragraph of section 101(b) of title 23, United States Code, is amended by striking out "twenty-three years" and inserting in lieu thereof "thirty-four years" and by striking out "June 30, 1979", and inserting in lieu thereof "September 30, 1990".

(b) (1) The introductory phrase and the second and third sentences of section 104(b) (5) of title 23, United States Code, are amended by striking out "1979" each place it appears and inserting in lieu thereof at each such place "1990".

Congressional
approvals.

Cost estimates,
transmittal to
Congress.

(2) The last four sentences of such section 104(b) (5) are amended to read as follows: "Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making the apportionment for the fiscal year ending September 30, 1977. The Secretary shall make the apportionment for the fiscal year ending September 30, 1978, in accordance with section 103 of the Federal-Aid Highway Act of 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1979. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner

as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 30, 1988. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1987. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1989, and September 30, 1990. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives.”.

DEFINITIONS

SEC. 108. (a) Subsection (a) of section 101 of title 23, United States Code, is amended as follows:

(1) The definition of the term “construction” is amended by inserting immediately after “Commerce”), the following “resurfacing, restoration, and rehabilitation.”.

(2) The definition of the term “urban area” is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: “except in the case of cities in the State of Maine and in the State of New Hampshire.”.

(b) Section 101(a) of title 23, United States Code, is amended by adding the following definition after “public lands highways”:

“The term ‘public road’ means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.”.

ELIGIBILITY FOR WITHDRAWAL

SEC. 109. (a) The second sentence of paragraph (2) of subsection (e) of section 103 of title 23, United States Code, is amended by striking out “prior to the enactment of this paragraph”.

(b) Section 103(e) of title 23, United States Code, is amended by adding the following new paragraph at the end thereof:

“(5) Interstate mileage authorized for any State and withdrawn and transferred under the provisions of paragraph (2) of this subsection after the date of enactment of the Federal-Aid Highway Act of 1976, must be constructed by the State receiving such mileage as part of its Interstate System. Any State receiving such transfer of mileage may not, with respect to that transfer, avail itself of the optional use of Interstate funds under the second sentence of paragraph (4) of this subsection.”.

INTERSTATE SYSTEM

SEC. 110. (a) Section 103(e)(4) of title 23, United States Code, is amended to read as follows:

“(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which is within an urbanized area or which passes through and connects urbanized areas within a State and which was selected and approved in accordance with

49 USC 1603.

this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal-Aid Highway Act of 1976 or the date of approval of each substitute project under this paragraph, whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the urbanized area and the connecting non-urbanized area corridor from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local official's of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of the substitute projects shall be determined in accordance with the provisions of section 120 of this title applicable to the highway program of which the substitute project is a part, except that in the case of mass transit projects, the Federal share shall be that specified in section 4 of the Urban Mass Transportation Act of 1964, as amended. The sums available for obligation shall remain available until obligated. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the Treasury. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1976 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act. Funds available for expenditure to carry

out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal-Aid Highway Act of 1976, shall be effective as of August 13, 1973.”

49 USC 1601
note.

(b) Section 103(e)(4) of title 23, United States Code, is further amended by adding the following sentence at the end thereof: “In the event a withdrawal of approval is accepted pursuant to this section, the State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System as long as said sums were applied to a transportation project permissible under this title.”

ROUTE WITHDRAWALS

SEC. 111. (a) The existing fourth sentence of paragraph (2) of subsection (e) of section 103 of title 23, United States Code, is amended by striking out “increased or decreased,” and all that follows down through and including the period at the end thereof and inserting in lieu thereof the following: “or if the cost of any such withdrawn route was not included in such 1972 Interstate System cost estimate, the cost of such withdrawn route as set forth in the last Interstate System cost estimate before such 1972 cost estimate which was approved by Congress and which included the cost of such withdrawn route, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof, which, (i) in the case of a withdrawn route the cost of which was not included in the 1972 cost estimate but in an earlier cost estimate, have occurred between such earlier cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, and (ii) in the case of a withdrawn route the cost of which was included in the 1972 cost estimate, have occurred between the 1972 cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, or the date of withdrawal of approval, whichever date is later, and in each case costs shall be based on that design of such route or portion thereof which is the basis of the applicable cost estimate.”

(b) The amendment made by subsection (a) of this section shall be applicable to each route on the Interstate System approval of which was withdrawn or is hereafter withdrawn by the Secretary of Transportation in accordance with the provisions of section 103(e)(2) of title 23, United States Code, including any route on the Interstate System approval of which was withdrawn by the Secretary of Transportation in accordance with the provisions of title 23, United States Code, on August 30, 1965, for the purpose of designating an alternative route.

23 USC 103 note.

APPORTIONMENTS

SEC. 112. (a) Section 104(b) of title 23, United States Code, is amended by striking “On or before January 1 next preceding the commencement of each fiscal year, except as provided in paragraphs (4) and (5) of this subsection,” and inserting in lieu thereof “On October 1 of each fiscal year except as provided in paragraphs (4) and (5) of this subsection.”

(b) Section 104(b)(1) of title 23, United States Code, is amended to read as follows:

“(1) For the Federal-aid primary system (including extensions in urban areas and priority primary routes)—

"Two-thirds according to the following formula: one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one-third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bear to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, as shown by a certificate of the Postmaster General, which he is directed to make and furnish annually to the Secretary; and one-third as follows: in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment."

Repeal.

(c) Section 104(b)(3) of title 23, United States Code, is repealed.

(d) Section 104(e) of title 23, United States Code, is amended to read as follows:

"(e) On October 1 of each fiscal year the Secretary shall certify to each of the State highway departments the sums which he has apportioned hereunder (other than under subsection (b)(5) of this section) to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section. On October 1 of the year preceding the fiscal year for which authorized, the Secretary shall certify to each of the State highway departments the sums which he has apportioned under subsection (b)(5) of this section to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized, except that in the case of the Interstate System the Secretary shall advise each State ninety days prior to the apportionment of such funds."

(e) Section 104(f)(1) of title 23, United States Code, is amended by striking out "On or before January 1 next preceding the commencement" and inserting in lieu thereof "On October 1". Section 104(f)(1) is further amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "except that in the case of funds authorized for apportionment on the Interstate System, the Secretary shall set aside that portion of such funds (subject to the overall limitation of one-half of 1 per centum) on October 1 of the year next preceding the fiscal year for which such funds are authorized for such System."

(f) Section 104(f)(3) of title 23, United States Code, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas."

(g) Section 104(b)(5) of title 23, United States Code, is amended by striking out "a date as far in advance of the beginning of the fiscal year for which authorized as practicable but in no case more than eighteen months prior to the beginning of the fiscal year for which authorized." and inserting in lieu thereof the following: "October 1 of the year preceding the fiscal year for which authorized."

(h) Notwithstanding any other provision of this Act, including any amendments made by this Act, funds authorized by this Act (other than for the Interstate System) for the transition quarter ending September 30, 1976, and for the fiscal year ending September 30, 1977, shall be apportioned on July 1, 1976, except as otherwise provided in section 104.

TRANSFERABILITY

SEC. 113. (a) Subsections (c) and (d) of section 104 of title 23, United States Code, are amended to read as follows:

“(c) (1) Subject to subsection (d), the amount apportioned in any fiscal year, commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374), to each State in accordance with paragraph (1) or (2) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such a transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

23 USC 104 note.

“(2) Subject to subsection (d), the amount apportioned in any fiscal year to each State in accordance with paragraph (1) or (6) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (6) of subsection (b) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title, without the approval of the local officials of such urbanized area.

23 USC 150.

“(d) Each transfer of apportionments under subsection (c) of this section shall be subject to the following conditions:

“(1) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 40 per centum. Not more than 40 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

“(2) In the case of transfers under paragraph (2), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 20 per centum. Not more than 20 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

“(3) No transfer shall be made from an apportionment during any fiscal year if during such fiscal year a transfer has been made to such apportionment.

“(4) No transfer shall be made to an apportionment during any fiscal year if during such fiscal year a transfer has been made from such apportionment.”

(b) The amendment made by subsection (a) of this section shall take effect on July 1, 1976, and shall be applicable with respect to funds authorized for the fiscal year ending September 30, 1977, and for subsequent fiscal years. With respect to the fiscal year 1976 and earlier fiscal years, the provisions of subsections (c) and (d) of section 104 of title 23, United States Code, as in effect on June 30, 1976, shall remain applicable to funds authorized for such years.

Effective dates.
23 USC 104 note.

CONSTRUCTION ESTIMATES

SEC. 114. Section 106(c) of title 23, United States Code, is amended to read as follows:

“(c) Items included in any such estimate for construction engineering shall not exceed 10 per centum of the total estimated cost of a project financed with Federal-aid highway funds, after excluding from such total estimate cost, the estimated costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.”.

ADVANCE ACQUISITION OF RIGHTS-OF-WAY

SEC. 115. (a) Paragraph (2) of subsection (c) of section 108 of title 23, United States Code, is amended by striking out “made pursuant to section 133 or chapter 5 of this title”.

(b) Section 108(a) of title 23, United States Code, is amended by inserting after “request is made” the words “unless a longer period is determined to be reasonable by the Secretary” in the last sentence.

(c) Section 108(c) (3) of title 23, United States Code, is amended by inserting “or later” following “earlier” in the first sentence.

CERTIFICATION ACCEPTANCE

SEC. 116. (a) Subsection (a) of section 117 of title 23, United States Code, is amended by striking out “establishing requirements at least equivalent to those contained in, or issued pursuant to, this title.” and inserting in lieu thereof “which will accomplish the policies and objectives contained in or issued pursuant to this title.”.

(b) Section 117 of title 23 of the United States Code is amended by adding at the end thereof the following new subsection:

“(f) (1) In the case of the Federal-aid secondary system, in lieu of discharging his responsibilities in accordance with subsections (a) through (d) of this section, the Secretary may, upon the request of any State highway department, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of all projects on the Federal-aid secondary system by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for each such project are in accord with those standards and procedures which (A) were adopted by such State highway department, (B) were applicable to projects in this category, and (C) were approved by him.

“(2) The Secretary shall not approve such standards and procedures unless they are in accordance with the provisions of subsection (b) of section 105, subsection (b) of section 106, and subsection (c) of section 109, of this title.

23 USC 105, 106,
109.

“(3) Paragraphs (1) and (2) of this subsection shall not be construed to relieve the Secretary of his obligation to make a final inspection of each project after construction and to require an adequate showing of the estimated cost of construction and the actual cost of construction.”.

AVAILABILITY

SEC. 117. (a) Subsection (b) of section 118 of title 23, United States Code, is amended to read as follows:

“(b) Sums apportioned to each Federal-aid system (other than the Interstate System) shall continue available for expenditure in that

State for the appropriate Federal-aid system or part thereof (other than the Interstate System) for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse. Sums apportioned to the Interstate System shall continue available for expenditure in that State for the Interstate System for a period of two years after the close of the fiscal year for which such sums are authorized. Any amount apportioned to the States for the Interstate System under subsection (b) (5) (A) of section 104 of this title remaining unexpended at the end of the period during which it is available under this section shall lapse and shall immediately be reapportioned among the other States in accordance with the provisions of subsection (b) (5) (A) of section 104 of this title. Any amount apportioned to the States for the Interstate System under subsection (b) (5) (B) of section 104 of this title remaining unexpended at the end of the period of its availability shall lapse. Sums apportioned to a Federal-aid system for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is obligated. Any Federal-aid highway funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds, primary, secondary, urban, or interstate, previously apportioned to the State and be immediately available for expenditure.”

23 USC 104.

(b) (1) The first sentence of section 203 of title 23, United States Code, is amended by striking out “or a date not earlier than one year preceding the beginning” and inserting in lieu thereof “or on October 1,”.

(2) The second sentence of such section 203 is amended by striking out “two years” and inserting in lieu thereof “three years”.

(c) The funds authorized by section 104 of this Act and all funds authorized by titles I and II of this Act for the transition quarter ending September 30, 1976, shall, for the purposes of the application of sections 118 and 203 of title 23, United States Code, remain available for expenditure for the same period as funds authorized by this Act for the fiscal year ending September 30, 1977.

PAYMENT TO STATES FOR CONSTRUCTION

SEC. 118. (a) Section 121(d) of title 23, United States Code, is amended to read as follows:

“(d) In making payments pursuant to this section, the Secretary shall be bound by the limitations with respect to the permissible amounts of such payments contained in sections 120 and 130 of this title. Payments for construction engineering on any project financed with Federal-aid highway funds shall not exceed 10 per centum of the Federal share of the cost of construction of such project after excluding from the cost of construction the costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.”

23 USC 120, 130.

EMERGENCY RELIEF

SEC. 119. (a) Section 125(a) of title 23, United States Code, is amended—

(1) by striking out “June 30, 1972,” and inserting in lieu thereof “June 30, 1972, and ending before June 1, 1976,”;

(2) by striking out "June 30, 1973," and inserting in lieu thereof "June 30, 1973, to carry out the provisions of this section, and not more than \$25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, is authorized to be expended to carry out the provisions of this section, and not more than \$100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1976."; and

(3) by adding before the last sentence the following new sentence: "For the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977."

23 USC 125.

(b) The second sentence of section 125(b) of such title is amended by striking out the period and inserting in lieu thereof the following: ", except that if the President has declared such emergency to be a major disaster for the purposes of the Disaster Relief Act of 1974 (Public Law 93-288) concurrence of the Secretary is not required."

42 USC 5121
note.

BUS WIDTHS

SEC. 120. Section 127 of title 23, United States Code is amended by adding at the end thereof the following new sentence: "Notwithstanding any limitation relating to vehicle widths contained in this section, a State may permit any bus having a width of 102 inches or less to operate on any lane of 12 feet or more in width on the Interstate System."

FERRY OPERATIONS

SEC. 121. The first sentence of paragraph (5) of subsection (g) of section 129 of title 23, United States Code, is amended by inserting after "Hawaii" the following: "and the islands which comprise the Commonwealth of Puerto Rico". The second sentence of such paragraph (5) is amended by inserting after "Hawaii" the following: "and operations between the islands which comprise the Commonwealth of Puerto Rico".

CONTROL OF OUTDOOR ADVERTISING

SEC. 122. (a) Subsection (f) of section 131 of title 23, United States Code, is amended by inserting the following after the first sentence: "The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained".

(b) Section 131 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

"(o) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.

Compensation.

"(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Fed-

eral-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

23 USC 101 note.

“(q) (1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and esthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

23 USC 131.

“(2) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.”

(c) Section 131(i) of title 23, United States Code, is amended to read as follows:

“(i) In order to provide information in the specific interest of the traveling public, the State highway departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.”

23 USC 120.

TRAFFIC OPERATIONS IMPROVEMENT PROGRAMS

SEC. 123. (a) Section 135 of title 23, United States Code, is amended to read as follows:

“§ 135. Traffic operations improvement programs.

“(a) The Congress hereby finds and declares it to be in the national interest that each State shall have a continuing program designed to reduce traffic congestion and facilitate the flow of traffic.

“(b) The Secretary may approve under this section any project for improvements on any public road which project will directly facilitate and control traffic flow on any of the Federal-aid systems.”

(b) The analysis of chapter 1 is amended by striking out:

“135. Urban area traffic operations improvement programs.”

and inserting in lieu thereof:

“135. Traffic operations improvement programs.”

PRESERVATION OF PARKLANDS

Studies.

SEC. 124. Section 138 of title 23, United States Code, is amended by adding a new sentence at the end thereof to read as follows: "In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas."

ADDITIONS TO INTERSTATE SYSTEM

SEC. 125. Section 139(b) of title 23, United States Code, is amended by striking "(d)" the two places it appears and inserting in lieu thereof "(e)".

EQUAL EMPLOYMENT OPPORTUNITY

SEC. 126. The second sentence of subsection (b) of section 140, title 23, United States Code, is amended to read as follows: "Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed \$2,500,000 for the transition quarter ending September 30, 1976, and not to exceed \$10,000,000 per fiscal year, for the administration of this subsection."

PUBLIC TRANSPORTATION

SEC. 127. (a) Section 142(a)(1) of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person for operating the facility)."

(b) Section 142(e)(3) of title 23, United States Code, is amended by striking out "section." and inserting in lieu thereof "title."

SPECIAL URBAN HIGH DENSITY

Repeal.
23 USC 146.

SEC. 128. (a) Section 146 of title 23, United States Code, is repealed.

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking out:

"146. Special urban high density traffic programs."

and inserting in lieu thereof:

"146. Repealed."

RURAL BUS DEMONSTRATION

23 USC 142 note.

SEC. 129. Section 147(a) of the Federal-Aid Highway Act of 1973, as amended, is amended by adding after the first sentence a new sentence as follows: "Such sums shall remain available for a period of two years after the close of the fiscal year for which such sums are authorized."

PRIORITY PRIMARY

23 USC 120.

SEC. 130. Section 147(b) of title 23, United States Code, is amended to read as follows:

"(b) The Federal share of any project on a priority primary route shall be that provided in section 120(a) of this title. All provisions of this title applicable to the Federal-aid primary system shall be applicable to the priority primary routes selected under this section."

DEFINING STATE

SEC. 131. Section 152 and section 153 of title 23, United States Code, are amended by adding at the end of each such section the following new subsection:

“(f) For the purposes of this section the term ‘State’ shall have the meaning given it in section 401 of this title.”

23 USC 401.

HIGHWAYS CROSSING FEDERAL PROJECTS

SEC. 132. (a) Chapter I of title 23, United States Code, is amended by adding at the end thereof the following new section:

“§ 156. Highways crossing Federal projects

23 USC 156.

“(a) The Secretary is authorized to construct and to reconstruct any public highway or highway bridge across any Federal public works project, notwithstanding any other provision of law, where there has been a substantial change in the requirements and costs of such highway or bridge since the public works project was authorized, and where such increased costs would work an undue hardship upon any one State. No such highway or bridge shall be constructed or reconstructed under authority of this section until the State shall agree that upon completion of such construction or reconstruction it will accept ownership to such highway or bridge and will thereafter operate and maintain such highway or bridge.

“(b) There is hereby authorized to be appropriated not to exceed \$100,000,000 to carry out this section. Amounts authorized by this subsection shall be available for the fiscal year in which appropriated and for two succeeding fiscal years.”

(b) The analysis of chapter I of title 23 of the United States Code is amended by adding at the end thereof the following:

“156. Highways crossing Federal projects.”

APPORTIONMENTS OR ALLOCATIONS

SEC. 133. Section 202(a) of title 23, United States Code, is amended by striking “On or before January 1 next preceding the commencement” and inserting in lieu thereof “On October 1”.

BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

SEC. 134. Section 217(e) of title 23, United States Code, is amended by striking out “\$40,000,000” and inserting in lieu thereof “\$45,000,000”, and by striking out “\$2,000,000” and inserting in lieu thereof “\$2,500,000”.

SAFER OFF-SYSTEM ROADS

SEC. 135. (a) Section 219 of title 23 of the United States Code, is amended to read as follows:

“§ 219. Safer off-system roads.

“(a) The Secretary is authorized to make grants to States for projects for the construction, reconstruction, and improvement of any off-system road, including, but not limited to, the correction of safety hazards, the replacement of bridges, the elimination of high-hazard locations and roadside obstacles.

Grants.

"(b) On October 1 of each fiscal year the Secretary shall apportion the sums authorized to be appropriated to carry out this section among the several States as follows:

"(1) Two-thirds according to the following formula—

"(A) one-third in the ratio which the area of each State bears to the total area of all States;

"(B) one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States; and

"(C) one-third in the ratio in which the off-system road mileage of each State bears to the total off-system road mileage of all the States. Off-system road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

"(2) One-third in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

"(c) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

Formal
agreement with
local officials.

"(d) In any State wherein the State is without legal authority to construct or maintain a project under this section, such State shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located.

"(e) Sums apportioned under this section and programs and projects under this section shall be subject to all of the provisions of chapter 1 of this title applicable to highways on the Federal-aid secondary system except the formula for apportionment, the requirement that these roads be on the Federal-aid system, and those other provisions determined by the Secretary to be inconsistent with this section. The Secretary is not authorized to determine as inconsistent with this section any provision relating to the obligation and availability of funds.

"Off-system
road."

"(f) As used in this section, the terms 'off-system road' means any toll-free road (including bridges), which road is not on any Federal-aid system and which is under the jurisdiction of and maintained by a public authority and open to public travel."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by striking out

"219. Off-system roads."

and inserting in lieu thereof the following:

"219. Safer off-system roads."

Repeal.
23 USC 405.

(c) Section 405 of title 23 of the United States Code is hereby repealed.

(d) The analysis of chapter 4 of title 23 of the United States Code is amended by striking out

"405. Federal-aid safer roads demonstration program."

and inserting in lieu thereof the following:

"405. Repealed."

LANDSCAPING AND SCENIC ENHANCEMENT

SEC. 136. (a) Section 319 of title 23, United States Code, is amended to read as follows:

“§ 319. Landscaping and scenic enhancement.

23 USC 319.

“The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.”

(b) All sums appropriated to be appropriated to carry out section 319(b) of title 23, United States Code, as in effect immediately before the date of enactment of this section shall continue to be available for appropriation, obligation, and expenditure in accordance with such section 319(b), notwithstanding the amendment made by the subsection (a) of this section.

23 USC 319 note.

BRIDGES ON FEDERAL DAMS

SEC. 137. (a) Section 320(d) of title 23, United States Code, is amended by striking out “\$27,761,000” and inserting in lieu thereof “\$50,000,000”.

(b) Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1977, and for subsequent fiscal years.

23 USC 320 note.

OVERSEAS HIGHWAY

SEC. 138. Subsection (b) of section 118 of the Federal-Aid Highway Amendments of 1974 (Public Law 93-643) is amended—

88 Stat. 2288.

(1) by striking out “1975, and” and inserting in lieu thereof “1975;” and

(2) by striking out “can be obligated.” and inserting in lieu thereof “\$8,750,000 for the three-month period ending September 30, 1976, \$35,000,000 for the fiscal year ending September 30, 1977, and \$35,000,000 for the fiscal year ending September 30, 1978, can be obligated.”

TECHNICAL AMENDMENTS

SEC. 139. (a) The analysis of chapter I of title 23, United States Code, is amended by striking out

“111. Use of and access to rights-of-way—Interstate System.”

and inserting in lieu thereof the following:

“111. Agreements relating to use of and access to rights-of-way—Interstate System.”.

(b) The analysis of chapter I of title 23, United States Code, is amended by striking out

“119. Administration of Federal-aid for highways in Alaska.”

and inserting in lieu thereof the following:

“119. Repealed.”.

(c) The analysis of chapter I of title 23, United States Code, is amended by striking out

"133. Relocation assistance."

and inserting in lieu thereof the following:

"133. Repealed."

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

23 USC 130 note. Sec. 140. (a) Section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended by inserting immediately after subsection (h) the following new subsections:

Metairie, La. "(i) The Secretary of Transportation shall carry out a demonstration project in Metairie, Jefferson Parish, Louisiana, for the relocation or grade separation of rail lines whichever he deems most feasible in order to eliminate certain grade level railroad highway crossings.

Augusta, Ga. "(j) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Augusta, Georgia, for the relocation of railroad lines and for the purpose of eliminating highway railroad grade crossings.

Pine Bluff, Ark. "(k) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Pine Bluff, Arkansas, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.

Sherman, Tex. "(l) The Secretary of Transportation shall carry out a demonstration project in Sherman, Texas, for the relocation of rail lines in order to eliminate the ground level railroad crossing at the crossing of the Southern Pacific and Frisco Railroads with Grand Avenue-Roberts Road."

(b) Existing subsections (i), (j), (k), and (l) of section 163 of the Federal-Aid Highway Act of 1973 are relettered as (m), (n), (o), and (p), respectively, including any references to such subsections.

Federal share limitation. (c) Subsection (m) (as relettered by subsection (b) of this section) of section 163 of the Federal-Aid Highway Act of 1973 is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "except that in the case of projects authorized by subsections (i), (j), (k), and (l), the Federal share payable on account of such projects shall not exceed 70 per centum and the remaining costs of such projects shall be paid by the State or local governments."

(d) Subsection (o) (as relettered by subsection (b) of this section) of section 163 of the Federal-Aid Highway Act of 1973 is amended by striking out "1976, except that" and inserting in lieu thereof the following: "1976, \$6,250,000, for the period beginning July 1, 1976, and ending September 30, 1976, \$26,400,000 for the fiscal year ending September 30, 1977, and \$51,400,000 for the fiscal year ending September 30, 1978, except that not more than".

(e) Paragraph (2) of subsection (a) of section 163 of the Federal-Aid Highway Act of 1973 is amended by striking out "an engineering and feasibility study for".

49 USC 1605 note. (f) Section 302 of the National Mass Transportation Assistance Act of 1974 (Public Law 93-503) is amended by striking out "\$14,000,000, except that" and inserting in lieu thereof "\$14,000,000, except that not more than".

ACCELERATION OF PROJECTS

23 USC 124 note. SEC. 141. The Secretary of Transportation shall carry out a project to demonstrate the feasibility of reducing the time required from the

time of request for project approval through the completion of construction of highway projects in areas that, as a result of recent or imminent change, including but not limited to change in population or traffic flow resulting from the construction of Federal projects, show a need to construct such projects to relieve such areas from the impact of such change. There is authorized to be appropriated out of the Highway Trust Fund to carry out such project not to exceed \$25,000,000.

MULTIMODAL CONCEPT

SEC. 142. Section 143 of the Federal-Aid Highway Act of 1973 is amended by inserting "(a)" immediately following "SEC. 143." and by adding the following new subsection at the end thereof:

87 Stat. 272.

"(b) The Secretary of Transportation is authorized and directed to study the feasibility of developing a multimodal concept along the route described in paragraph (1) of subsection (a) of this section, which study shall include an analysis of the environmental impact of such multimodal concept. The Secretary shall report to Congress the results of such a study not later than July 1, 1977."

Study.

Report to Congress.

CARPOOL DEMONSTRATION PROJECTS

SEC. 143. Section 3 of the Emergency Highway Energy Conservation Act, as amended (87 Stat. 1047, 88 Stat. 2289), is amended as follows:

23 USC 101 note.

(1) Subsection (a) is amended by adding at the end thereof the following: "For the purposes of this section, the term 'carpool' includes a vanpool."

Vanpool.

(2) Subsection (c) is amended by inserting after "such measures as" the words "providing carpooling opportunities to the elderly and the handicapped," and by inserting after "opportunities," the words "acquiring vehicles appropriate for carpool use,".

(3) Subsection (d) is amended by striking out "(3) and (6)" from the first sentence, and inserting in lieu thereof "(1) and (6)" and by striking out the second sentence.

USE OF TOLL RECEIPTS FOR HIGHWAY AND RAIL CROSSINGS

SEC. 144. Section 2 of the Act entitled "An Act granting the consent of Congress to the State of California to construct, maintain, and operate a bridge across the Bay of San Francisco from the Rincon Hill district in San Francisco by way of Goat Island to Oakland", approved February 20, 1931, is amended as follows:

46 Stat. 1193.

(1) Subsection (a) is amended by striking out "heretofore enacted." and inserting in lieu thereof a period.

(2) The first sentence in subsection (b) is amended by striking out "of not to exceed two additional highway crossings and one rail transit crossing across the Bay of San Francisco and their approaches." and inserting in lieu thereof "(1) not to exceed two additional highway crossings and one rail transit crossing across the Bay of San Francisco and their approaches, and (2) any public transportation system in the vicinity of any toll bridge in the San Francisco Bay Area. Such tolls may also be used to pay the cost of constructing new approaches to the Richmond-San Rafael Bridge in the San Francisco Bay Area."

(3) The existing third sentence in subsection (b) which begins "After" is repealed.

Repeal.

EXTENSION OF REPAYMENT

- 23 USC 120 note. SEC. 145. The first sentence of section 2 of Public Law 94-30 is amended by striking out "before January 1, 1977." and inserting in lieu thereof "January 1, 1979, at a rate of 20 per centum by January 1, 1977, 30 per centum by January 1, 1978, and 50 per centum by January 1, 1979. If a State fails to make any repayment in accordance with the preceding sentence, the entire unpaid balance shall immediately become due and payable."

TRAFFIC CONTROL SIGNALIZATION DEMONSTRATION PROJECTS

- 23 USC 135 note. SEC. 146. (a) The Secretary of Transportation is authorized to carry out traffic control signalization demonstration projects designed to demonstrate through the use of technology not now in general use the increased capacity of existing highways, the conservation of fuel, the decrease in traffic congestion, the improvement in air and noise quality, and the furtherance of highway safety, giving priority to those projects providing coordinated signalization of two or more intersections. Such projects can be carried out on any highway whether on or off a Federal-aid system.
- (b) There is authorized to be appropriated to carry out this section of the Highway Trust Fund, not to exceed \$40,000,000 for the fiscal year ending September 30, 1977, and \$40,000,000 for the fiscal year ending September 30, 1978.
- Report. (c) Each participating State shall report to the Secretary of Transportation not later than September 30, 1977, and not later than September 30 of each year thereafter, on the progress being made in implementing this section and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the benefits resulting from such projects comparing an adequate time period before and after treatment in order to properly assess the benefits occurring from such traffic control signalization. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1978, on the progress being made in implementing this section and an evaluation of the benefits resulting therefrom.
- Report to Congress.

ACCESS RAMPS TO PUBLIC BOAT LAUNCHING AREAS

- 23 USC 104 note. SEC. 147. Funds apportioned to States under subsections (b)(1), (b)(2), and (b)(6) of section 104 of title 23, United States Code, may be used upon the application of the State and the approval of the Secretary of Transportation for construction of access ramps from bridges under construction or which are being reconstructed, replaced, repaired, or otherwise altered on the Federal-aid primary, secondary, or urban system to public boat launching areas adjacent to such bridges. Approval of the Secretary shall be in accordance with guidelines developed jointly by the Secretary of Transportation and the Secretary of the Interior.

DEMONSTRATION PROJECT

- 49 USC 1605 note. SEC. 148. The Secretary of Transportation, acting pursuant to his authority under section 6 of the Urban Mass Transportation Act of 1964, shall conduct a demonstration project in urban mass transportation for design, improvement, modification, and urban deployment of the Automated Guideway Transit system now in operation at the
- 49 USC 1605.

Dallas/Fort Worth Regional Airport. There is authorized to be appropriated to carry out this section \$7,000,000 for the fiscal year ending September 30, 1977.

URBAN SYSTEM STUDY

SEC. 149. The Secretary of Transportation is authorized and directed to conduct a study of the various factors involved in the planning, selection, programing, and implementation of Federal-aid urban system routes which shall include but not be limited to the following:

23 USC 134 note.

(1) An analysis of the various types of organizations now in being which carry out the planning process required by section 134 of title 23, United States Code. Such analysis shall include but not be limited to the degree of representation of various governmental units within the urbanized area, the organizational structure, size and calibre of staff, authority provided to the organization under State and local law, and relation to State governmental entities.

(2) The status of jurisdiction over roads on the Federal-aid urban system (State, county, city, or other local body having control).

(3) Programing responsibilities under local and State laws with respect to the Federal-aid urban system.

(4) The authority for and capability of local units of government to carry out the necessary steps to process a highway project through and including the plan, specification, and estimate requirement of section 106 of title 23, United States Code, and final construction.

Such study shall be carried out in cooperation with State, county, city, and other local organizations which the Secretary deems appropriate. The study shall be submitted to the Congress within six months of enactment of this section.

Submission to Congress.

INTERSTATE FUNDING STUDY

SEC. 150. (a) The Secretary of Transportation is hereby directed to undertake a complete study of the financing of completion of the Interstate Highway System. Such study should identify and analyze optional financing methods including State bonding authority under which the Secretary contracts to reimburse the States for up to 90 per centum of the principal and interest on such bonds. The Secretary shall report to the Congress not later than nine months after the date of enactment of this Act the results of the study.

23 USC 101 note.

Report to Congress.

(b) Within one year of the date of enactment of this Act, the Secretary shall submit to the Congress his recommendations regarding the need to provide Federal financial assistance for resurfacing, restoration, and rehabilitation of routes on the Interstate System. In arriving at his recommendations, he shall conduct a full and complete study in cooperation and in consultation with the States of alternative means of assuring that the high level of transportation service provided by the Interstate System is maintained. The results of the study shall accompany the Secretary's recommendations. The study shall include an estimate of the cost of implementing any recommended programs as well as an analysis of alternative methods of apportioning such Federal assistance among the States.

Recommendations, submission to Congress.

ALASKAN ROADS STUDY

Investigation.
23 USC 218 note.

Report to
Congress.

SEC. 151. (a) The Secretary of Transportation is authorized to undertake an investigation and study to determine the cost of, and the responsibility for, repairing the damage to Alaska highways that has been or will be caused by heavy truck traffic during construction of the trans-Alaska pipeline and to restore them to proper standards when construction is complete. The Secretary of Transportation shall report his initial findings to the Congress on or before September 30, 1976, and his final conclusions on rebuilding costs no later than three months after completion of pipeline construction.

(b) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be available until expended, the sum of \$200,000 for the purpose of making the study authorized by subsection (a) of this section.

GLENWOOD CANYON HIGHWAY CONSTRUCTION

SEC. 152. Notwithstanding section 109(b) of title 23 of the United States Code, the Secretary of Transportation is authorized, upon application of the Governor of the State, to approve construction of that section or portions thereof of Interstate Route 70 from a point three miles east of Dotsero, Colorado, westerly to No-Name Interchange, approximately 2.3 miles east of Glenwood Springs, Colorado, approximately 17.5 miles in length, to provide for variations from the number of lanes and other requirements of said section 109(b) in accordance with geometric and construction standards whether or not in conformance with said section 109(b) which the Secretary determines are necessary for the safety of the traveling public, for the protection of the environment, and for preservation of the scenic and historic values of the Glenwood Canyon. The Secretary shall not approve any project for construction under this section unless he shall first have determined that such variations will not result in creation of safety hazards and that there is no reasonable alternative to such project.

STUDY OF HIGHWAY NEEDS TO SOLVE ENERGY PROBLEMS

Investigation.
23 USC 101 note.

Report to
Congress.

SEC. 153. (a) The Secretary of Transportation shall make an investigation and study for the purpose of determining the need for special Federal assistance in the construction or reconstruction of highways on the Federal-aid system necessary for the transportation of coal or other uses in order to promote the solution of the Nation's energy problems. Such study shall include appropriate consultations with the Secretary of the Interior, the Administrator of the Federal Energy Administration, and other appropriate Federal and State officials.

(b) The Secretary shall report the results of such investigation and study together with his recommendations, to the Congress not later than one year after the date of enactment of this Act.

(c) In order to carry out the study, the Secretary is authorized to use such funds as are available to him for such purposes under section 104(a) of title 23, United States Code.

National
Transportation
Policy Study
Commission.
23 USC 101 note.

ESTABLISHMENT OF COMMISSION

SEC. 154. (a)(1) There is hereby established a Commission to be known as the National Transportation Policy Study Commission, hereinafter referred to as the "Commission".

(2) The Commission shall make a full and complete investigation and study of the transportation needs and of the resources, requirements, and policies of the United States to meet such expected needs. It shall take into consideration all reports on National Transportation Policy which have been submitted to the Congress including but not limited to the National Transportation Reports of 1972 and 1974. It shall evaluate the relative merits of all modes of transportation in meeting our transportation needs. Based on such study, it shall recommend those policies which are most likely to insure that adequate transportation systems are in place which will meet the needs for safe and efficient movement of goods and people.

Investigation and study.

(b) Such Commission shall be comprised of 19 members as follows:

Membership.

(A) Six members appointed by the President of the Senate from the membership of the Committee on Public Works, Committee on Commerce, and Committee on Banking, Housing and Urban Affairs of the United States Senate;

(B) five members appointed by the Speaker of the House of Representatives from the membership of the Committee on Public Works and Transportation and one member appointed by the Speaker from the membership of the Committee on Interstate and Foreign Commerce; and

(C) seven members of the public appointed by the President.

(c) The Commission shall not later than December 31, 1978 submit to the President and the Congress its final report including its findings and recommendations. The Commission shall cease to exist six months after submission of such report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

Report to President and Congress.
Termination.

(d) Such report shall include the Commission's findings and recommendations with respect to—

(A) the Nation's transportation needs, both national and regional, through the year 2000;

(B) the ability of our current transportation systems to meet the projected needs;

(C) the proper mix of highway, rail, waterway, pipeline, and air transportation systems to meet anticipated needs;

(D) the energy requirements and availability of energy to meet anticipated needs;

(E) the existing policies and programs of the Federal government which affect the development of our national transportation systems; and

(F) the new policies required to develop balanced national transportation systems which meet projected need.

(e) (1) The Chairman of the Commission, who shall be elected by the Commission from among its members, shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to a national transportation policy to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this section. Such departments and agencies shall include, but not be limited to, the Department of Transportation, the Federal Highway Administration, the Federal Railroad Administration, the Urban Mass Transportation Administration, the Federal Aviation Administration, the Interstate Commerce Commission, the Civil Aeronautics Board, and the U.S. Army Corps of Engineers.

Chairman.

(2) In carrying out its duties the Commission shall seek the advice of various groups interested in national transportation policy includ-

ing, but not limited to, State and local governments, public and private organizations working in the fields of transportation and safety, industry, education, and labor.

Hearings.

(f) (1) The Commission or, on authorization of the Commission, any Committee of two or more members may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable.

Information acquisition.

(2) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this section and each department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman.

(g) (1) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

Compensation.

5 USC 5332 note.

(2) Members of the Commission, except Members of Congress shall each receive compensation at a rate not in excess of the maximum rate of pay for GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence and other necessary expenses incurred by them in performance of duties while serving as a Commission member.

**5 USC 5101
et seq., 5331.**

(h) (1) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code.

5 USC 5313.

(2) The staff director shall be compensated at a Level 2 of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

Contract authority.

(i) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this section to carry out such of its duties as the Commission determines can best be carried out in that manner.

(j) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(k) There are hereby authorized to be appropriated not to exceed \$15,000,000 to carry out this section. Funds appropriated under this section shall be available to the Commission until expended.

LIMITATIONS

SEC. 155. To the extent that any section of this Act provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriations Acts.

TITLE II

Highway Safety
Act of 1976.

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1976". 23 USC 401 note.

HIGHWAY SAFETY

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, \$122,000,000 for the fiscal year ending September 30, 1977, and \$137,000,000 for the fiscal year ending September 30, 1978.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, \$10,000,000 for the three-month period ending September 30, 1976, \$40,000,000 for the fiscal year ending September 30, 1977, and \$50,000,000 for the fiscal year ending September 30, 1978.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund, \$25,000,000 for the fiscal year ending September 30, 1977, and \$25,000,000 for the fiscal year ending September 30, 1978.

(4) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, \$2,500,000 for the three-month period ending September 30, 1976, \$10,000,000 for the fiscal year ending September 30, 1977, and \$10,000,000 for the fiscal year ending September 30, 1978.

(5) For bridge reconstruction and replacement under section 144 of title 23, United States Code, out of the Highway Trust Fund, \$180,000,000 for the fiscal year ending September 30, 1977, and \$180,000,000 for the fiscal year ending September 30, 1978.

(6) For carrying out section 151 of title 23, United States Code (relating to pavement marking), out of the Highway Trust Fund, \$50,000,000 for the fiscal year ending September 30, 1977, and \$50,000,000 for the fiscal year ending September 30, 1978.

(7) For projects for high-hazard locations under section 152 of title 23, United States Code, and for the elimination of roadside obstacles under section 153 of title 23, United States Code, out of the Highway Trust Fund, \$125,000,000 for the fiscal year ending September 30, 1977, and \$125,000,000 for the fiscal year ending September 30, 1978.

(8) For carrying out subsection (j) (2) of section 402 of title 23, United States Code (relating to incentives for the reduction of the rate of traffic fatalities), out of the Highway Trust Fund, \$1,875,000 for the three-month period ending September 30, 1976, \$7,500,000 for the fiscal year ending September 30, 1977, and \$7,500,000 for the fiscal year ending September 30, 1978.

(9) For carrying out subsection (j) (3) of section 402 of title 23, United States Code (relating to incentives for reduction of actual traffic fatalities), out of the Highway Trust Fund, \$1,875,000 for the three-month period ending September 30, 1976, \$7,500,000 for the fiscal year ending September 30, 1977, and \$7,500,000 for the fiscal year ending September 30, 1978.

RAIL-HIGHWAY CROSSINGS

23 USC 130 note. SEC. 203. (a) Subsections (b) and (c) of section 203 of the Highway Safety Act of 1973 (Public Law 93-87) are hereby amended to read as follows:

“(b) (1) In addition to funds which may be otherwise available to carry out section 130 of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund for projects for the elimination of hazards of railway-highway crossings, \$25,000,000 for the fiscal year ending June 30, 1974, \$75,000,000 for the fiscal year ending June 30, 1975, \$75,000,000 for the fiscal year ending June 30, 1976, \$125,000,000 for the fiscal year ending September 30, 1977, and \$125,000,000 for the fiscal year ending September 30, 1978. At least half of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under chapter 1 of title 23, United States Code.

“(2) Funds authorized by this subsection shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System).

“(c) There is authorized to be appropriated for projects for the elimination of hazards of railway-highway crossings on roads other than those on any Federal-aid system \$18,750,000 for the three-month period ending September 30, 1976, \$75,000,000 for the fiscal year ending September 30, 1977, and \$75,000,000 for the fiscal year ending September 30, 1978. Sums apportioned under this section for projects under this subsection shall be subject to all of the provisions of chapter 1 of title 23, United States Code, applicable to highways on the Federal-aid system, except the formula for apportionment, the requirement that these roads be on the Federal-aid system, and those other provisions determined by the Secretary to be inconsistent with this section.”.

(b) Subsection (d) of section 203 of the Highway Safety Act of 1973 is amended by adding immediately before the first sentence thereof the following new sentence: “50 per centum of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under subsection (a) (1) of section 104 of the Federal-aid Highway Act of 1973 and 50 per centum of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under subsection (a) (2) of section 104 of the Federal-aid Highway Act of 1973.”.

INCENTIVE SAFETY GRANTS

SEC. 204. Subsection (j) (3) of section 402 of title 23, United States Code, is hereby amended to read as follows:

“(3) In addition to other grants authorized by this section, the Secretary may make additional incentive grants to those States which have significantly reduced the actual number of traffic fatalities during the calendar year immediately preceding the fiscal year for which such incentive funds are authorized compared to the average of the actual number of traffic fatalities for the four calendar year period preceding such calendar year. Such incentive grants shall be made in accordance with criteria which the Secretary shall establish and publish. Such grants may only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section.

(4) No State shall receive from funds authorized for any fiscal year or period by this subsection incentive grants under paragraph (1) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period. No State shall receive from funds authorized for any fiscal year or period by this subsection incentive awards under paragraph (2) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period. No State shall receive from funds authorized for any fiscal year or period by this subsection incentive awards under paragraph (3) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period.

“(5) Notwithstanding subsection (c) of this section, no part of the sums authorized by this subsection shall be apportioned as provided in such subsection. Sums authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under subsection (c) of this section.”

SCHOOL BUS DRIVER TRAINING

SEC. 205. The second subsection (b) of section 406 of title 23, United States Code (relating to authorizations), is relettered as subsection (c), including all references thereto, and the second sentence of such relettered subsection (c) is amended to read as follows: “Not less than \$7,000,000 of the sums authorized to carry out section 402 of this title for each of the fiscal years 1977 and 1978 shall be obligated to carry out this section. All sums authorized to carry out this section shall be apportioned among the States in accordance with the formula established under subsection (c) of section 402 of this title, and shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under such subsection (c).”

23 USC 402.

TRANSFERABILITY

SEC. 206. (a) The first sentence of subsection (g) of section 104 of title 23, United States Code, is amended by striking out “30 per centum” and inserting in lieu thereof “40 per centum”.

(b) The second sentence of such subsection (g) is amended to read as follows: “The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State highway department, and is approved by the Secretary

as being in the public interest, if he has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met.”.

(c) Subsection (g) of section 104 of title 23, United States Code, is further amended by adding at the end thereof the following new sentences: “All or any part of the funds apportioned in any fiscal year to a State in accordance with section 203(d) of the Highway Safety Act of 1973 from funds authorized in section 203(c) of such Act, may be transferred from that apportionment to the apportionment made under section 219 of this title if such transfer is requested by the State highway department and is approved by the Secretary after he has received satisfactory assurances from such department that the purposes of such section 203 have been met. Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.”.

23 USC 130 note.

PAVEMENT MARKING PROGRAM

SEC. 207. (a) Subsection (c) of section 151 of title 23, United States Code, is amended by striking out “and which are” and all that follows down through and including “Federal-aid system”.

(b) Subsection (g) of such section 151 is amended by adding at the end thereof the following: “No State shall submit any such report to the Secretary for any year after the second year following completion of the pavement marking program in that State, and the Secretary shall not submit any such report to Congress after the first year following the completion of the pavement marking program in all States.”.

HIGHWAY SAFETY PROGRAMS

Motorcycle safety helmets.

SEC. 208. (a) The last three sentences of subsection (c) of section 402 of title 23, United States Code, are amended to read as follows: “For the purpose of the seventh sentence of this subsection, a highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a standard promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform standard, or with every element of every uniform standard, in every State.”.

Evaluation.
23 USC 402 note.

(b) The Secretary of Transportation shall, in cooperation with the States, conduct an evaluation of the adequacy and appropriateness of all uniform safety standards established under section 402 of title 23 of the United States Code which are in effect on the date of enactment of this Act. The Secretary shall report his findings, together with his recommendations, including but not limited to, the need for revision or consolidation of existing standards and the establishment of new

Report to Congress.

standards, to Congress on or before July 1, 1977. Until such report is submitted, the Secretary shall not, pursuant to subsection (c) of section 402 of title 23, United States Code, withhold any apportionment or any funds apportioned to any State because such State is failing to implement a highway safety program approved by the Secretary in accordance with such section 402.

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

SEC. 209. Section 404(a)(1) of title 23, United States Code, is amended by deleting "who shall be Chairman," from the first sentence thereof, and by adding immediately after such first sentence the following: "The Secretary shall select the Chairman of the Committee from among the Committee members."

STEERING AXLE STUDY

SEC. 210. The Secretary of Transportation is directed to conduct an investigation into the relationship between the gross load on front steering axles of truck tractors and the safety of operation of vehicle combinations of which such truck tractors are a part. Such investigation shall be conducted in cooperation with representatives of (A) manufacturers of truck tractors and related equipment, (B) labor, and (C) users of such equipment. The Secretary shall report the results of such study to the Congress not later than July 1, 1977.

23 USC 127 note.

Report to Congress.

SAFETY PROGRAM APPORTIONMENT

SEC. 211. The sixth sentence of section 402(c) of title 23, United States Code, is amended by deleting the period at the end and adding the following: ", except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-third of 1 per centum of the total apportionment."

PENALTY

SEC. 212. Section 402(c) of title 23, United States Code, is amended by adding at the end thereof the following: "Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 per centum of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if he approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination."

LIMITATIONS

SEC. 213. To the extent that any section of this title provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriations Acts.

TITLE III—EXTENSION OF HIGHWAY TRUST FUND AND CERTAIN RELATED PROVISIONS

23 USC 120 note. **SEC. 301. HIGHWAY TRUST FUND.**

(a) Subsections (c) and (f) of section 209 of the Highway Revenue Act of 1956 (relating to the Highway Trust Fund; 23 U.S.C. 120 note) are amended—

(1) by striking out “1977” each place it appears and inserting in lieu thereof “1979”; and

(2) by striking out “1978” each place it appears and inserting in lieu thereof “1980”.

(b) Subsection (e) (1) of section 209 of such Act is amended by striking out “June 30, 1978” and inserting in lieu thereof “September 30, 1980”.

SEC. 302. TRANSFER FROM LAND AND WATER CONSERVATION FUND.

16 USC 4601-11. Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(1) by striking out “1977” and inserting in lieu thereof “1979”; and

(2) by striking out “1978” each place it appears and inserting in lieu thereof “1980”.

SEC. 303. POSTPONEMENT OF CERTAIN EXCISE TAX REDUCTIONS.

(a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out “1977” each place it appears and inserting in lieu thereof “1979”:

26 USC 4041. (1) Section 4041(c) (3) (relating to rate of tax on fuel for non-commercial aviation).

(2) Section 4041(e) (relating to rate reduction).

26 USC 4061. (3) Section 4061(a) (1) (relating to imposition of tax on trucks, buses, etc.).

(4) Section 4061(b) (1) (relating to imposition of tax on parts and accessories).

26 USC 4071. (5) Section 4071(d) (relating to imposition of tax on tires and tubes).

26 USC 4081. (6) Section 4081(b) (relating to imposition of tax on gasoline).

26 USC 4481. (7) Section 4481(a) (relating to imposition of tax on use of highway motor vehicles).

(8) Section 4481(e) (relating to period tax in effect).

26 USC 4482. (9) Section 4482(c) (4) (defining taxable period).

26 USC 6156. (10) Section 6156(e) (2) (relating to installment payments of tax on use of highway motor vehicles).

26 USC 6421. (11) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) Section 6412(a)(2) of such Code (relating to floor stocks refunds) is amended—

(1) by striking out “1977” each place it appears and inserting in lieu thereof “1979”; and

(2) by striking out “1978” each place it appears and inserting in lieu thereof “1980”.

Approved May 5, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-716 (Comm. on Public Works and Transportation) and No. 94-1017 (Comm. of Conference).

SENATE REPORTS: No. 94-485 accompanying S. 2711 (Comm. on Public Works) and No. 94-741 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 11, 12, S. 2711 considered and passed Senate.

Dec. 18, considered and passed House.

Vol. 122 (1976): Jan. 19, considered and passed Senate, amended, in lieu of S. 2711.

Apr. 13, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 19 (1976): May 5, Presidential statement.

Public Law 94-281
94th Congress

An Act

May 7, 1976

[H.R. 12226]

To amend further the Peace Corps Act.

Peace Corps Act,
amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended by striking out "and" after "\$88,468,000," and by adding after "\$27,887,000," the phrase "for fiscal year 1977 not to exceed \$81,000,000,".

SEC. 2. Section 3(c) of the Peace Corps Act (22 U.S.C. 2502(c)) is amended to read as follows:

Salary and
benefits,
increase.

"(c) In addition to the amounts authorized for fiscal year 1976, for the period July 1, 1976, through September 30, 1976, and fiscal year 1977, there are authorized to be appropriated for fiscal year 1976 and the period July 1, 1976, through September 30, 1976, not in excess of \$1,000,000, and for fiscal year 1977 such sums as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law."

22 USC 2502
note.
22 USC 2501
note.
22 USC 2504,
2505.

SEC. 3. Of the amount appropriated for fiscal year 1977 to carry out the purposes of the Peace Corps Act, \$10,100,000 shall be available only for payment of the readjustment allowances authorized by sections 5(c) and 6(1) of such Act.

Approved May 7, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-874 (Comm. on International Relations).

SENATE REPORT No. 94-757 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 22, considered and passed House.

Apr. 27, considered and passed Senate.

Public Law 94-282
94th Congress

An Act

To establish a science and technology policy for the United States, to provide for scientific and technological advice and assistance to the President, to provide a comprehensive survey of ways and means for improving the Federal effort in scientific research and information handling, and in the use thereof, to amend the National Science Foundation Act of 1950, and for other purposes.

May 11, 1976

[H.R. 10230]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science and Technology Policy, Organization, and Priorities Act of 1976".

National Science
and Technology
Policy,
Organization, and
Priorities Act of
1976.
42 USC 6601
note.

TITLE I—NATIONAL SCIENCE, ENGINEERING, AND
TECHNOLOGY POLICY AND PRIORITIES

FINDINGS

SEC. 101. (a) The Congress, recognizing the profound impact of science and technology on society, and the interrelations of scientific, technological, economic, social, political, and institutional factors, hereby finds and declares that—

42 USC 6601.

(1) the general welfare, the security, the economic health and stability of the Nation, the conservation and efficient utilization of its natural and human resources, and the effective functioning of government and society require vigorous, perceptive support and employment of science and technology in achieving national objectives;

(2) the many large and complex scientific and technological factors which increasingly influence the course of national and international events require appropriate provision, involving long-range, inclusive planning as well as more immediate program development, to incorporate scientific and technological knowledge in the national decisionmaking process;

(3) the scientific and technological capabilities of the United States, when properly fostered, applied, and directed, can effectively assist in improving the quality of life, in anticipating and resolving critical and emerging international, national, and local problems, in strengthening the Nation's international economic position, and in furthering its foreign policy objectives;

(4) Federal funding for science and technology represents an investment in the future which is indispensable to sustained national progress and human betterment, and there should be a continuing national investment in science, engineering, and technology which is commensurate with national needs and opportunities and the prevalent economic situation;

(5) the manpower pool of scientists, engineers, and technicians, constitutes an invaluable national resource which should be utilized to the fullest extent possible; and

(6) the Nation's capabilities for technology assessment and for technological planning and policy formulation must be strengthened at both Federal and State levels.

Priority goals.

(b) As a consequence, the Congress finds and declares that science and technology should contribute to the following priority goals without being limited thereto:

- (1) fostering leadership in the quest for international peace and progress toward human freedom, dignity, and well-being by enlarging the contributions of American scientists and engineers to the knowledge of man and his universe, by making discoveries of basic science widely available at home and abroad, and by utilizing technology in support of United States national and foreign policy goals;
- (2) increasing the efficient use of essential materials and products, and generally contributing to economic opportunity, stability, and appropriate growth;
- (3) assuring an adequate supply of food, materials, and energy for the Nation's needs;
- (4) contributing to the national security;
- (5) improving the quality of health care available to all residents of the United States;
- (6) preserving, fostering, and restoring a healthful and esthetic natural environment;
- (7) providing for the protection of the oceans and coastal zones, and the polar regions, and the efficient utilization of their resources;
- (8) strengthening the economy and promoting full employment through useful scientific and technological innovations;
- (9) increasing the quality of educational opportunities available to all residents of the United States;
- (10) promoting the conservation and efficient utilization of the Nation's natural and human resources;
- (11) improving the Nation's housing, transportation, and communication systems, and assuring the provision of effective public services throughout urban, suburban, and rural areas;
- (12) eliminating air and water pollution, and unnecessary, unhealthful, or ineffective drugs and food additives; and
- (13) advancing the exploration and peaceful uses of outer space.

DECLARATION OF POLICY

42 USC 6602.

SEC. 102. (a) PRINCIPLES.—In view of the foregoing, the Congress declares that the United States shall adhere to a national policy for science and technology which includes the following principles:

- (1) The continuing development and implementation of strategies for determining and achieving the appropriate scope, level, direction, and extent of scientific and technological efforts based upon a continuous appraisal of the role of science and technology in achieving goals and formulating policies of the United States, and reflecting the views of State and local governments and representative public groups.
- (2) The enlistment of science and technology to foster a healthy economy in which the directions of growth and innovation are compatible with the prudent and frugal use of resources and with the preservation of a benign environment.
- (3) The conduct of science and technology operations so as to serve domestic needs while promoting foreign policy objectives.
- (4) The recruitment, education, training, retraining, and beneficial use of adequate numbers of scientists, engineers, and tech-

nologists, and the promotion by the Federal Government of the effective and efficient utilization in the national interest of the Nation's human resources in science, engineering, and technology.

(5) The development and maintenance of a solid base for science and technology in the United States, including: (A) strong participation of and cooperative relationships with State and local governments and the private sector; (B) the maintenance and strengthening of diversified scientific and technological capabilities in government, industry, and the universities, and the encouragement of independent initiatives based on such capabilities, together with elimination of needless barriers to scientific and technological innovation; (C) effective management and dissemination of scientific and technological information; (D) establishment of essential scientific, technical and industrial standards and measurement and test methods; and (E) promotion of increased public understanding of science and technology.

(6) The recognition that, as changing circumstances require periodic revision and adaptation of title I of this Act, the Federal Government is responsible for identifying and interpreting the changes in those circumstances as they occur, and for effecting subsequent changes in title I as appropriate.

(b) **IMPLEMENTATION.**—To implement the policy enunciated in subsection (a) of this section, the Congress declares that:

(1) The Federal Government should maintain central policy planning elements in the executive branch which assist Federal agencies in (A) identifying public problems and objectives, (B) mobilizing scientific and technological resources for essential national programs, (C) securing appropriate funding for programs so identified, (D) anticipating future concerns to which science and technology can contribute and devising strategies for the conduct of science and technology for such purposes, (E) reviewing systematically Federal science policy and programs and recommending legislative amendment thereof when needed. Such elements should include an advisory mechanism within the Executive Office of the President so that the Chief Executive may have available independent, expert judgment and assistance on policy matters which require accurate assessments of the complex scientific and technological features involved.

(2) It is a responsibility of the Federal Government to promote prompt, effective, reliable, and systematic transfer of scientific and technological information by such appropriate methods as programs conducted by nongovernmental organizations, including industrial groups and technical societies. In particular, it is recognized as a responsibility of the Federal Government not only to coordinate and unify its own science and technology information systems, but to facilitate the close coupling of institutional scientific research with commercial application of the useful findings of science.

(3) It is further an appropriate Federal function to support scientific and technological efforts which are expected to provide results beneficial to the public but which the private sector may be unwilling or unable to support.

(4) Scientific and technological activities which may be properly supported exclusively by the Federal Government should be distinguished from those in which interests are shared with State and local governments and the private sector. Among these enti-

ties, cooperative relationships should be established which encourage the appropriate sharing of science and technology decisionmaking, funding support, and program planning and execution.

(5) The Federal Government should support and utilize engineering and its various disciplines and make maximum use of the engineering community, whenever appropriate, as an essential element in the Federal policymaking process.

(6) Comprehensive legislative support for the national science and technology effort requires that the Congress be regularly informed of the condition, health and vitality, and funding requirements of science and technology, the relation of science and technology to changing national goals, and the need for legislative modification of the Federal endeavor and structure at all levels as it relates to science and technology.

(c) PROCEDURES.—The Congress declares that, in order to expedite and facilitate the implementation of the policy enunciated in subsection (a) of this section, the following coordinate procedures are of paramount importance:

(1) Federal procurement policy should encourage the use of science and technology to foster frugal use of materials, energy, and appropriated funds; to assure quality environment; and to enhance product performance.

(2) Explicit criteria, including cost-benefit principles where practicable, should be developed to identify the kinds of applied research and technology programs that are appropriate for Federal funding support and to determine the extent of such support. Particular attention should be given to scientific and technological problems and opportunities offering promise of social advantage that are so long range, geographically widespread, or economically diffused that the Federal Government constitutes the appropriate source for undertaking their support.

(3) Federal promotion of science and technology should emphasize quality of research, recognize the singular importance of stability in scientific and technological institutions, and for urgent tasks, seek to assure timeliness of results. With particular reference to Federal support for basic research, funds should be allocated to encourage education in needed disciplines, to provide a base of scientific knowledge from which future essential technological development can be launched, and to add to the cultural heritage of the Nation.

(4) Federal patent policies should be developed, based on uniform principles, which have as their objective the preservation of incentives for technological innovation and the application of procedures which will continue to assure the full use of beneficial technology to serve the public.

(5) Closer relationships should be encouraged among practitioners of different scientific and technological disciplines, including the physical, social, and biomedical fields.

(6) Federal departments, agencies, and instrumentalities should assure efficient management of laboratory facilities and equipment in their custody, including acquisition of effective equipment, disposal of inferior and obsolete properties, and cross-servicing to maximize the productivity of costly property of all kinds. Disposal policies should include attention to possibilities for further productive use.

(7) The full use of the contributions of science and technology to support State and local government goals should be encouraged.

(8) Formal recognition should be accorded those persons whose scientific and technological achievements have contributed significantly to the national welfare.

(9) The Federal Government should support applied scientific research, when appropriate, in proportion to the probability of its usefulness, insofar as this probability can be determined; but while maximizing the beneficial consequences of technology, the Government should act to minimize foreseeable injurious consequences.

(10) Federal departments, agencies, and instrumentalities should establish procedures to insure among them the systematic interchange of scientific data and technological findings developed under their programs.

TITLE II—OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SHORT TITLE

SEC. 201. This title may be cited as the "Presidential Science and Technology Advisory Organization Act of 1976".

Presidential
Science and
Technology
Advisory
Organization Act
of 1976.
42 USC 6611
note.

ESTABLISHMENT

SEC. 202. There is established in the Executive Office of the President an Office of Science and Technology Policy (hereinafter referred to in this title as the "Office").

42 USC 6611.

DIRECTOR; ASSOCIATE DIRECTORS

SEC. 203. There shall be at the head of the Office a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level II of the Executive Schedule in section 5313 of title 5, United States Code. The President is authorized to appoint not more than four Associate Directors, by and with the advice and consent of the Senate, who shall be compensated at a rate not to exceed that provided for level III of the Executive Schedule in section 5314 of such title. Associate Directors shall perform such functions as the Director may prescribe.

Appointment.
Compensation.
42 USC 6612.

5 USC 5314.

FUNCTIONS

SEC. 204. (a) The primary function of the Director is to provide, within the Executive Office of the President, advice on the scientific, engineering, and technological aspects of issues that require attention at the highest levels of Government.

42 USC 6613.

(b) In addition to such other functions and activities as the President may assign, the Director shall—

(1) advise the President of scientific and technological considerations involved in areas of national concern including, but not limited to, the economy, national security, health, foreign relations, the environment, and the technological recovery and use of resources;

(2) evaluate the scale, quality, and effectiveness of the Federal effort in science and technology and advise on appropriate actions;

(3) advise the President on scientific and technological considerations with regard to Federal budgets, assist the Office of Management and Budget with an annual review and analysis of funding proposed for research and development in budgets of all Federal agencies, and aid the Office of Management and Budget and the agencies throughout the budget development process; and

(4) assist the President in providing general leadership and coordination of the research and development programs of the Federal Government.

POLICY PLANNING, ANALYSIS, AND ADVICE

42 USC 6614.

SEC. 205. (a) The Office shall serve as a source of scientific and technological analysis and judgment for the President with respect to major policies, plans, and programs of the Federal Government. In carrying out the provisions of this section, the Director shall—

(1) seek to define coherent approaches for applying science and technology to critical and emerging national and international problems and for promoting coordination of the scientific and technological responsibilities and programs of the Federal departments and agencies in the resolution of such problems;

Science and
Technology
Report.

(2) assist and advise the President in the preparation of the Science and Technology Report, in accordance with section 209 of this Act;

(3) gather timely and authoritative information concerning significant developments and trends in science, technology, and in national priorities, both current and prospective, to analyze and interpret such information for the purpose of determining whether such developments and trends are likely to affect achievement of the priority goals of the Nation as set forth in section 101(b) of this Act;

Data base.

(4) encourage the development and maintenance of an adequate data base for human resources in science, engineering, and technology, including the development of appropriate models to forecast future manpower requirements, and assess the impact of major governmental and public programs on human resources and their utilization;

Studies and
analyses.

(5) initiate studies and analyses, including systems analyses and technology assessments, of alternatives available for the resolution of critical and emerging national and international problems amenable to the contributions of science and technology and, insofar as possible, determine and compare probable costs, benefits, and impacts of such alternatives;

(6) advise the President on the extent to which the various scientific and technological programs, policies, and activities of the Federal Government are likely to affect the achievement of the priority goals of the Nation as set forth in section 101(b) of this Act;

(7) provide the President with periodic reviews of Federal statutes and administrative regulations of the various departments and agencies which affect research and development activities, both internally and in relation to the private sector, or which may interfere with desirable technological innovation, together with

recommendations for their elimination, reform, or updating as appropriate;

(8) develop, review, revise, and recommend criteria for determining scientific and technological activities warranting Federal support, and recommend Federal policies designed to advance (A) the development and maintenance of broadly based scientific and technological capabilities, including human resources, at all levels of government, academia, and industry, and (B) the effective application of such capabilities to national needs;

(9) assess and advise on policies for international cooperation in science and technology which will advance the national and international objectives of the United States;

(10) identify and assess emerging and future areas in which science and technology can be used effectively in addressing national and international problems;

(11) report at least once each year to the President on the overall activities and accomplishments of the Office, pursuant to section 209 of this Act;

Report to President.

(12) periodically survey the nature and needs of national science and technology policy and make recommendations to the President, for review and transmission to the Congress, for the timely and appropriate revision of such policy in accordance with section 102(a)(6) of this Act; and

(13) perform such other duties and functions and make and furnish such studies and reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

(b)(1) The Director shall establish an Intergovernmental Science, Engineering, and Technology Advisory Panel (hereinafter referred to as the "Panel"), whose purpose shall be to (A) identify and define civilian problems at State, regional, and local levels which science, engineering, and technology may assist in resolving or ameliorating; (B) recommend priorities for addressing such problems; and (C) advise and assist the Director in identifying and fostering policies to facilitate the transfer and utilization of research and development results so as to maximize their application to civilian needs.

Intergovernmental Science, Engineering, and Technology Advisory Panel. Establishment.

(2) The Panel shall be composed of (A) the Director of the Office, or his representative; (B) at least ten members representing the interests of the States, appointed by the Director of the Office after consultation with State officials; and (C) the Director of the National Science Foundation, or his representative.

Membership.

(3) (A) The Director of the Office, or his representative, shall serve as Chairman of the Panel.

Chairman.

(B) The Panel shall perform such functions as the Chairman may prescribe, and shall meet at the call of the Chairman.

(4) Each member of the Panel shall, while serving on business of the Panel, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, and, while so serving away from his home or regular place of business, he may be allowed travel expenses, including per diem in lieu of subsistence in the same manner as the expenses authorized by section 5703 (b) of title 5, United States Code, for persons in government service employed intermittently.

Compensation.

5 USC 5332 note.

FIVE-YEAR OUTLOOK

- 42 USC 6615. SEC. 206. (a) Within its first year of operation, the Office shall, to the extent practicable, within the limitations of available knowledge and resources, and with appropriate assistance from the departments and agencies and such consultants and contractors as the Director deems necessary, identify and describe situations and conditions which warrant special attention within the next five years, involving—
- (1) current and emerging problems of national significance that are identified through scientific research, or in which scientific or technical considerations are of major significance; and
 - (2) opportunities for, and constraints on, the use of new and existing scientific and technological capabilities which can make a significant contribution to the resolution of problems identified under paragraph (1) of this subsection or to the achievement of Federal program objectives or national goals, including those set forth in section 101 (b) of this Act.
- Annual revision. (b) The Office shall annually revise the five-year outlook developed under subsection (a) of this section so that it takes account of new problems, constraints and opportunities and changing national goals and circumstances, and shall extend the outlook so that it always extends five years into the future.
- Consultation. (c) The Director of the Office shall consult as necessary with officials of the departments and agencies having programs and responsibilities relating to the problems, constraints, and opportunities identified under subsections (a) and (b) of this section, in order to—
- (1) identify and evaluate alternative actions that might be taken by the Federal Government, State and local governments, or the private sector to deal with such problems, constraints, or opportunities; and
 - (2) ensure that alternative actions identified under paragraph (1) of this subsection are fully considered by departments and agencies in formulating their budget, program, and legislative proposals.
- Consultation. (d) The Director of the Office shall consult as necessary with officials of the Office of Management and Budget and other appropriate elements of the Executive Office of the President to ensure that the problems, constraints, opportunities, and alternative actions identified under subsections (a), (b), and (c) of this section are fully considered in the development of the President's Budgets and legislative programs.

ADDITIONAL FUNCTIONS OF THE DIRECTOR;
ADMINISTRATIVE PROVISIONS

- 42 USC 6616. SEC. 207. (a) The Director shall, in addition to the other duties and functions set forth in this title—
- (1) serve as Chairman of the Federal Coordinating Council for Science, Engineering, and Technology established under title IV; and
 - (2) serve as a member of the Domestic Council.
- (b) For the purpose of assuring the optimum contribution of science and technology to the national security, the Director, at the request of the National Security Council, shall advise the National Security Council in such matters concerning science and technology as relate to national security.

(c) In carrying out his functions under this Act, the Director is authorized to—

(1) appoint such officers and employees as he may deem necessary to perform the functions now or hereafter vested in him and to prescribe their duties;

(2) obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5 of the United States Code; and

5 USC 5332 note.

(3) enter into contracts and other arrangements for studies, analyses, and other services with public agencies and with private persons, organizations, or institutions, and make such payments as he deems necessary to carry out the provisions of this Act without legal consideration, without performance bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

COORDINATION WITH OTHER ORGANIZATIONS

SEC. 208. (a) In exercising his functions under this Act, the Director shall— 42 USC 6617.

(1) work in close consultation and cooperation with the Domestic Council, the National Security Council, the Council on Environmental Quality, the Council of Economic Advisers, the Office of Management and Budget, the National Science Board, and the Federal departments and agencies;

(2) utilize the services of consultants, establish such advisory panels, and, to the extent practicable, consult with State and local governmental agencies, with appropriate professional groups, and with such representatives of industry, the universities, agriculture, labor, consumers, conservation organizations, and such other public interest groups, organizations, and individuals as he deems advisable;

(3) hold such hearings in various parts of the Nation as he deems necessary, to determine the views of the agencies, groups, and organizations referred to in paragraph (2) of this subsection and of the general public, concerning national needs and trends in science and technology; and

Hearings.

(4) utilize with their consent to the fullest extent possible the services, personnel, equipment, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order to avoid duplication of effort and expense, and may transfer funds made available pursuant to this Act to other Federal agencies as reimbursement for the utilization of such personnel, services, facilities, equipment, and information.

(b) Each department, agency, and instrumentality of the Executive Branch of the Government, including any independent agency, is authorized to furnish the Director such information as the Director deems necessary to carry out his functions under this Act.

(c) Upon request, the Administrator of the National Aeronautics and Space Administration is authorized to assist the Director with respect to carrying out his activities conducted under paragraph (5) of section 205 (a) of this Act.

SCIENCE AND TECHNOLOGY REPORT

Transmittal to
Congress.
42 USC 6618.

SEC. 209. (a) The President shall transmit annually to the Congress, beginning February 15, 1978, a Science and Technology Report (hereinafter referred to as the "Report") which shall be prepared by the Office, with appropriate assistance from Federal departments and agencies and such consultants and contractors as the Director deems necessary. The report shall draw upon the information prepared by the Director pursuant to section 206 of this Act, and to the extent practicable, within the limitations of available knowledge and resources, discuss such issues as—

(1) a review of developments of national significance in science and technology;

(2) the significant effects of current and projected trends in science and technology on the social, economic, and other requirements of the Nation;

(3) a review and appraisal of selected science- and technology-related programs, policies, and activities of the Federal Government;

(4) an inventory and forecast of critical and emerging national problems the resolution of which might be substantially assisted by the application of science and technology;

(5) the identification and assessment of scientific and technological measures that can contribute to the resolution of such problems, in light of the related social, economic, political, and institutional considerations;

(6) the existing and projected scientific and technological resources, including specialized manpower, that could contribute to the resolution of such problems; and

(7) recommendations for legislation on science- and technology-related programs and policies that will contribute to the resolution of such problems.

(b) In preparing the Report under subsection (a) of this section, the Office shall make maximum use of relevant data available from the National Science Foundation and other Government departments and agencies.

Public document.

(c) The Director shall insure that the Report, in the form approved by the President, is printed and made available as a public document.

TITLE III—PRESIDENT'S COMMITTEE ON SCIENCE AND TECHNOLOGY

ESTABLISHMENT

42 USC 6631.

SEC. 301. The President shall establish within the Executive Office of the President a President's Committee on Science and Technology (hereinafter referred to as the "Committee").

MEMBERSHIP

42 USC 6632.

SEC. 302. (a) The Committee shall consist of—

(1) the Director of the Office of Science and Technology Policy established under title II of this Act; and

(2) not less than eight nor more than fourteen other members appointed by the President not more than sixty days after the Director has assumed office (as provided in section 203 of this Act).

(b) Members of the Committee appointed by the President pursuant to subsection (a) (2) of this section shall—

(1) be qualified and distinguished in one or more of the following areas: science, engineering, technology, information dissemination, education, management, labor, or public affairs;

(2) be capable of critically assessing the policies, priorities, programs, and activities of the Nation, with respect to the findings, policies, and purposes set forth in title I; and

(3) shall collectively constitute a balanced composition with respect to (A) fields of science and engineering, (B) academic, industrial, and government experience, and (C) business, labor, consumer, and public interest points of view.

(c) The President shall appoint one member of the Committee to serve as Chairman and another member to serve as Vice Chairman for such periods as the President may determine.

Chairman.

(d) Each member of the Committee who is not an officer of the Federal Government shall, while serving on business of the Committee, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, and while so serving away from his home or regular place of business he may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently.

Compensation.

5 USC 5332 note.

FEDERAL SCIENCE, ENGINEERING, AND TECHNOLOGY SURVEY

SEC. 303. (a) The Committee shall survey, examine, and analyze the overall context of the Federal science, engineering, and technology effort including missions, goals, personnel, funding, organization, facilities, and activities in general, taking adequate account of the interests of individuals and groups that may be affected by Federal scientific, engineering, and technical programs, including, as appropriate, consultation with such individuals and groups. In carrying out its functions under this section, the Committee shall, among other things, consider needs for—

42 USC 6633.

(1) organizational reform, including institutional realignment designed to place Federal agencies whose missions are primarily or solely devoted to scientific and technological research and development, and those agencies primarily or solely concerned with fuels, energy, and materials, within a single cabinet-level department;

(2) improvements in existing systems for handling scientific and technical information on a Government-wide basis, including consideration of the appropriate role to be played by the private sector in the dissemination of such information;

(3) improved technology assessment in the executive branch of the Federal Government;

(4) improved methods for effecting technology innovation, transfer, and use;

(5) stimulating more effective Federal-State and Federal-industry liaison and cooperation in science and technology, including the formation of Federal-State mechanisms for the mutual pursuit of this goal;

(6) reduction and simplification of Federal regulations and administrative practices and procedures which may have the effect of retarding technological innovation or opportunities for its utilization;

(7) a broader base for support of basic research;

(8) ways of strengthening the Nation's academic institutions' capabilities for research and education in science and technology;

(9) ways and means of effectively integrating scientific and technological factors into our national and international policies;

(10) technology designed to meet community and individual needs;

(11) maintenance of adequate scientific and technological manpower with regard to both quality and quantity;

(12) improved systems for planning and analysis of the Federal science and technology programs; and

(13) long-range study, analysis, and planning in regard to the application of science and technology to major national problems or concerns.

Interim report.

(b)(1) Within twelve months from the time the Committee is activated in accordance with section 302(a) of this Act, the Committee shall issue an interim report of its activities and operations to date. Not more than twenty-four months from the time the Committee is activated, the Committee shall submit a final report of its activities, findings, conclusions, and recommendations, including such supporting data and material as may be necessary, to the President.

Report to President.

Transmittal to Congress.

(2) The President, within sixty days of receipt thereof, shall transmit each such report to each House of Congress together with such comments, observations, and recommendations thereon as he deems appropriate.

CONTINUATION OF COMMITTEE

42 USC 6634.

SEC. 304. (a) Ninety days after submission of the final report prepared under section 303 of this Act, the Committee shall cease to exist, unless the President, before the expiration of the ninety-day period, makes a determination that it is advantageous for the Committee to continue in being.

(b) If the President determines that it is advantageous for the Committee to continue in being, (1) the Committee shall exercise such functions as are prescribed by the President; and (2) the members of the Committee shall serve at the pleasure of the President.

STAFF AND CONSULTANT SUPPORT

42 USC 6635.

SEC. 305. (a) In the performance of its functions under sections 303 and 304 of this Act, the Committee is authorized—

(1) to select, appoint, employ, and fix the compensation of such specialists and other experts as may be necessary for the carrying out of its duties and functions, and to select, appoint, and employ, subject to the civil service laws, such other officers and employees as may be necessary for carrying out its duties and functions; and

(2) to provide for participation of such civilian and military personnel as may be detailed to the Committee pursuant to subsection (b) of this section for carrying out the functions of the Committee.

(b) Upon request of the Committee, the head of any Federal department, agency, or instrumentality is authorized (1) to furnish to

the Committee such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or instrumentality, and (2) to detail to temporary duty with the Committee on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions. Each such detail shall be without loss of seniority, pay, or other employee status, to civilian employees so detailed, and without loss of status, rank, office, or grade, or of any emolument, perquisite, right, privilege, or benefit incident thereto to military personnel so detailed. Each such detail shall be made pursuant to an agreement between the Chairman and the head of the relevant department, agency, or instrumentality, and shall be in accordance with the provisions of subchapter III of chapter 33, title 5, United States Code.

5 USC 3341.

TITLE IV—FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY

ESTABLISHMENT AND FUNCTIONS

SEC. 401. (a) There is established the Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the "Council").

42 USC 6651.

(b) The Council shall be composed of the Director of the Office of Science and Technology Policy and one representative of each of the following Federal agencies: Department of Agriculture, Department of Commerce, Department of Defense, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of State, Department of Transportation, Veterans' Administration, National Aeronautics and Space Administration, National Science Foundation, Environmental Protection Agency, and Energy Research and Development Administration. Each such representative shall be an official of policy rank designated by the head of the Federal agency concerned.

Membership.

(c) The Director of the Office of Science and Technology Policy shall serve as Chairman of the Council. The Chairman may designate another member of the Council to act temporarily in the Chairman's absence as Chairman.

Chairman.

(d) The Chairman may (1) request the head of any Federal agency not named in subsection (b) of this section to designate a representative to participate in meetings or parts of meetings of the Council concerned with matters of substantial interest to such agency, and (2) invite other persons to attend meetings of the Council.

(e) The Council shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs,

(2) identify research needs including areas requiring additional emphasis,

(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication, and

(4) further international cooperation in science, engineering, and technology.

(f) The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman.

(g) For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman may assign to them, and

(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the functions herein assigned.

Subcommittees
and panels,
establishment.

(h) For the purpose of conducting studies and making reports as directed by the Chairman, standing subcommittees and panels of the Council may be established.

ABOLITION OF FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY

42 USC 1862
note.

42 USC 1862
note.

SEC. 402. The Federal Council for Science and Technology, established pursuant to Executive Order 10807, issued March 13, 1959, as amended by Executive Order 11381, issued November 8, 1967, is hereby abolished.

TITLE V—GENERAL PROVISIONS

AUTHORIZATION

42 USC 6671.

SEC. 501. (a) For the purpose of carrying out title II of this Act, there are authorized to be appropriated—

(1) \$750,000 for the fiscal year ending June 30, 1976;

(2) \$500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

(3) \$3,000,000 for the fiscal year ending September 30, 1977; and

(4) such sums as may be necessary for each of the succeeding fiscal years.

(b) For the purpose of carrying out title III of this Act, there are authorized to be appropriated—

(1) \$750,000 for the fiscal year ending June 30, 1976;

(2) \$500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

(3) \$1,000,000 for the fiscal year ending September 30, 1977; and

(4) such sums as may be necessary for each of the succeeding fiscal years.

STATUTORY REPEAL

5 USC app. II; 42
USC 1861 note.
5 USC app.;
50 USC app.
2271 note.

SEC. 502. Sections 1, 2, 3, and 4 of Reorganization Plan Numbered 2 of 1962 (76 Stat. 1253) and section 2 of Reorganization Plan Numbered 1 of 1973 (87 Stat. 1089) are repealed.

AMENDMENT

SEC. 503. Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by striking out subsection (g) and by redesignating subsections (h), (i), and (j), and all references thereto, as subsections (g), (h), and (i), respectively.

Approved May 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-595 (Comm. on Science and Technology) and No. 94-1046 (Comm. of Conference).

SENATE REPORTS: No. 94-622 accompanying S. 32 (Committees on Labor and Public Welfare, Commerce, and Aeronautical and Space Sciences) and No. 94-765 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 6, considered and passed House.

Vol. 122 (1976): Feb. 4, considered and passed Senate, amended, in lieu of S. 32.

Apr. 27, Senate agreed to conference report.

Apr. 29, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 20 (1976): May 11, Presidential statement.

Public Law 94-283
94th Congress

An Act

To amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

May 11, 1976
[S. 3065]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

Federal Election
Campaign Act
Amendments of
1976.
2 USC 431 note.

TITLE I—AMENDMENTS TO FEDERAL ELECTION
CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a) (1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act"), is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate."

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party."

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment."

(c) (1) Section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, is amended by adding at the end thereof

Term.
Vacancies.

Conflict-of-interest.

the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member."

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

**26 USC 9001,
9031.
Jurisdiction.**

"(b) (1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office."

**Guidelines,
approval.**

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: "except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

Post, p. 481.

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service".

**Presidential
appointments.
2 USC 437c note.**

(e) (1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until new members are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, except that until appointed and qualified under this Act, members serving on such Commission on such date of enactment may, beginning on March 23, 1976, exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in *Buckley et al. against Valeo*, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual

serving as a member of such Commission on the date of the enactment of this Act.

(g) (1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Act as such title existed on January 1, 1976, or under any other provision of law, are transferred to such Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

Transfer of personnel and property.

2 USC 431.

2 USC 431 note.

(2) (A) Except as provided in subparagraph (B), personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for 1 year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, and opinions made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1), and which are consistent with the amendments made by this Act, shall continue in effect to the same extent as if such transfer had not occurred. Any rule or regulation proposed by such Commission before the date of the enactment of this Act shall be prescribed by such Commission only if, after such date of enactment, the rule or regulation is submitted to the Senate or the House of Representatives, as the case may be, in accordance with the provisions of section 315(c) of the Act (as redesignated by section 105), and it is not disapproved by the appropriate House of the Congress.

Savings provision.

Proposed rules or regulations, submittal to Congress.

2 USC 437h.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission on the date of the enactment of this Act.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within 12 months after the date of the enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

2 USC 431 note.

CHANGES IN DEFINITIONS

Sec. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract" and by striking out "expressed or implied".

26 USC 9001,
9031.

2 USC 434.

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: "except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended—

(1) by striking out "or" at the end of clause (E), and

(2) by inserting after clause (F) the following new clauses:

"(G) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors; or

"(H) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b); or

Post, p. 494.

"(I) any honorarium (within the meaning of section 328);".

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)), as amended by subsection (d), is amended by striking out "individual" where it appears after clause (I) and inserting in lieu thereof "person".

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (C) the following: "except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly

attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed \$2,000 per election, be reported to the Commission”;

(2) by striking out “or” at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

“(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b);

“(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or

“(K) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);”.

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out “and” at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

“(o) ‘Act’ means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976;

“(p) ‘independent expenditure’ means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

“(q) ‘clearly identified’ means that (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.”.

Post, p. 487.
2 USC 434.

26 USC 9001,
9031.

Definitions.

2 USC 431 note.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Act (2 U.S.C. 432(b)) is amended by striking out "\$10" and inserting in lieu thereof "\$50".

(b) Section 302(c) (2) of the Act (2 U.S.C. 432(c) (2)) is amended by striking out "\$10" and inserting in lieu thereof "\$50".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(d) Section 302(e) (1) of the Act, as redesignated by subsection (c), is amended by adding at the end thereof the following new sentence: "Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence."

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a) (1) of the Act (2 U.S.C. 434(a) (1)) is amended by adding at the end of subparagraph (C) the following new sentence: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceed \$5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph."

(b) Section 304(a) (2) of the Act (2 U.S.C. 434(a) (2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee."

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14);

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of an independent expenditure in excess of \$100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9) stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and"; and

(4) by adding at the end thereof the following new sentence: "When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection."

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

“(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of \$100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of \$100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

Statements.

“(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any independent expenditure, including those described in subsection (b)(13), of \$1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditure.

Filing.

Certification.

“(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.”

Indices of expenditures.

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

2 USC
437b-439c, 441.

CAMPAIGN DEPOSITORIES

SEC. 106. The second sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as redesignated by section 105, is amended by striking out “a checking account” and inserting in lieu thereof the following: “a single checking account and such other accounts as the committee determines to maintain at its discretion”.

POWERS OF COMMISSION

SEC. 107. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting “develop such prescribed forms and to” immediately before “make”, and by inserting immediately after “Act” the following: “and chapter 95 and chapter 96 of the Internal Revenue Code of 1954”;

26 USC 9001,
9031.

(2) in paragraph (9) thereof, by striking out “and sections 608” and all that follows through “States Code;” and inserting in lieu thereof “and chapter 95 and chapter 96 of the Internal Revenue Code of 1954; and”;

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b) (1) Section 310(a) (6) of the Act (2 U.S.C. 437d(a) (6)), as redesignated by section 105, is amended to read as follows:

Post, p. 483.

26 USC 9001,
9031.

“(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a) (9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;”.

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

“(e) Except as provided in section 313(a) (9), the power of the Commission to initiate civil actions under subsection (a) (6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.”.

ADVISORY OPINIONS

SEC. 108. (a) Section 312(a) of the Act and section 312(b) of the Act (2 U.S.C. 437f(a), 437f(b)), as redesignated by section 105, are amended to read as follows:

Post, p. 486.

“SEC. 312. (a) The Commission shall render an advisory opinion, in writing, within a reasonable time in response to a written request by any individual holding Federal office, any candidate for Federal office, any political committee, or the national committee of any political party concerning the application of a general rule of law stated in the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or a general rule of law prescribed as a rule or regulation by the Commission, to a specific factual situation. Any such general rule of law not stated in the Act or in chapter 95 or chapter 96 of the Internal Revenue Code of 1954 may be initially proposed by the Commission only as a rule or regulation pursuant to the procedures established by section 315(c). No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

“(b) (1) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (2) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

“(2) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.”.

2 USC 437f note.

(b) The Commission shall, no later than 90 days after the date of the enactment of this Act, conform the advisory opinions issued before such date of enactment to the requirements established by section 312 (a) of the Act, as amended by subsection (a) of this section. The provisions of section 312(b) of the Act, as amended by subsection (a) of this section, shall apply with respect to all advisory opinions issued before the date of the enactment of this Act as conformed to meet the requirements of section 312(a) of the Act, as amended by subsection (a) of this section.

ENFORCEMENT

SEC. 109. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

“ENFORCEMENT

“SEC. 313. (a) (1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

Complaints,
filing.
26 USC 9001,
9031.

“(2) The Commission, upon receiving a complaint under paragraph (1), and if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or, if the Commission, on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, has reason to believe that such a violation has occurred, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

Notification and
investigation.

“(3) (A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate.

“(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

“(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

“(5) (A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved, except that, if the Commission has reasonable cause to believe that—

“(i) any person has failed to file a report required to be filed under section 304(a)(1)(C) for the calendar quarter occurring immediately before the date of a general election;

Ante, p. 480.

“(ii) any person has failed to file a report required to be filed no later than 10 days before an election; or

“(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation

has occurred and the date of the election involved, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

Civil action.
Penalty.

“(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of \$5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

Penalty.

“(C) In any civil action instituted by the Commission under subparagraph (B), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of \$5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

26 USC 9001,
9031.

Violations,
referral to
Attorney
General.
Post, p. 494.

“(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 329, or a knowing and willful violation of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in subparagraph (A).

Penalty.

“(6) (A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has been committed, a conciliation agreement entered into by the Commission under paragraph (5) (A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) \$10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

Penalty.

“(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5) (A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) \$5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

“(C) The Commission shall make available to the public (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred.

“(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful

violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) \$10,000; or (B) an amount equal to 200 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5) (A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

26 USC 9001,
9031.

“(8) In any action brought under paragraph (5) or paragraph (7), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

Subpenas.

“(9) (A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

Petitions, filing.

“(B) The filing of any petition under subparagraph (A) shall be made—

“(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

“(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

“(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

“(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Appeals.

“(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

“(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate such person in civil contempt, except that if it believes the violation to be knowing and willful it may petition the court for an order to adjudicate such person in criminal contempt.

“(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent

Report to the
Commission.

Reports. violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

Fines. “(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than \$2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more than \$5,000.”

DUTIES OF COMMISSION

Index of reports and statements.

SEC. 110. (a)(1) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: “, and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320(a)(2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph”.

Post, p. 487.

(2) Section 315(a)(8) of the Act (2 U.S.C. 438(a)(8)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: “, and to give priority to auditing and field investigating of the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954”.

26 USC 9001, 9031.

(b) Section 315(c) of the Act (2 U.S.C. 438(c)), as redesignated by section 105, is amended—

(1) by inserting immediately after the second sentence of paragraph (2) the following new sentences: “Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.”; and

“Rule or regulation.”

(2) by adding the following new paragraph at the end thereof: “(5) For purposes of this subsection, the term ‘rule or regulation’ means a provision or series of interrelated provisions stating a single separable rule of law.”

ADDITIONAL ENFORCEMENT AUTHORITY

Repeal.

SEC. 111. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

SEC. 112. Title III of the Act (2 U.S.C. 431-441) is amended—

(1) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105; and

(2) by inserting immediately after section 319 (2 U.S.C. 439c), as redesignated by section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a) (1) No person shall make contributions—

2 USC 441a.

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000;

"(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed \$20,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

"(2) No multicandidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000;

"(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed \$15,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed \$5,000.

"(3) No individual shall make contributions aggregating more than \$25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

"(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term 'multicandidate political committee' means a political committee which has been registered under section 303 for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

"Multicandidate political committee."
2 USC 433.

"(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund raising efforts; (B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and (C) nothing in this section shall limit the transfer of funds between the principal cam-

26 USC 9001,
9031.

paigned committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if (i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices; (ii) the limitations contained in this Act on contributions by persons are not exceeded by such transfer; and (iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of the Internal Revenue Code of 1954. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

“(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

“(7) For purposes of this subsection—

“(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

“(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

“(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

“(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

“(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

26 USC 9003.
26 USC 9033.

“(b) (1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

“(A) \$10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater

of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or \$200,000; or

“(B) \$20,000,000 in the case of a campaign for election to such office.

“(2) For purposes of this subsection—

“(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

“(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

“(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or

“(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

“(c) (1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

Publication in
Federal Register.

“(2) For purposes of paragraph (1)—

“(A) the term ‘price index’ means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

“Price index.”

“(B) the term ‘base period’ means the calendar year 1974.

“Base period.”

“(d) (1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

“(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

“(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

“(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) \$20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, \$10,000.

Voting age
population
estimates,
certification and
publication in
Federal Register.
"Voting age
population."

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

Rules.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for presidential nominations for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than \$17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

2 USC 441b.

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"Labor
organization."

"(b) (1) For the purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and

which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

“(2) For purposes of this section and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791(h)), the term ‘contribution or expenditure’ shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

“Contribution or expenditure.”

“(3) It shall be unlawful—

“(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

“(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

“(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

“(4) (A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

“(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

“(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

“(B) it shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be

so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of \$50 or less as a result of such solicitation and who does not make such a contribution.

“(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

“(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

“(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

“(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

“(7) For purposes of this section, the term ‘executive or administrative personnel’ means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

“Executive or administrative personnel.”

“CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

2 USC 441c.

“SEC. 322. (a) It shall be unlawful for any person—

“(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

“(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

“(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

“(c) For purposes of this section, the term ‘labor organization’ has the meaning given it by section 321(b)(1).

“PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

“SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication— 2 USC 441d.

“(1) if authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

“(2) if not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2). 2 USC 433.

“CONTRIBUTIONS BY FOREIGN NATIONALS

“SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national. 2 USC 441e.

“(b) As used in this section, the term ‘foreign national’ means—

“(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term ‘foreign national’ shall not include any individual who is a citizen of the United States; or

“(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

“Foreign national.”

“PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

- 2 USC 441f. “SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

“LIMITATION ON CONTRIBUTION OF CURRENCY

- 2 USC 441g. “SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

“FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

- 2 USC 441h. “SEC. 327. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—
“(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or
“(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

“ACCEPTANCE OF EXCESSIVE HONORARIUMS

- 2 USC 441i. “SEC. 328. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—
“(1) any honorarium of more than \$2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or
“(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than \$25,000 in any calendar year.

“PENALTY FOR VIOLATIONS

- 2 USC 441j. “SEC. 329. (a) Any person, following the date of the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of \$1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of \$25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than 1 year, or both. In the case of a knowing and willful violation of section 321(b)(3), including such a violation of the provisions of such section as applicable through section 322(b), of section 325, or of section 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of \$250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of \$1,000 or more is involved.

“(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.

26 USC 9001,
9031.

Ante, p. 483.

“(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

“(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313;

“(2) the conciliation agreement is in effect; and

“(3) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.”.

AUTHORIZATION OF APPROPRIATIONS

SEC. 113. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: “There are authorized to be appropriated to the Commission \$6,000,000 for the fiscal year ending June 30, 1976, \$1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and \$6,000,000 for the fiscal year ending September 30, 1977.”.

SAVINGS PROVISION

SEC. 114. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

2 USC 441 note.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 115. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after “304(a)(1)(C),” the following: “304(c),”.

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out “313” and inserting in lieu thereof “312”.

(c) (1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out “310(a)(1)” and inserting in lieu thereof “309(a)(1)”.

26 USC 9002.

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out “310(a)(1)” and inserting in lieu thereof “309(a)(1)”.

26 USC 9032.

(d) (1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out “the last paragraph of section 610 of title 18, United States Code” and inserting in lieu thereof “section 321(b)”.

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out “the last paragraph of section 610 of title 18, United States Code” and inserting in lieu thereof “section 321(b)”.

(e) Section 314(a) of the Act (2 U.S.C. 437h(a)), as redesignated by section 105, is amended by striking out “or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code” in the first sentence of such subsection and by striking out “or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code,” in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 455(a)) is amended by striking out “or section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code”.

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out “or section 608, 610, 611, or 613 of title 18, United States Code,”.

(g) Section 591 of title 18, United States Code, as amended by section 202(c), is amended—

(1) by striking out “608(c) of this title” in paragraph (f)(4)(I) and inserting in lieu thereof “section 320(b) of the Federal Election Campaign Act of 1971”;

(2) by striking out “by section 608(b)(2) of this title” in paragraph (f)(4)(j) and inserting in lieu thereof “under section 320(a)(2) of the Federal Election Campaign Act of 1971”; and

(3) by striking out “310(a)” in paragraph (k) and inserting in lieu thereof “309(a)”.

(h) Section 301(n) of the Act (2 U.S.C. 431(n)) is amended by striking out “302(f)(1)” and inserting in lieu thereof “302(e)(1)”.

(i) The third sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as redesignated by section 105, is amended by striking out “97” and inserting in lieu thereof “96”.

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

CHANGES IN DEFINITIONS

SEC. 202. (a) Section 591 of title 18, United States Code, is amended by striking out “602, 608, 610, 611, 614, 615, and 617” and inserting in lieu thereof “and 602”.

(b) Section 591(e)(4) of title 18, United States Code, is amended by inserting immediately before the semicolon the following: “, except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the

election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Federal Election Campaign Act of 1971 or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b) of the Federal Election Campaign Act of 1971”.

2 USC 431 note.
26 USC 9001,
9031.

Ante, p. 480.

- (c) Section 591(f)(4) of title 18, United States Code, is amended—
 (1) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and
 (2) by inserting immediately after clause (E) the following new clause:

“(F) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Federal Election Campaign Act of 1971 or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b) of the Federal Election Campaign Act of 1971;”.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

26 USC 9004.

“(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, \$50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

26 USC 9006.

“(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term ‘immediate family’ means a candidate’s spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.”.

Effective date.
26 USC 9004
note.
26 USC 9004.

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as added by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act shall not be taken into account.

PAYMENTS TO ELIGIBLE CANDIDATES; INSUFFICIENT AMOUNTS IN FUND

26 USC 9006.

SEC. 302. (a) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

26 USC 9008,
9037.

(b) Section 9006(c) of the Internal Revenue Code of 1954 (relating to insufficient amounts in fund), as redesignated by subsection (a), is amended by adding at the end thereof the following new sentence: “In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.”.

PROVISION OF LEGAL OR ACCOUNTING SERVICES

26 USC 9008.

SEC. 303. Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

Compensation.

“(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by any person other than the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services) of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on presidential nominating convention expenses.”.

REVIEW OF REGULATIONS

26 USC 9009.

SEC. 304. (a) Section 9009(c) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) in paragraph (2) thereof, by inserting immediately after the first sentence thereof the following new sentences: “Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.”; and

(2) by adding at the end thereof the following new paragraph:

“Rule or
regulation.”

“(4) For purposes of this subsection, the term ‘rule or regulation’ means a provision or series of interrelated provisions stating a single separable rule of law.”.

(b) Section 9039(c) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended— 26 USC 9039.

(1) in paragraph (2) thereof, by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

(2) by adding at the end thereof the following new paragraph:

"(4) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law."

"Rule or regulation."

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended— 26 USC 9035.

(1) in the heading thereof, by striking out "**LIMITATION**" and inserting in lieu thereof "**LIMITATIONS**";

(2) by inserting "(a) **EXPENDITURE LIMITATIONS.**—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, \$50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) **DEFINITION OF IMMEDIATE FAMILY.**—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons."

"Immediate family."

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item: 26 USC 9031.

"SEC. 9035. Qualified campaign expense limitations."

(c) Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations". 26 USC 9033.

(d) For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act shall not be taken into account. Effective date. 26 USC 9035 note. 26 USC 9035.

RETURN OF FEDERAL MATCHING PAYMENTS

SEC. 306. (a) (1) Section 9002(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the 26 USC 9002.

following new sentence: "The term 'candidate' shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State."

26 USC 9003.

(2) Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by adding at the end thereof the following new subsection:

26 USC 9002.

"(d) **WITHDRAWAL BY CANDIDATE.**—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

Ante, p. 498.

"(1) shall no longer be eligible to receive any payments under section 9006, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and

"(2) shall pay to the Secretary or his delegate, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses."

26 USC 9032.

(b)(1) Section 9032(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States."

26 USC 9033.

(2) Section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(c) **TERMINATION OF PAYMENTS.**—

26 USC 9037.

"(1) **GENERAL RULE.**—Except as provided by paragraph (2), no payment shall be made to any individual under section 9037—

"(A) if such individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2); or

"(B) more than 30 days after the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election, if such individual permitted or authorized the appearance of his name on the ballot, unless such individual certifies to the Commission that he will not be an active candidate in the primary involved.

"(2) **QUALIFIED CAMPAIGN EXPENSES; PAYMENTS TO SECRETARY.**—Any candidate who is ineligible under paragraph (1) to receive any payments under section 9037 shall be eligible to continue to receive payments under section 9037 to defray qualified campaign expenses incurred before the date upon which such candidate becomes ineligible under paragraph (1).

"(3) **CALCULATION OF VOTING PERCENTAGE.**—For purposes of paragraph (1)(B), if the primary elections involved are held in

more than one State on the same date, a candidate shall be treated as receiving that percentage of the votes on such date which he received in the primary election conducted on such date in which he received the greatest percentage vote.

“(4) REESTABLISHMENT OF ELIGIBILITY.—

“(A) In any case in which an individual is ineligible to receive payments under section 9037 as a result of the operation of paragraph (1) (A), the Commission may subsequently determine that such individual is a candidate upon a finding that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make such determination without requiring such individual to reestablish his eligibility to receive payments under subsection (a).

26 USC 9037.

Determination by Commission.

“(B) Notwithstanding the provisions of paragraph (1) (B), a candidate whose payments have been terminated under paragraph (1) (B) may again receive payments (including amounts he would have received but for paragraph (1) (B)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.”.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

Effective date.
26 USC 9002
note.

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 307. (a) Section 9008(b) (5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

26 USC 9008.

(1) by striking out “section 608(c) and section 608(f) of title 18, United States Code,” and inserting in lieu thereof “section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971”; and

2 USC 439c.

(2) by striking out “section 608(d) of such title” and inserting in lieu thereof “section 320(c) of such Act”.

(b) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out “section 608(c) (1) (A) of title 18, United States Code,” and inserting in lieu thereof “section 320(b) (1) (A) of the Federal Election Campaign Act of 1971”.

26 USC 9034.

(c) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as redesignated by section 305(a), is amended by striking out “section 608(c) (1) (A) of title 18, United States Code” and inserting in lieu thereof “section 320(b) (1) (A) of the Federal Election Campaign Act of 1971”.

26 USC 9035.

(d) Section 9004(a) (1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out “608(c) (1) (B) of title 18, United States Code” and inserting in lieu thereof “320(b) (1) (B) of the Federal Election Campaign Act of 1971”.

26 USC 9004.

- 26 USC 9007. (e) Section 9007(b)(3) of the Internal Revenue Code of 1954 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".
- 26 USC 9012. (f) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

Approved May 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-917 accompanying H.R. 12406 (Comm. on House Administration) and No. 94-1057 (Comm. of Conference).

SENATE REPORT No. 94-677 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 15-18, 23, 24, considered and passed Senate.

Apr. 1, considered and passed House, amended, in lieu of H.R. 12406.

May 3, House agreed to conference report.

May 4, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 20:

May 11, Presidential statement.

Public Law 94-284
94th Congress

An Act

To amend the Consumer Product Safety Act to improve the Consumer Product Safety Commission, to authorize new appropriations, and for other purposes.

May 11, 1976

[S. 644]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Consumer Product Safety Commission Improvements Act of 1976".

Consumer
Product Safety
Commission
Improvements
Act of 1976.
15 USC 2051
note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended to read as follows:

"(a) There are authorized to be appropriated for the purposes of carrying out the provisions of this Act (other than the provisions of section 27(h) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30, not to exceed—

15 USC 2076.

"(1) \$51,000,000 for the fiscal year ending June 30, 1976;

"(2) \$14,000,000 for the period beginning July 1, 1976, and ending September 30, 1976;

"(3) \$60,000,000 for the fiscal year ending September 30, 1977; and

"(4) \$68,000,000 for the fiscal year ending September 30, 1978."

LIMITATIONS ON JURISDICTION

SEC. 3. (a) Section 2(2) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471(2)) is amended by (1) striking out subparagraph (B), and (2) redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) Section 3(a)(1)(D) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)(D)) is amended by striking out "economic poisons" and inserting in lieu thereof "pesticides".

(c) Section 2(f)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1261(f)(2)) is amended by inserting immediately before "but such term" the following: "nor to tobacco and tobacco products,".

(d) Section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)) is amended by (1) inserting "other" before "limitations" in the last sentence, and (2) inserting before such sentence the following: "Except for the regulation under this Act or the Federal Hazardous Substances Act of fireworks devices or any substance intended for use as a component of any such device, the Commission shall have no authority under the functions transferred pursuant to section 30 of this Act to regulate any product or article described in subparagraph (E) of this paragraph or described, without regard to quantity, in section 845(a)(5) of title 18, United States Code."

15 USC 2079.

Manufacture or
sale of firearms.
15 USC 2080
note.

(e) The Consumer Product Safety Commission shall make no ruling or order that restricts the manufacture or sale of firearms, firearms ammunition, or components of firearms ammunition, including black powder or gunpowder for firearms.

21 USC 301.

(f) The second sentence of section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)) is amended by (1) striking out "of the Administrator of the Environmental Protection Agency and"; and (2) striking out "Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Packaging Act of 1970" and inserting in lieu thereof "Federal Food, Drug, and Cosmetic Act (15 U.S.C. 301 et seq.)".

BUDGET AND EMPLOYEE PROVISIONS

SEC. 4. (a) Section 4(f) of the Consumer Product Safety Act (15 U.S.C. 2053(f)) is amended by adding at the end thereof the following new paragraph:

"(3) Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chairman without the prior approval of the Commission."

(b) Section 4(g) of such Act (15 U.S.C. 2053(g)) is amended by (1) striking out "full-time" in paragraph (2) and inserting in lieu thereof "regular", and (2) adding after such paragraph the following new paragraphs:

"(3) In addition to the number of positions authorized by section 5108(a) of title 5, United States Code, the Chairman, subject to the approval of the Commission, and subject to the standards and procedures prescribed by chapter 51 of title 5, United States Code, may place a total of twelve positions in grades GS-16, GS-17, and GS-18.

5 USC 5101 et
seq.
5 USC 5332 note.

"(4) The appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President."

ACCOUNTABILITY

SEC. 5. (a) Section 4 of the Consumer Product Safety Act (15 U.S.C. 2053) is amended by adding at the end the following new subsection:

"(i) Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

"(1) is based upon—

"(A) misrepresentation or deceit before January 1, 1978, on the part of the Commission or any employee thereof, or

"(B) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Commission or any employee thereof before January 1, 1978, which exercise, performance, or failure was grossly negligent; and

"(2) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the statutory responsibility of the Commission and the public interest in encour-

aging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable.”.

(b) Section 32 of such Act (15 U.S.C. 2081) is amended by adding at the end the following new subsection:

“(c) No funds appropriated under subsection (a) may be used to pay any claim described in section 4(i) whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, United States Code, or under any other provision of law.”.

SAMPLING PLANS

SEC. 6. Section 7(a) of the Consumer Product Safety Act (15 U.S.C. 2056(a)) is amended by (1) inserting “(1)” immediately after “(a)”, (2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and (3) adding at the end the following new paragraph:

“(2) No consumer product safety standard promulgated under this section shall require, incorporate, or reference any sampling plan. The preceding sentence shall not apply with respect to any consumer product safety standard or other agency action of the Commission under this Act (A) applicable to a fabric, related material, or product which is subject to a flammability standard or for which a flammability standard or other regulation may be promulgated under the Flammable Fabrics Act, or (B) which is or may be applicable to glass containers.”.

15 USC 1191
note.

STANDARDS DEVELOPMENT

SEC. 7. (a) The last sentence of section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended to read as follows: “An invitation under paragraph (4)(B) shall specify the period of time in which the offeror of an accepted offer is to develop the proposed standard. The period specified shall be a period ending 150 days after the date the offer is accepted unless the Commission for good cause finds (and includes such finding in the notice) that a different period is appropriate.”.

(b) Section 7(e) (1) of such Act (15 U.S.C. 2056(e) (1)) is amended to read as follows:

“(e) (1) If the Commission publishes a notice pursuant to subsection (b) to commence a proceeding for the development of a consumer product safety standard for a consumer product and if—

Notice.

“(A) the Commission does not, within 30 days after the date of publication of such notice, accept an offer to develop such a standard, or

“(B) the development period (specified in paragraph (3)) for such standard ends,

the Commission may develop a proposed consumer product safety rule respecting such product and publish such proposed rule.”.

(c) Section 7(f) of such Act (15 U.S.C. 2056(f)) is amended to read as follows:

“(f) If the Commission publishes a notice pursuant to subsection (b) to commence a proceeding for the development of a consumer product safety standard and if—

Publication in
Federal Register.

“(1) no offer to develop such a standard is submitted to, or, if such an offer is submitted to the Commission, no such offer is accepted by, the Commission within a period of 60 days from the publication of such notice (or within such longer period as the

Commission may prescribe by a notice published in the Federal Register stating good cause therefor), the Commission shall—

“(A) by notice published in the Federal Register terminate the proceeding begun by the subsection (b) notice, or

“(B) develop proposals for a consumer product safety rule for a consumer product identified in the subsection (b) notice and within a period of 150 days (or within such longer period as the Commission may prescribe by a notice published in the Federal Register stating good cause therefor) from the expiration of the 60-day (or longer) period—

“(i) by notice published in the Federal Register terminate the proceeding begun by the subsection (b) notice, or

“(ii) publish a proposed consumer product safety rule; or

“(2) an offer to develop such a standard is submitted to and accepted by the Commission within the 60-day (or longer) period, then not later than 210 days (or such later time as the Commission may prescribe by notice published in the Federal Register stating good cause therefor) after the date of the acceptance of such offer the Commission shall take the action described in clause (i) or (ii) of paragraph (1) (B).”.

ADVANCE PAYMENTS; RENT

SEC. 8. (a) Section 7(d) (2) of the Consumer Product Safety Act (15 U.S.C. 2056(d) (2)) is amended by adding at the end thereof the following: “Payments under agreements entered into under this paragraph may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).”.

(b) Section 27(b) of such Act (15 U.S.C. 2076(b)) is amended by—

(1) striking out “and” at the end of paragraph (7), and

(2) redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following new paragraph:

“(8) to lease buildings or parts of buildings in the District of Columbia, without regard to the Act of March 3, 1877 (40 U.S.C. 34), for the use of the Commission; and”.

CONSIDERATION OF THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

SEC. 9. Section 9(b) of the Consumer Product Safety Act (15 U.S.C. 2058(b)) is amended by adding at the end the following new sentence: “In the promulgation of such a rule the Commission shall also consider and take into account the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by such rule.”.

ATTORNEYS' AND EXPERT WITNESSES' FEES

SEC. 10. (a) Section 10(e) of the Consumer Product Safety Act (15 U.S.C. 2059(e)) is amended by adding after paragraph (3) the following new paragraph:

“(4) In any action under this subsection the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees and reasonable expert witnesses' fees. Attorneys' fees may be awarded against the United States (or any agency or official of the United States) without regard to section 2412 of title 28, United States Code, or any other provision of law. For purposes of this

paragraph and sections 11(c), 23(a), and 24, a reasonable attorney's fee is a fee (A) which is based upon (i) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this subsection, and (ii) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (B) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee."

15 USC 2060,
2072, 2073.

(b) Section 11(c) of such Act (15 U.S.C. 2060(c)) is amended by inserting after the first sentence the following: "A court may in the interest of justice include in such relief an award of the costs of suit, including reasonable attorneys' fees (determined in accordance with section 10(e)(4) and reasonable expert witnesses' fees. Attorneys' fees may be awarded against the United States (or any agency or official of the United States) without regard to section 2412 of title 28, United States Code, or any other provision of law."

(c) Section 23(a) of such Act (15 U.S.C. 2072(a)) is amended (1) by striking out "and shall" and inserting in lieu thereof "shall", and (2) by striking out "and the cost of suit, including a reasonable attorney's fee, if considered appropriate in the discretion of the court," and inserting in lieu thereof "and may, if the court determines it to be in the interest of justice, recover the costs of suit, including reasonable attorneys' fees (determined in accordance with section 10(e)(4)) and reasonable expert witnesses' fees."

(d) Section 24 of such Act (15 U.S.C. 2073) is amended by striking out the last sentence and inserting in lieu thereof the following: "In any action under this section the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees (determined in accordance with section 10(e)(4)) and reasonable expert witnesses' fees."

CIVIL LITIGATION

SEC. 11. (a) The third sentence of section 11(a) of the Consumer Product Safety Act (15 U.S.C. 2060(a)) is amended to read as follows: "The record of the proceedings on which the Commission based its rule shall be filed in the court as provided for in section 2112 of title 28, United States Code."

(b) The second sentence of section 22(a) of such Act (15 U.S.C. 2071(a)) is amended by striking out "(with the concurrence of the Attorney General)" and inserting in lieu thereof "(without regard to section 27(b)(7)(A))".

(c) Section 27(b)(7) of such Act (15 U.S.C. 2076(b)(7)) is amended to read as follows:

"(7) to—

"(A) initiate, prosecute, defend, or appeal (other than to the Supreme Court of the United States), through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General for representation in such civil action and the Attorney General does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action, and

"(B) initiate, prosecute, or appeal, through its own legal representative, with the concurrence of the Attorney General or through the Attorney General, any criminal action, for the purpose of enforcing the laws subject to its jurisdiction;".

(d) Section 27(c) of such Act (15 U.S.C. 2076(c)) is amended by striking out "with the concurrence of the Attorney General" and inserting in lieu thereof "(subject to subsection (b) (7))".

SUBSTANTIAL PRODUCT HAZARD

SEC. 12. (a) (1) Section 15(d) of the Consumer Product Safety Act (15 U.S.C. 2064(d)) is amended by adding at the end the following: "An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, the product with respect to which the order was issued."

77A Stat. 11.

(2) Section 15 of such Act (15 U.S.C. 2064) is amended by adding at the end thereof the following new subsection:

15 USC 2076.

15 USC 2061.

"(g) (1) If the Commission has initiated a proceeding under this section for the issuance of an order under subsection (d) with respect to a product which the Commission has reason to believe presents a substantial product hazard, the Commission (without regard to section 27(b) (7)) or the Attorney General may, in accordance with section 12(e) (1), apply to a district court of the United States for the issuance of a preliminary injunction to restrain the distribution in commerce of such product pending the completion of such proceeding. If such a preliminary injunction has been issued, the Commission (or the Attorney General if the preliminary injunction was issued upon an application of the Attorney General) may apply to the issuing court for extensions of such preliminary injunction.

"(2) Any preliminary injunction, and any extension of a preliminary injunction, issued under this subsection with respect to a product shall be in effect for such period as the issuing court prescribes not to exceed a period which extends beyond the thirtieth day from the date of the issuance of the preliminary injunction (or, in the case of a preliminary injunction which has been extended, the date of its extension) or the date of the completion or termination of the proceeding under this section respecting such product, whichever date occurs first.

"(3) The amount in controversy requirement of section 1331 of title 28, United States Code, does not apply with respect to the jurisdiction of a district court of the United States to issue or extend a preliminary injunction under this subsection."

(b) Section 19(a) (5) of such Act (15 U.S.C. 2068(a) (5)) is amended by (1) striking out "and to" and inserting in lieu thereof "to", and (2) inserting "and to prohibited acts" after "refund".

(c) Section 22 of such Act (15 U.S.C. 2071) is amended by—

(1) striking out in subsection (a) all that precedes the second sentence of such subsection and inserting in lieu thereof the following:

"(a) The United States district courts shall have jurisdiction to take the following action:

15 USC 2068.

"(1) Restrain any violation of section 19.

"(2) Restrain any person from manufacturing for sale, offering for sale, distributing in commerce, or importing into the United States a product in violation of an order in effect under section 15(d).

15 USC 2064.

"(3) Restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule."; and

(2) striking out in subsection (b) all that precedes the second sentence of such subsection and inserting in lieu thereof the following:

“(b) Any consumer product—

“(1) which fails to conform with an applicable consumer product safety rule, or

“(2) the manufacture for sale, offering for sale, distribution in commerce, or the importation into the United States of which has been prohibited by an order in effect under section 15(d), when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any district court of the United States within the jurisdiction of which such consumer product is found.”. 15 USC 2064.

PROHIBITED ACTS AND ENFORCEMENT

SEC. 13. (a) Section 19(a) of the Consumer Product Safety Act (15 U.S.C. 2068(a)) is amended by—

(1) inserting “or fail or refuse to establish or maintain records,” immediately after “copying of records,” in paragraph (3); and

(2) striking out “or” at the end of paragraph (6), striking out the period at the end of paragraph (7) and inserting in lieu thereof “; or”, and adding after paragraph (7) the following new paragraphs:

“(8) fail to comply with any rule under section 13 (relating to prior notice and description of new consumer products); or 15 USC 2062.

“(9) fail to comply with any rule under section 27(e) (relating to provision of performance and technical data).” 15 USC 2076.

(b) Section 20(a)(1) of such Act (15 U.S.C. 2069) is amended by striking out “or (7)” and inserting in lieu thereof “(7), (8), or (9)”.

CONGRESSIONAL REVIEW OF PROPOSED ADMINISTRATIVE ACTIONS OF THE COMMISSION

SEC. 14. Section 27 of the Consumer Product Safety Act (15 U.S.C. 2076) is amended by adding at the end thereof the following new subsection:

“(1) (1) Except as provided in paragraph (2)—

“(A) the Commission shall transmit to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives each consumer product safety rule proposed after the date of the enactment of this subsection and each regulation proposed by the Commission after such date under section 2 or 3 of the Federal Hazardous Substances Act, section 3 of the Poison Prevention Packaging Act of 1970, or section 4 of the Flammable Fabrics Act; and Proposed safety rules and regulations; transmittal to congressional committees. 15 USC 1261, 1262, 1472. 15 USC 1193.

“(B) no consumer product safety rule and no regulation under a section referred to in subparagraph (A) may be adopted by the Commission before the thirtieth day after the date the proposed rule or regulation upon which such rule or regulation was based was transmitted pursuant to subparagraph (A).

“(2) Paragraph (1) does not apply with respect to a regulation under section 2(q) of the Federal Hazardous Substances Act respecting a hazardous substance the distribution of which is found under paragraph (2) of such section to present an imminent hazard or a regulation under section 3(e) of such Act respecting a toy or other article intended for use by children the distribution of which is found under paragraph (2) of such section to present an imminent hazard.”.

Children's toys.

INFORMATION DISCLOSURE TO OTHER GOVERNMENTAL BODIES

SEC. 15. Section 29 of the Consumer Product Safety Act (15 U.S.C. 2078) is amended by adding at the end thereof the following new subsection:

15 USC 2055. “(e) The Commission may provide to another Federal agency or a State or local agency or authority engaged in activities relating to health, safety, or consumer protection, copies of any accident or investigation report made under this Act by any officer, employee, or agent of the Commission only if (1) information which under section 6(a)(2) is to be considered confidential is not included in any copy of such report which is provided under this subsection; and (2) each Federal agency and State and local agency and authority which is to receive under this subsection a copy of such report provides assurances satisfactory to the Commission that the identity of any injured person and any person who treated an injured person will not, without the consent of the person identified, be included in—

“(A) any copy of any such report, or

“(B) any information contained in any such report, which the agency or authority makes available to any member of the public. No Federal agency or State or local agency or authority may disclose to the public any information contained in a report received by the agency or authority under this subsection unless with respect to such information the Commission has complied with the applicable requirements of section 6(b).”.

JURISDICTION UNDER CONSUMER PRODUCT SAFETY ACT

SEC. 16. Section 30(d) of the Consumer Product Safety Act (15 U.S.C. 2079(d)) is amended to read as follows:

15 USC 1261
note.
15 USC 1471
note, 1191 note. “(d) A risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated under this Act only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under this Act. Such a rule shall identify the risk of injury proposed to be regulated under this Act and shall be promulgated in accordance with section 553 of title 5, United States Code; except that the period to be provided by the Commission pursuant to subsection (c) of such section for the submission of data, views, and arguments respecting the rule shall not exceed thirty days from the date of publication pursuant to subsection (b) of such section of a notice respecting the rule.”.

EFFECT ON STATE LAW

15 USC 1261
note. SEC. 17. (a) Section 18(b) of the Federal Hazardous Substances Act is amended to read as follows:

15 USC 1261,
1262. “(b) (1) (A) Except as provided in paragraphs (2) and (3), if a hazardous substance or its packaging is subject to a cautionary labeling requirement under section 2(p) or 3(b) designed to protect against a risk of illness or injury associated with the substance, no State or political subdivision of a State may establish or continue in effect a cautionary labeling requirement applicable to such substance or packaging and designed to protect against the same risk of illness or injury unless such cautionary labeling requirement is identical to the labeling requirement under section 2(p) or 3(b).

"(B) Except as provided in paragraphs (2), (3), and (4), if under regulations of the Commission promulgated under or for the enforcement of section 2(q) a requirement is established to protect against a risk of illness or injury associated with a hazardous substance, no State or political subdivision of a State may establish or continue in effect a requirement applicable to such substance and designed to protect against the same risk of illness or injury unless such requirement is identical to the requirement established under such regulations.

15 USC 1262.

"(2) The Federal Government and the government of any State or political subdivision of a State may establish and continue in effect a requirement applicable to a hazardous substance for its own use (or to the packaging of such a substance) which requirement is designed to protect against a risk of illness or injury associated with such substance and which is not identical to a requirement described in paragraph (1) applicable to such substance (or packaging) and designed to protect against the same risk of illness or injury if the Federal, State, or political subdivision requirement provides a higher degree of protection from such risk of illness or injury than the requirement described in paragraph (1).

"(3) (A) Upon application of a State or political subdivision of a State, the Commission may, by regulation promulgated in accordance with subparagraph (B), exempt from paragraph (1), under such conditions as may be prescribed in such regulation, any requirement of such State or political subdivision designed to protect against a risk of illness or injury associated with a hazardous substance if—

"(i) compliance with the requirement would not cause the hazardous substance (or its packaging) to be in violation of the applicable requirement described in paragraph (1), and

"(ii) the State or political subdivision requirement (I) provides a significantly higher degree of protection from such risk of illness or injury than the requirement described in paragraph (1), and (II) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision requirement on interstate commerce the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such requirement, the cost of complying with such requirement, the geographic distribution of the substance to which the requirement would apply, the probability of other States or political subdivisions applying for an exemption under this paragraph for a similar requirement, and the need for a national, uniform requirement under this Act for such substance (or its packaging).

"(B) A regulation under subparagraph (A) granting an exemption for a requirement of a State or political subdivision of a State may be promulgated by the Commission only after it has provided, in accordance with section 553(b) of title 5, United States Code, notice with respect to the promulgation of the regulation and has provided opportunity for the oral presentation of views respecting its promulgation.

Notice; oral presentation of views.

"(4) Paragraph (1)(B) does not prohibit a State or a political subdivision of a State from establishing or continuing in effect a requirement which is designed to protect against a risk of illness or injury associated with fireworks devices or components thereof and which provides a higher degree of protection from such risk of illness or injury than a requirement in effect under a regulation of the Commission described in such paragraph.

“Commission.”

“(5) As used in this subsection, the term ‘Commission’ means the Consumer Product Safety Commission.”

(b) Section 16 of the Flammable Fabrics Act (15 U.S.C. 1203) is amended to read as follows:

“PREEMPTION

“SEC. 16. (a) Except as provided in subsections (b) and (c), whenever a flammability standard or other regulation for a fabric, related material, or product is in effect under this Act, no State or political subdivision of a State may establish or continue in effect a flammability standard or other regulation for such fabric, related material, or product if the standard or other regulation is designed to protect against the same risk of occurrence of fire with respect to which the standard or other regulation under this Act is in effect unless the State or political subdivision standard or other regulation is identical to the Federal standard or other regulation.

“(b) The Federal Government and the government of any State or political subdivision of a State may establish and continue in effect a flammability standard or other regulation applicable to a fabric, related material, or product for its own use which standard or other regulation is designed to protect against a risk of occurrence of fire with respect to which a flammability standard or other regulation is in effect under this Act and which is not identical to such standard or other regulation if the Federal, State, or political subdivision standard or other regulation provides a higher degree of protection from such risk of occurrence of fire than the standard or other regulation in effect under this Act.

“(c) (1) Upon application of a State or political subdivision of a State, the Commission may, by regulation promulgated in accordance with paragraph (2), exempt from subsection (a), under such conditions as may be prescribed in such regulation, any flammability standard or other regulation of such State or political subdivision applicable to a fabric, related material, or product subject to a standard or other regulation in effect under this Act, if—

“(A) compliance with the State or political subdivision requirement would not cause the fabric, related material, or product to be in violation of the standard or other regulation in effect under this Act, and

“(B) the State or political subdivision standard or other regulation (i) provides a significantly higher degree of protection from the risk of occurrence of fire with respect to which the Federal standard or other regulation is in effect, and (ii) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision flammability standard or other regulation on interstate commerce the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such flammability standard or other regulation, the cost of complying with such flammability standard or other regulation, the geographic distribution of the fabric, related material, or product to which the flammability standard or other regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar flammability standard or other regulation, and the need for a national, uniform flammability standard or other regulation under this Act for such fabric, related material, or product.

“(2) A regulation under paragraph (1) granting an exemption for a flammability standard or other regulation of a State or political subdivision of a State may be promulgated by the Commission only after it has provided, in accordance with section 553(b) of title 5, United States Code, notice with respect to the promulgation of the regulation and has provided opportunity for the oral presentation of views respecting its promulgation.

Notice; oral presentation of views.

“(d) For purposes of this section—

“(1) a reference to a flammability standard or other regulation for a fabric, related material, or product in effect under this Act includes a standard of flammability continued in effect by section 11 of the Act of December 14, 1967 (Public Law 90-189); and

Flammability standard or regulation.

“(2) the term ‘Commission’ means the Consumer Product Safety Commission.”

15 USC 1191 note.
“Commission.”

(c) Section 8 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1476) is amended (1) by striking out “Whenever” and inserting in lieu thereof “(a) Except as provided in subsections (b) and (c), whenever”, and (2) by adding at the end thereof the following:

“(b) The Federal Government and the government of any State or political subdivision of a State may establish and continue in effect, with respect to a household substance for its own use, a standard for special packaging or related requirement which is designed to protect against a risk of illness or injury with respect to which a standard for special packaging or related requirement is in effect under this Act and which is not identical to such standard or requirement if the Federal, State, or political subdivision standard or requirement provides a higher degree of protection from such risk of illness or injury than the standard or requirement in effect under this Act.

“(c) (1) Upon application of a State or political subdivision of a State, the Commission may, by regulation promulgated in accordance with paragraph (2), exempt from subsection (a), under such conditions as may be prescribed in such regulation, any standard for special packaging or related requirement of such State or political subdivision applicable to a household substance subject to a standard or requirement in effect under this Act if—

“(A) compliance with the State or political subdivision standard or requirement would not cause the household substance to be in violation of the standard or requirement in effect under this Act, and

“(B) the State or political subdivision standard or requirement (i) provides a significantly higher degree of protection from the risk of illness or injury with respect to which the Federal standard or requirement is in effect, and (ii) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or requirement on interstate commerce the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or requirement, the cost of complying with such standard or requirement, the geographic distribution of the household substance to which the standard or requirement would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or requirement, and the need for a national, uniform standard or requirement under this Act for such household substance.

“(2) A regulation under paragraph (1) granting an exemption for a standard or requirement of a State or political subdivision of a State

Notice; oral presentation of views.

may be promulgated by the Commission only after it has provided, in accordance with section 553(b) of title 5, United States Code, notice with respect to the promulgation of the regulation and has provided opportunity for the oral presentation of views respecting its promulgation.”.

(d) Subsections (b) and (c) of section 26 of the Consumer Product Safety Act (15 U.S.C. 2075) are amended to read as follows:

“(b) Subsection (a) of this section does not prevent the Federal Government or the government of any State or political subdivision of a State from establishing or continuing in effect a safety requirement applicable to a consumer product for its own use which requirement is designed to protect against a risk of injury associated with the product and which is not identical to the consumer product safety standard applicable to the product under this Act if the Federal, State, or political subdivision requirement provides a higher degree of protection from such risk of injury than the standard applicable under this Act.

“(c) Upon application of a State or political subdivision of a State, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose in the rule) any proposed safety standard or regulation which is described in such application and which is designed to protect against a risk of injury associated with a consumer product subject to a consumer product safety standard under this Act if the State or political subdivision standard or regulation—

“(1) provides a significantly higher degree of protection from such risk of injury than the consumer product safety standard under this Act, and

“(2) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or regulation on interstate commerce, the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or regulation, the cost of complying with such standard or regulation, the geographic distribution of the consumer product to which the standard or regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or regulation, and the need for a national, uniform standard under this Act for such consumer product.”.

TITLE 18 PROTECTION

SEC. 18. Section 1114 of title 18, United States Code, is amended by inserting “, the Consumer Product Safety Commission,” immediately after “Department of Health, Education, and Welfare”.

FLAMMABLE FABRICS ACT ADVISORY COMMITTEE

SEC. 19. Section 17(a) of the Flammable Fabrics Act (15 U.S.C. 1204(a)) is amended by inserting after the first sentence the following new sentence: “The members of the Committee who are appointed to represent manufacturers shall include representatives from (1) the natural fiber producing industry, (2) the manmade fiber producing industry, and (3) manufacturers of fabrics, related materials, apparel, or interior furnishings.”.

Membership.

FLAMMABILITY STANDARDS AND REGULATIONS

SEC. 20. (a) (1) Subsection (d) of section 4 of the Flammable Fabrics Act (15 U.S.C. 1193(d)) is amended to read as follows:

“(d) Standards, regulations, and amendments to standards and regulations under this section shall be made in accordance with section 553 of title 5, United States Code, except that interested persons shall be given an opportunity for the oral presentation of data, views, or arguments in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.”

(2) Subsection (e) (3) of section 4 of such Act is amended by adding at the end thereof the following: “The standard or regulation shall not be affirmed unless the findings required by the first sentence of subsection (b) are supported by substantial evidence on the record taken as a whole. For purposes of this paragraph, the term ‘record’ means the standard or regulation, any notice published with respect to the promulgation of such standard or regulation, the transcript required by subsection (d) of any oral presentation, any written submission of interested parties, and any other information which the Commission considers relevant to such standard or regulation.”

(b) The amendments made by subsection (a) shall apply with respect to standards, regulations, and amendments to standards and regulations, under section 4 of the Flammable Fabrics Act the proceedings for the promulgation of which were begun after the date of the enactment of this Act.

“Record.”

Effective date.
15 USC 1193
note.
15 USC 1193.

Approved May 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-325 accompanying H.R. 6844 (Comm. on Interstate and Foreign Commerce) and No. 94-1022 (Comm. of Conference).

SENATE REPORT No. 94-251 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 18, considered and passed Senate.

July 28, 29, Sept. 24, 26, Oct. 22, considered and passed House,
amended, in lieu of H.R. 6844.

Vol. 122 (1976): Apr. 13, House agreed to conference report.

Apr. 28, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 20 (1976): May 12, Presidential statement.

Public Law 94-285
94th Congress

An Act

May 12, 1976
[H.R. 11876]

To amend the Water Resources Planning Act (79 Stat. 244) as amended.

Water Resources
Planning Act,
appropriation
authorization.
42 USC 1962d.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is hereby further amended by deleting, in section 401(b), the words "not to exceed \$1,500,000" and inserting in lieu thereof the words "not to exceed \$2,000,000".

SEC. 2. Section 306 of the Water Resources Planning Act (79 Stat. 244, 253; 42 U.S.C. 1962c-5) is amended by deleting "or the Virgin Islands," and inserting in lieu thereof "the Virgin Islands or Guam."

Approved May 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-983 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-768 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 5, considered and passed House.

May 3, considered and passed Senate.

Public Law 94-286
94th Congress

An Act

To amend chapter 39 of title 10, United States Code, to enable the President to authorize the involuntary order to active duty of Selected Reservists, for a limited period, whether or not a declaration of war or national emergency has been declared.

May 14, 1976
[S. 2115]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 39 of title 10, United States Code, is amended by inserting the following new section after section 673a and inserting a corresponding item in the chapter analysis:

Armed Forces.
Selected Reserve,
involuntary order
to active duty.

“§ 673b. Selected Reserve; order to active duty other than during war or national emergency

10 USC 673b.

“(a) Notwithstanding the provisions of section 673(a) or any other provision of law, when the President determines that it is necessary to augment the active forces for any operational mission, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, without the consent of the members concerned, to order any unit, and any member not assigned to a unit organized to serve as a unit, of the Selected Reserve (as defined in section 268(b) of this title), under their respective jurisdictions, to active duty (other than for training) for not more than 90 days.

“(b) No unit or member of a Reserve component may be ordered to active duty under this section to perform any of the functions authorized by chapter 15 or section 3500 or 8500 of this title, or to provide assistance to either the Federal Government or a State in time of a serious natural or manmade disaster, accident, or catastrophe.

10 USC 331,
3500, 8500.

“(c) Not more than 50,000 members of the Selected Reserve may be on active duty under this section at any one time.

“(d) Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or any other law.

“(e) The Secretary of Defense and the Secretary of Transportation shall prescribe such policies and procedures for the Armed Forces under their respective jurisdictions as they consider necessary to carry out this section.

Policies and
procedures.

“(f) Whenever the President authorizes the Secretary of Defense or the Secretary of Transportation to order any unit or member of the Selected Reserve to active duty, under the authority of subsection (a), he shall, within 24 hours after exercising such authority, submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth the circumstances necessitating the action taken under this section and describing the anticipated use of these units or members.

Report to
Congress.

“(g) Whenever any unit of the Selected Reserve or any member of the Selected Reserve not assigned to a unit organized to serve as a unit is ordered to active duty under authority of subsection (a),

the service of all units or members so ordered to active duty may be terminated by—

“(1) order of the President, or

“(2) a concurrent resolution of the Congress.

“(h) Nothing contained in this section shall be construed as amending or limiting the application of the provisions of the War Powers Resolution.”.

SEC. 2. Section 2024 of title 38, United States Code, is amended by adding the following new subsection after subsection (f) :

Reemployment
rights.

“(g) Any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty for not more than 90 days under section 673b of title 10, United States Code, whether or not voluntarily, shall be entitled to all reemployment rights and benefits provided under subsection (c) of this section for persons ordered to an initial period of active duty for training of not less than three consecutive months; and shall have the service limitation governing eligibility for reemployment rights under subsections (a) and (b) (1) of this section extended by his period of such active duty.”

Approved May 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1069 (Comm. on Armed Services).

SENATE REPORT No. 94-562 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Jan. 26, considered and passed Senate.

May 3, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 21:

May 14, Presidential statement.

Public Law 94-287
94th Congress

An Act

To authorize the erection of a statue of Bernardo de Galvez on public grounds
in the District of Columbia.

May 21, 1976

[S. 3031]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall select an appropriate site for the location of a statue, including pedestal therefor, of Bernardo de Galvez, a gift of the Government of Spain in recognition of the Bicentennial celebrations of the United States of America and as a token of the friendship that exists between the people of Spain and the people of the United States. Such statue shall be erected on grounds now owned by the United States of America in the District of Columbia if (1) the choice of the site and the design of the statue is approved by the Commission of Fine Arts and the National Capital Planning Commission, and (2) the erection of the statue is begun within five years after the date of the enactment of this Act. The erection of the statue and proper landscape treatment of the site, including walks, shall be without expense to the United States of America, except for necessary maintenance after completion.

Bernardo
de Galvez.
Statue, erection
in D.C.

Approved May 21, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-775 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 5, considered and passed Senate.

May 10, considered and passed House, in lieu of H.R. 11844.

Public Law 94-288
94th Congress

An Act

May 21, 1976

[H.R. 12018]

To amend the Rehabilitation Act of 1973 to provide that the center for deaf-blind youths and adults established by such Act shall be known as the Helen Keller National Center for Deaf-Blind Youths and Adults.

Helen Keller
National Center
for Deaf-Blind
Youths and
Adults.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 305 of the Rehabilitation Act of 1973 (29 U.S.C. 775), hereinafter in this Act referred to as the "Act", is amended by inserting "Helen Keller" immediately before "National Center" each place it appears therein.

(b) The second sentence of section 305(c) of the Act (29 U.S.C. 775(c)) is amended by striking out "such" the second place it appears therein and inserting in lieu thereof "the Helen Keller National".

SEC. 2. The heading for section 305 of the Act (29 U.S.C. 775) is amended to read as follows:

"HELEN KELLER NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS".

Approved May 21, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 3, considered and passed House.

May 6, considered and passed Senate.

Public Law 94-289
94th Congress

An Act

To provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States by the Library of Congress Trust Fund Board.

May 22, 1976

[S. 2619]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of March 3, 1925, chapter 423, as renumbered by the Act of April 13, 1936, chapter 213 (2 U.S.C. 158), is amended by striking out "the rate of 4 per centum per annum," and inserting in place thereof "a rate which is the higher of the rate of 4 per centum per annum or a rate which is 0.25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum,".

Library of
Congress trust
fund deposits.
Interest
adjustment.

Approved May 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-737 accompanying H.R. 8627 (Comm. on House Administration).

SENATE REPORT No. 94-489 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 1, considered and passed Senate.

Vol. 122 (1976): Feb. 2, considered and passed House, amended, in lieu of H.R. 8627.

Mar. 16, Senate concurred in House amendment with an amendment.

May 10, House concurred in Senate amendment.

Public Law 94-290
94th Congress

An Act

May 22, 1976

[S. 2620]

To provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States pursuant to the Act of August 20, 1912 (37 Stat. 319).

Gertrude M.
Hubbard trust
fund deposits.
Interest
adjustment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act entitled "An Act to accept and fund the bequest of Gertrude M. Hubbard", approved August 20, 1912 (37 Stat. 320) is amended to read as follows:

"Sec. 3. In compliance with said conditions the principal of the sum so received and paid into the Treasury of the United States shall be credited on the books of the Treasury Department as a perpetual trust fund; and the Secretary of the Treasury shall thereafter credit such deposit with interest, semiannually, at a rate which is the higher of (1) a rate which is 0.25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 4 per centum per annum; and such interest, as income, shall be subject to disbursement for the purposes herein authorized and as provided in the said bequest."

Approved May 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-738 accompanying H.R. 8628 (Comm. on House Administration).

SENATE REPORT No. 94-488 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 1, considered and passed Senate.

Vol. 122 (1976): Feb. 2, considered and passed House, amended, in lieu of H.R. 8628.

Mar. 16, Senate concurred in House amendment with an amendment.

May 10, House concurred in Senate amendment.

Public Law 94-291
94th Congress

An Act

To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

May 22, 1976
[S. 3107]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended; for salaries and expenses, \$274,300,000 to remain available until expended.

Nuclear
Regulatory
Commission.
Appropriation
authorization.
42 USC 2017.
42 USC 5875.

SEC. 102. Moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts.

Moneys for
research
programs, use.

SEC. 103. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

Transfer of sums.

AMENDMENTS TO PRIOR YEAR ACT

SEC. 104. (a) Title I of Public Law 94-79 is amended by adding section 102 to read as follows: "Moneys received by the Commission for the cooperative nuclear research program may be retained and used for salaries and expenses associated with that program, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended. Funds may be obligated for purposes stated in this section only to the extent provided in appropriation Acts."

89 Stat. 413.

(b) Section 101 of Public Law 94-79 is amended by adding the phrase "and shall remain available until expended" after the words "September 30, 1976".

Approved May 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1079 accompanying H.R. 12387 (Joint Comm. on Atomic Energy).

SENATE REPORT No. 94-772 (Joint Comm. on Atomic Energy).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 5, considered and passed Senate.

May 10, considered and passed House, in lieu of H.R. 12387.

Public Law 94-292
94th Congress

An Act

May 27, 1976
[H.R. 8957]

To raise the limitation on appropriations for the United States Commission on Civil Rights.

Civil Rights
Commission
Authorization Act
of 1976.
42 USC 1975e
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Commission Authorization Act of 1976".

SEC. 2. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended to read as follows:

"SEC. 106. For the purposes of carrying out this Act, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1976, the sum of \$7,893,000, and for the period beginning July 1, 1976, and ending September 30, 1976, the sum of \$1,993,000, and for the fiscal year ending September 30, 1977, the sum of \$9,540,000, and such additional amounts for those fiscal years and period prior to October 1, 1977, as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law which arise subsequent to the date of the enactment of the Civil Rights Commission Authorization Act of 1976."

Approved May 27, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-811 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 5, considered and passed House.
May 13, considered and passed Senate.

Public Law 94-293
94th Congress

An Act

To amend the Domestic Volunteer Service Act of 1973 to extend the operation of certain programs by the ACTION Agency.

May 27, 1976
[H.R. 12216]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Domestic Volunteer Service Act Amendments of 1976"

SEC. 2. Section 114(a) of the Domestic Volunteer Service Act of 1973 (hereinafter in this Act referred to as the "Act") is amended by inserting at the end thereof the following new sentence: "In any fiscal year in which the funds appropriated for the purposes of the University Year for ACTION program under section 112 exceed \$6,700,000, the limitation provided in the preceding sentence shall not apply with respect to that portion of such appropriation which exceeds \$6,700,000."

Domestic
Volunteer Service
Act Amendments
of 1976.
42 USC 4951
note.
42 USC 4974.
42 USC 4972.

SEC. 3. (a) Section 122(c) of the Act is amended by adding at the end thereof the following new sentence: "The Director is authorized to undertake and support volunteer service programs, and to recruit, select, and train volunteers to carry out the purpose of this part."

42 USC 4992.

(b) (1) Part C of title I of the Act is amended by adding at the end thereof the following new section:

"TECHNICAL AND FINANCIAL ASSISTANCE FOR IMPROVEMENT OF
VOLUNTEER PROGRAMS

"SEC. 123. The Director may provide technical and financial assistance to Federal agencies, State and local governments and agencies, and private nonprofit organizations, which utilize or desire to utilize volunteers in connection with carrying out the purpose of this part. Such assistance may be used to facilitate and improve (1) methods of recruiting, training, or utilizing volunteers, or (2) the administration of volunteer programs. In providing such technical and financial assistance, the Director shall utilize, to the maximum extent feasible, existing programs, and shall seek to avoid duplication of existing programs in the public or private sectors."

42 USC 4993.

(2) The table of contents for the Act is amended by inserting immediately after the item relating to section 122 the following new item:

"Sec. 123. Technical and financial assistance for improvement of volunteer programs."

SEC. 4. (a) (1) Part A of title I of the Act is amended by adding at the end thereof the following new section:

"LIMITATIONS

"SEC. 108. Of funds appropriated for the purpose of this part under section 501, not more than 20 per centum for the fiscal year ending September 30, 1977, and for each fiscal year thereafter, may be obligated for the direct cost of supporting volunteers in programs or projects carried out pursuant to grants and contracts made under section 402(12)."

42 USC 4958.
42 USC 5081.

42 USC 5042.

(2) The table of contents for the Act is amended by inserting immediately after the item relating to section 107 the following new item:

"Sec. 108. Limitations."

42 USC 5042.

(b) Section 402(12) of the Act is amended by striking out "(except for volunteers serving under part A of title I thereof)" and inserting in lieu thereof "(except as provided in section 108)".

Effective date.

42 USC 4958

note.

(c) The amendments made by subsection (a) and subsection (b) of this section shall be effective on October 1, 1976, and shall not apply to any agreement for the assignment of volunteers entered into before such date during the period of any such agreement.

42 USC 5045.

SEC. 5. (a) Section 405 of the Act is amended by adding at the end thereof the following new subsection:

"(d) In the event that a National Advisory Council to the ACTION Agency is established by administrative action after January 1, 1976, the provisions of subsections (a), (b), and (c) of this section shall apply to any such Council."

Repeal.

42 USC 5053.

(b) (1) Title IV of the Act is amended by striking out section 413.
(2) The table of contents for the Act is amended by striking out the item relating to section 413.

42 USC 5081.

SEC. 6. (a) Section 501(a) of the Act is amended by striking out "and" immediately after "June 30, 1975," and by inserting immediately after "June 30, 1976," the following: "September 30, 1977, and September 30, 1978,".

42 USC 5083.

(b) Section 503 of the Act is amended by striking out "and" immediately after "June 30, 1975," and by inserting immediately after "June 30, 1976," the following: "September 30, 1977, and September 30, 1978,".

42 USC 5084.

(c) Section 504 of the Act is amended by striking out "and" immediately after "June 30, 1975," and by inserting immediately after "June 30, 1976," the following: "September 30, 1977, and September 30, 1978,".

42 USC 5011.

SEC. 7. Section 211 of the Act is amended by adding at the end thereof the following new subsections:

Person-to-person
services to
children.

"(c) (1) Any public or private nonprofit agency or organization responsible for providing person-to-person services to a child in a project carried out under subsection (a) of this section shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection—

"(A) which children may receive supportive person-to-person services under such project; and

"(B) the period of time during which such services shall be continued in the case of each individual child.

"(2) In the event that such an agency or organization determines that it is in the best interests of a mentally retarded child receiving, and of a particular foster grandparent providing, services in such a project, such relationship may be continued after the child reaches the chronological age of 21: *Provided*, That such child was receiving such services prior to attaining the chronological age of 21.

“(3) Any determination made by a public or nonprofit private agency or organization under paragraphs (1) and (2) of this subsection shall be made through mutual agreement by all parties involved with respect to the provision of services to the child involved.

“(d) For the purposes of this section, the terms ‘child’ and ‘children’ mean any individual or individuals who are less than 21 years of age.” “Child” and “children.”

Approved May 27, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 4, considered and passed House.

May 13, considered and passed Senate.

Public Law 94-294
94th Congress

An Act

To enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products.

May 28, 1976

[H.R. 7656]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the “Beef Research and Information Act”.

Beef Research
and Information
Act.

7 USC 2901 note.

LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

7 USC 2901.

SEC. 2. Beef constitutes one of the basic, natural foods in the diet. It is produced by many individual cattle producers throughout the United States. Cattle, beef, and beef products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of cattle, beef, and beef products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of cattle producers and those concerned with marketing, using, and processing beef as well as the general economy of the Nation. The production and marketing of cattle, beef, and beef products by numerous individual persons in the cattle and beef industry have prevented the development and carrying out of adequate and coordinated programs of research, information, and promotion necessary for the maintenance of markets and the development of new products of, and markets for cattle, beef, or beef products. Without an effective and coordinated method for assuring cooperative and collective action in providing for and financing such programs, individual cattle producers are unable to provide, obtain, or carry out the research, consumer and producer information, and promotion necessary to maintain and improve markets for cattle, beef, and beef products.

It has long been recognized that it is in the public interest to provide an adequate, steady supply of high quality beef and beef products readily available to the consumers of the Nation. Maintenance of markets and the development of new markets, both domestic and foreign, are essential to the cattle industry if the consumers of beef and beef products are to be assured of an adequate, steady supply of such products at reasonable prices.

It is therefore declared to be the policy of the Congress and the purpose of this Act that it is essential and in the public interest, through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development and the financing through an adequate assessment of an effective and continuous coordinated program of research, consumer information, producer information, and promotion designed to strengthen the cattle and beef industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for United States beef. Nothing in this Act shall be construed to mean, or provide for, control of production or otherwise limit the right of individual cattle producers to produce cattle or beef.

DEFINITIONS

7 USC 2902.

SEC. 3. As used in this Act—

(a) The term “Secretary” means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) The term “person” means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(c) The term “cattle” means live domesticated bovine quadrupeds.

(d) The term “beef” means the flesh of cattle.

(e) The term “beef products” means products produced in whole or in part from cattle, exclusive of milk and products made therefrom.

(f) The term “producer” means any person who owns or acquires ownership of cattle: *Provided*, That a person shall not be considered to be a producer if his only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

(g) The term “producer-buyer” means a producer who buys cattle.

(h) The term “producer-seller” means a producer who sells cattle.

(i) The term “United States” means the fifty States of the United States of America and the District of Columbia.

(j) The term “promotion” means any action to advance the image or desirability of beef and beef products.

(k) The term “research” means any type of research to advance the desirability, marketability, production, or quality of cattle, beef, and beef products.

(l) The term “consumer information” means facts, data, and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparation, and utilization of beef and beef products.

(m) The term “producer information” means facts, data, and other information that will assist producers in making decisions that lead to increased efficiency, lower cost of production, a stable supply of cattle, and the development of new markets.

(n) The term “marketing” means the sale or other disposition of cattle, beef, or beef products, in any channel of commerce.

(o) The term “commerce” means interstate, foreign, or intrastate commerce.

(p) The term “transaction” means the transfer of ownership of cattle or beef through a sale, trade, or other means of exchange.

(q) The term “slaughterer” means any person, specified in the order or the rules and regulations issued thereunder, who slaughters cattle, including cattle of his own production.

BEEF RESEARCH AND PROMOTION ORDER

7 USC 2903.

SEC. 4. To effectuate the declared policy of this Act, the Secretary shall, subject to the provisions of this Act, issue and from time to time amend an order applicable to producers and slaughterers. Such an order shall be applicable to all areas in the United States.

NOTICE AND HEARING

7 USC 2904.

SEC. 5. Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this Act, he shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 15 of this

Act, or by any interested person affected by the provisions of this Act, including the Secretary.

FINDING AND ISSUANCE OF AN ORDER

SEC. 6. After notice and opportunity for hearing as provided in section 5, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this Act.

Notice and
hearing.
7 USC 2905.

PERMISSIVE TERMS IN ORDER

SEC. 7. Any order issued pursuant to this Act shall contain one or more of the following terms and conditions, and except as provided in section 8, no others:

7 USC 2906.

(a) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising, promotion, producer information, and consumer information with respect to the use of cattle, beef, or beef products and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such plan or project shall be directed toward increasing the general demand for cattle, beef, or beef products. No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cattle, beef, or beef products of other persons. No such advertising, consumer education, or sales promotion programs shall make use of false or misleading claims in behalf of cattle, beef, or beef products, or false or misleading statements with respect to quality, value, or use of any competing product.

(b) Providing for, establishing, and carrying on research, market development projects, and studies with respect to sale, distribution, marketing, utilization, or production of cattle, beef, or beef products, and the creation of new products thereof, to the end that the production, marketing, and utilization of cattle, beef, or beef products may be encouraged, expanded, improved, or made more acceptable, and the data collected by such activities may be disseminated, and providing for the disbursement of necessary funds for such purposes.

(c) Providing that slaughterers shall maintain and make available for the inspection such books and records as may be required by any order or regulations issued pursuant to this Act and for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order or regulations to the end that information and data shall be made available to the Beef Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of the Act, or of any order or regulation issued pursuant to this Act: *Provided, however,* That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture and of the Beef Board, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or

Slaughterers,
record
maintenance.

Confidential
information.

statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication of general statements relating to refunds made by the Beef Board during any specific period, which statements do not identify any person to whom refunds are made, or (3) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provision of the subsection shall, upon conviction, be subjected to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and if an officer or employee of the Beef Board or the Department of Agriculture, he shall be removed from office.

Penalty.

(d) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this Act and necessary to effectuate the other provisions of such order.

REQUIRED TERMS IN ORDER

7 USC 2907.

SEC. 8. Any order issued pursuant to this Act shall contain the following terms and conditions;

Beef Board.
Establishment.

(a) Providing for the establishment and appointment, by the Secretary, of a Beef Board which shall consist of not more than sixty-eight members, and alternates therefor, and defining its powers and duties which shall include only the powers (1) to administer such order in accordance with its terms and provisions, (2) to make rules and regulations to effectuate the terms and provisions of such order, (3) to receive, investigate, and report to the Secretary complaints of violations of such order, (4) to recommend to the Secretary amendments to such order. The term of an appointment to the Beef Board shall be for three years with no member serving more than six consecutive years, except that initial appointment shall be proportionately for one, two, and three years: *Provided*, That the Beef Board shall appoint from its members an executive committee, consisting of not less than seven nor more than eleven members who are broadly representative of the industry, with authority to employ a staff and conduct routine business within the policies determined by the Beef Board.

Term.

(b) Providing that the Beef Board, and alternates therefor, shall be composed of cattle producers appointed by the Secretary from nominations submitted by eligible producer organizations, associations, general farm organizations, or cooperatives, within the geographic area, and certified pursuant to section 15, or, if the Secretary determines that substantial number of producers are not members of or their interests are not represented by any such eligible organizations, associations, or cooperatives, from nominations made by such producers in the manner authorized by the Secretary so that the representation of producers on the Board shall reflect, to the extent practicable, the proportion of cattle produced in each geographic area of the United States as defined by the Secretary: *Provided*, That the Beef Board shall from time to time, with the approval of the Secretary, redesignate representation on the Beef Board so as to reflect the proportion of cattle in each geographic area: *Provided, however*, That each such designated geographic area shall be entitled to at least one representative on the Beef Board.

(c) Providing that the Beef Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising, sales promotion, consumer information, producer information, research, and development plans or proj-

ects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Providing that the Beef Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising, promotion, producer information, consumer information, research, and development projects. The Beef Board shall also submit copies of such budgets to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.

Budgets,
submittal to
Secretary and
congressional
committees.

(e) Providing, that—

(1) In each transaction where a producer sells or otherwise transfers ownership of cattle to any other producer, each such producer-seller shall pay to the producer-buyer and each producer-buyer shall collect from the producer-seller an assessment based on the value of the cattle involved in the transaction. Each producer who sells to a slaughterer or otherwise arranges for the slaughter of his cattle shall pay to the slaughterer and the slaughterer shall collect from such producer an assessment based on the value of the cattle involved. The slaughterer shall remit assessment(s) collected to the Beef Board in the manner prescribed by the order or the regulations issued thereunder, including any assessment(s) due at time of slaughter on cattle of his own production. In the event no sales transaction occurs at the point of slaughter, a fair value shall be attributed to the cattle at the time of slaughter for the purposes of determining the assessment: *Provided*, That the Beef Board may exempt from or vary the assessment on transactions of breeding animals or classes of breeding animals until time of slaughter: *Provided further*, That cattle slaughtered for his own home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessments provided in this Act: *Provided further*, That the Beef Board may collect directly from any producer any assessments that he collected under the provisions of this Act, which are not passed along in the usual manner due to the loss in value of the cattle.

(2) The rate of assessment shall be as prescribed by the order except the aggregate rate shall not exceed one-half of 1 percent and shall provide for such expenses and expenditures, including provision for a reasonable reserve, and any referendum and administrative costs incurred by the Secretary under this Act, as the Secretary finds are reasonable and likely to be incurred by the Beef Board under the order during any period specified by him.

(3) To facilitate the collection of assessments, the Beef Board may specify different procedures for slaughterers, or classes of slaughterers, to recognize differences in marketing practices or procedures utilized in the industry.

(4) The Secretary may maintain a suit against any person subject to the order for the collection of such assessment and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(f) Providing that the Beef Board shall maintain such books and records and prepare and submit such reports from time to time to the

Record
maintenance;
reports to
Secretary.

Secretary as he may prescribe, and for appropriate accounting by the Beef Board with respect to the receipt and disbursement of all funds entrusted to it.

Contracts or
agreements.

(g) Providing that the Beef Board, with the approval of the Secretary, may enter into contracts or agreements for development and carrying out the activities authorized under the order pursuant to section 7 (a) and (b) and for the payment of the cost thereof with funds collected pursuant to the order. Any such contract or agreement shall provide that such contractors shall develop and submit to the Beef Board a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting parties shall keep accurate records of all of their activities and make periodic reports to the Beef Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Providing that no funds collected by the Beef Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a) (4) of this section.

Reimbursement.

(i) Providing the Beef Board members, and alternates therefore, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Beef Board.

REQUIREMENT OF REFERENDUM AND CATTLE PRODUCER APPROVAL

7 USC 2908.

SEC. 9. The Secretary shall conduct a referendum as soon as practicable among producers who at any time, during a consecutive twelve-month representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the production of cattle for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. The Secretary shall establish a procedure whereby all known cattle producers are notified of the referendum and the time and place of balloting and qualified producers may register with the Agriculture Stabilization and Conservation Service in person or by mail to vote in such a referendum during a period ending not less than ten days prior to the date of the referendum. No order issued pursuant to this Act shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of the registered producers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum. The Secretary shall be reimbursed from assessments collected by the Beef Board for any expenses incurred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the Courts determine a recount and retabulation of results is appropriate. Prior to the holding of the referendum, sureties shall have posted a bond or other security, acceptable to the Secretary, in an amount which the Secretary shall determine to be sufficient to pay any expenses incurred for the conduct of the referendum. For the purpose of this section, the term "expenses incurred for the conduct of the referendum" shall include all costs incurred by the Government in connection therewith, except for salaries of Government employees.

Notice.

"Expenses
incurred for the
conduct of the
referendum."

SUSPENSION AND TERMINATION OF ORDERS

SEC. 10. (a) The Secretary shall, whenever he finds that any order issued under this Act, or any provision(s) thereof, obstructs or does not tend to effectuate the declared policy of this Act, terminate or suspend the operation of such order or such provision(s) thereof. 7 USC 2909.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of producers voting in the referendum approving the order, to determine whether such producers favor the termination or suspension of the order, and he shall suspend or terminate such order six months after he determines that suspension or termination of the order is approved or favored by a majority of the producers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cattle, and who produced more than 50 per centum of the volume of cattle produced by the producers voting in the referendum. Referendum.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this Act.

PROVISIONS APPLICABLE TO AMENDMENTS

SEC. 11. The provisions of this Act applicable to orders shall be applicable to amendments to orders. 7 USC 2910.

PRODUCER REFUND

SEC. 12. Notwithstanding any other provisions of this Act, any producer against whose cattle any assessment is made and collected from him under authority of this Act and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Beef Board a refund of such assessment: *Provided*, That such demand shall be made in accordance with regulations on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than sixty days after the end of the month in which the sale or slaughter of said cattle occurred and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor: *Provided, however*, That no producer shall claim or receive a refund of any portion of an assessment which he collected from other producers. 7 USC 2911.

PETITION AND REVIEW

SEC. 13. (a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law. 7 USC 2912.

(d) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date Hearing.

of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with the law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 14(a) of this Act.

ENFORCEMENT

7 USC 2913.

SEC. 14. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this Act. Any civil action authorized to be brought under this Act shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this Act shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this Act whenever he believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

Penalty.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this Act, or who willfully fails or refuses to collect or remit any assessment duly required of him thereunder, shall be liable to a penalty of not more than \$1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States: *Provided*, That subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies provided now or hereafter existing at law or in equity.

CERTIFICATION OF ORGANIZATIONS

7 USC 2914.

SEC. 15. The eligibility of any organization to represent producers of any designated geographic area of the United States to request the issuance of an order under section 5, and to participate in the making of nominations under section 8(b) shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

Report, submittal
to Secretary.

(a) geographic territory covered by the organization's active membership,

(b) nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of cattle, and the volume of cattle produced by the organization's active membership in each such State,

(c) the extent to which the cattle producer membership of such organization is represented in setting the organization's policies,

(d) evidence of stability and permanency of the organization,

(e) sources from which the organization's operating funds are derived,

(f) functions of the organization, and

(g) the organization's ability and willingness to further the aims and objectives of this Act:

Provided, however, That the primary consideration in determining the eligibility of an organization shall be whether its producer membership consists of a substantial number of producers who produce a substantial volume of cattle subject to the provisions of this Act. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final. Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 8(b).

STATE BEEF BOARDS

SEC. 16. Nothing in this Act shall be construed to preempt or interfere with the workings of any beef board, beef council, or other beef promotion entity organized and operating within and by authority of any of the several States. 7 USC 2915.

REGULATIONS

SEC. 17. The Secretary is authorized to issue regulations with the force and effect of law as may be necessary to carry out the provisions of this Act and the powers vested in him by this Act. 7 USC 2916.

INVESTIGATIONS: POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS: AID OF COURTS

SEC. 18. The Secretary may make such investigation as he deems necessary for the effective carrying out of his responsibilities under this Act or to determine whether a producer or slaughterer of cattle or any other person has engaged or is about to engage in any acts or practice which constitute or will constitute a violation of any provisions of this Act, or of any order, or rule or regulation issued under this Act. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, including a producer, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. 7 USC 2917.

Penalty.

SEPARABILITY

SEC. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby. 7 USC 2901 note.

AUTHORIZATION

7 USC 2918.

SEC. 20. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Beef Board in administering any provisions of any order issued pursuant to the terms of this Act.

EFFECTIVE DATE

7 USC 2901 note.

SEC. 21. This Act shall take effect upon enactment.

Approved May 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-452 (Comm. on Agriculture) and Nos. 94-708 and 94-1044 (Comm. of Conference).

SENATE REPORT No. 94-463 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 2, considered and passed House.

Dec. 1, 2, considered and passed Senate, amended.

Vol. 122 (1976): May 3, House agreed to conference report.

May 12, Senate agreed to conference report.

Public Law 94-295
94th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to provide for the safety and effectiveness of medical devices intended for human use, and for other purposes.

May 28, 1976
[S. 510]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Medical Device
Amendments of
1976.
21 USC 301 note.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Medical Device Amendments of 1976".

(b) Whenever in this Act (other than in section 3(a)(1)(B)) an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

21 USC 301.

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- "(a) Device classes.
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- "(c) Classification panel organization and operation.
- "(d) Classification.
- "(e) Classification changes.
- "(f) Initial classification of certain devices.
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"Sec. 514. Performance standards.

- "(a) Provisions of standards.
- "(b) Initiation of a proceeding for a performance standard.
- "(c) Invitation for standards.
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- "(e) Acceptance of offer to develop standard.
- "(f) Development of standard by Secretary after publication of subsection (c) notice.
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"Sec. 515. Premarket approval.

- "(a) General requirement.
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- "(d) Action on an application for premarket approval.
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- "(g) Review.
- "(h) Service of orders.

"Sec. 516. Banned devices.

- "(a) General rule.
- "(b) Special effective date.

"Sec. 517. Judicial review.

- "(a) Application of section.
- "(b) Additional data, views, and arguments.
- "(c) Standard for review.
- "(d) Finality of judgments.
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- “(d) Notices and findings.
- “(e) Restricted devices.
- “(f) Good manufacturing practice requirements.
- “(g) Exemption for devices for investigational use.
- “(h) Release of safety and effectiveness information.
- “(i) Proceedings of advisory panels and committees.
- “(j) Traceability requirements.
- “(k) Research and development.
- “(l) Transitional provisions for devices considered as new drugs or antibiotic drugs.
- “Sec. 521. State and local requirements respecting devices.
- “(a) General rule.
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- Sec. 3. Conforming amendments.
- “(a) Amendments to section 201.
- “(b) Amendments to section 301.
- “(c) Amendments to section 304.
- “(d) Amendments to section 501.
- “(e) Amendments to section 502.
- “(f) Amendments to section 801.
- Sec. 4. Registration of device manufacturers.
- Sec. 5. Device established and official names.
- Sec. 6. Inspections relating to devices.
- Sec. 7. Administrative restraint.
- Sec. 8. Confidential information; presumption.
- Sec. 9. Color additives.
- Sec. 10. Assistance for small manufacturers of devices.

REGULATION OF MEDICAL DEVICES

SEC. 2. Chapter V is amended by adding after section 512 the following new sections:

“CLASSIFICATION OF DEVICES INTENDED FOR HUMAN USE

“Device Classes

21 USC 360c.

“SEC. 513. (a) (1) There are established the following classes of devices intended for human use:

“ (A) CLASS I, GENERAL CONTROLS.—

21 USC 351, 352, 360.

Post, pp. 560, 562, 564, 565.

“ (i) A device for which the controls authorized by or under section 501, 502, 510, 516, 518, 519, or 520 or any combination of such sections are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

“ (ii) A device for which insufficient information exists to determine that the controls referred to in clause (i) are sufficient to provide reasonable assurance of the safety and effectiveness of the device or to establish a performance standard to provide such assurance, but because it—

“ (I) is not purported or represented to be for a use in supporting or sustaining human life or for a use which is

of substantial importance in preventing impairment of human health, and

“(II) does not present a potential unreasonable risk of illness or injury,

is to be regulated by the controls referred to in clause (i).

“(B) CLASS II, PERFORMANCE STANDARDS.—A device which cannot be classified as a class I device because the controls authorized by or under sections 501, 502, 510, 516, 518, 519, and 520 by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which it is therefore necessary to establish for the device a performance standard under section 514 to provide reasonable assurance of its safety and effectiveness.

21 USC 351, 352, 360.

Post, pp. 560, 562, 564, 565.

Post, p. 546.

“(C) CLASS III, PREMARKET APPROVAL.—A device which because—

“(i) it (I) cannot be classified as a class I device because insufficient information exists to determine that the controls authorized by or under sections 501, 502, 510, 516, 518, 519, and 520 are sufficient to provide reasonable assurance of the safety and effectiveness of the device and (II) cannot be classified as a class II device because insufficient information exists for the establishment of a performance standard to provide reasonable assurance of its safety and effectiveness, and

“(ii) (I) is purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or

“(II) presents a potential unreasonable risk of illness or injury,

is to be subject, in accordance with section 515, to premarket approval to provide reasonable assurance of its safety and effectiveness.

Post, p. 552.

If there is not sufficient information to establish a performance standard for a device to provide reasonable assurance of its safety and effectiveness, the Secretary may conduct such activities as may be necessary to develop or obtain such information.

“(2) For purposes of this section and sections 514 and 515, the safety and effectiveness of a device are to be determined—

“(A) with respect to the persons for whose use the device is represented or intended,

“(B) with respect to the conditions of use prescribed, recommended, or suggested in the labeling of the device, and

“(C) weighing any probable benefit to health from the use of the device against any probable risk of injury or illness from such use.

“(3) (A) Except as authorized by subparagraph (B), the effectiveness of a device is, for purposes of this section and sections 514 and 515, to be determined, in accordance with regulations promulgated by the Secretary, on the basis of well-controlled investigations, including clinical investigations where appropriate, by experts qualified by training and experience to evaluate the effectiveness of the device, from which investigations it can fairly and responsibly be concluded by qualified experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling of the device.

“(B) If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A))—

“(i) which is sufficient to determine the effectiveness of a device, and

“(ii) from which it can fairly and responsibly be concluded by qualified experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling of the device,

Post, pp. 546, 552.

then, for purposes of this section and sections 514 and 515, the Secretary may authorize the effectiveness of the device to be determined on the basis of such evidence.

“Classification; Classification Panels

“(b) (1) For purposes of—

“(A) determining which devices intended for human use should be subject to the requirements of general controls, performance standards, or premarket approval, and

“(B) providing notice to the manufacturers and importers of such devices to enable them to prepare for the application of such requirements to devices manufactured or imported by them, the Secretary shall classify all such devices (other than devices classified by subsection (f)) into the classes established by subsection (a). For the purpose of securing recommendations with respect to the classification of devices, the Secretary shall establish panels of experts or use panels of experts established before the date of the enactment of this section, or both. Section 14 of the Federal Advisory Committee Act shall not apply to the duration of a panel established under this paragraph.

Panels of experts.
Establishment.

5 USC app. I.

“(2) The Secretary shall appoint to each panel established under paragraph (1) persons who are qualified by training and experience to evaluate the safety and effectiveness of the devices to be referred to the panel and who, to the extent feasible, possess skill in the use of, or experience in the development, manufacture, or utilization of, such devices. The Secretary shall make appointments to each panel so that each panel shall consist of members with adequately diversified expertise in such fields as clinical and administrative medicine, engineering, biological and physical sciences, and other related professions. In addition, each panel shall include as nonvoting members a representative of consumer interests and a representative of interests of the device manufacturing industry. Scientific, trade, and consumer organizations shall be afforded an opportunity to nominate individuals for appointment to the panels. No individual who is in the regular full-time employ of the United States and engaged in the administration of this Act may be a member of any panel. The Secretary shall designate one of the members of each panel to serve as chairman thereof.

“(3) Panel members (other than officers or employees of the United States), while attending meetings or conferences of a panel or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not at rates exceeding the daily equivalent of the rate in effect for grade GS-18 of the General Schedule, for each day so engaged, including traveltime; and while so serving away from their homes or regular places of business each member may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

5 USC 5332 note.

“(4) The Secretary shall furnish each panel with adequate clerical and other necessary assistance.

“Classification Panel Organization and Operation

“(c) (1) The Secretary shall organize the panels according to the various fields of clinical medicine and fundamental sciences in which devices intended for human use are used. The Secretary shall refer a device to be classified under this section to an appropriate panel established or authorized to be used under subsection (b) for its review and for its recommendation respecting the classification of the device. The Secretary shall by regulation prescribe the procedure to be followed by the panels in making their reviews and recommendations. In making their reviews of devices, the panels, to the maximum extent practicable, shall provide an opportunity for interested persons to submit data and views on the classification of the devices.

“(2) (A) Upon completion of a panel's review of a device referred to it under paragraph (1), the panel shall, subject to subparagraphs (B) and (C), submit to the Secretary its recommendation for the classification of the device. Any such recommendation shall (i) contain (I) a summary of the reasons for the recommendation, (II) a summary of the data upon which the recommendation is based, and (III) an identification of the risks to health (if any) presented by the device with respect to which the recommendation is made, and (ii) to the extent practicable, include a recommendation for the assignment of a priority for the application of the requirements of section 514 or 515 to a device recommended to be classified in class II or class III.

Post, pp. 546,
552.

“(B) A recommendation of a panel for the classification of a device in class I shall include a recommendation as to whether the device should be exempted from the requirements of section 510, 519, or 520(f).

21 USC 360.
Post, pp. 564,
565.

“(C) In the case of a device which has been referred under paragraph (1) to a panel, and which—

“(i) is intended to be implanted in the human body or is purported or represented to be for a use in supporting or sustaining human life, and

“(ii) (I) has been introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this section, or

“(II) is within a type of device which was so introduced or delivered before such date and is substantially equivalent to another device within that type,

such panel shall recommend to the Secretary that the device be classified in class III unless the panel determines that classification of the device in such class is not necessary to provide reasonable assurance of its safety and effectiveness. If a panel does not recommend that such a device be classified in class III, it shall in its recommendation to the Secretary for the classification of the device set forth the reasons for not recommending classification of the device in such class.

“(3) The panels shall submit to the Secretary within one year of the date funds are first appropriated for the implementation of this section their recommendations respecting all devices of a type introduced or delivered for introduction into interstate commerce for commercial distribution before the date of the enactment of this section.

“Classification

Publication in
Federal Register.

“(d) (1) Upon receipt of a recommendation from a panel respecting a device, the Secretary shall publish in the Federal Register the panel’s recommendation and a proposed regulation classifying such device and shall provide interested persons an opportunity to submit comments on such recommendation and the proposed regulation. After reviewing such comments, the Secretary shall, subject to paragraph (2), by regulation classify such device.

21 USC 360.
Post, pp. 564,
565.

“(2) (A) A regulation under paragraph (1) classifying a device in class I shall prescribe which, if any, of the requirements of section 510, 519, or 520(f) shall not apply to the device. A regulation which makes a requirement of section 510, 519, or 520(f) inapplicable to a device shall be accompanied by a statement of the reasons of the Secretary for making such requirement inapplicable.

“(B) A device described in subsection (c) (2) (C) shall be classified in class III unless the Secretary determines that classification of the device in such class is not necessary to provide reasonable assurance of its safety and effectiveness. A proposed regulation under paragraph (1) classifying such a device in a class other than class III shall be accompanied by a full statement of the reasons of the Secretary (and supporting documentation and data) for not classifying such device in such class and an identification of the risks to health (if any) presented by such device.

Post, p. 552.

“(3) In the case of devices classified in class II and devices classified under this subsection in class III and described in section 515(b) (1) the Secretary may establish priorities which, in his discretion, shall be used in applying sections 514 and 515, as appropriate, to such devices.

Post, p. 546.

“Classification Changes

Regulation.

“(e) Based on new information respecting a device, the Secretary may, upon his own initiative or upon petition of an interested person, by regulation (1) change such device’s classification, and (2) revoke, because of the change in classification, any regulation or requirement in effect under section 514 or 515 with respect to such device. In the promulgation of such a regulation respecting a device’s classification, the Secretary may secure from the panel to which the device was last referred pursuant to subsection (c) a recommendation respecting the proposed change in the device’s classification and shall publish in the Federal Register any recommendation submitted to the Secretary by the panel respecting such change. A regulation under this subsection changing the classification of a device from class III to class II may provide that such classification shall not take effect until the effective date of a performance standard established under section 514 for such device.

Publication in
Federal Register.

“Initial Classification of Certain Devices

“(f) (1) Any device intended for human use which was not introduced or delivered for introduction into interstate commerce for commercial distribution before the date of the enactment of this section is classified in class III unless—

“(A) the device—

“(i) is within a type of device (I) which was introduced or delivered for introduction into interstate commerce for commercial distribution before such date and which is to be classified pursuant to subsection (b), or (II) which was not so

introduced or delivered before such date and has been classified in class I or II, and

“(ii) is substantially equivalent to another device within such type, or

“(B) the Secretary in response to a petition submitted under paragraph (2) has classified such device in class I or II.

A device classified in class III under this paragraph shall be classified in that class until the effective date of an order of the Secretary under paragraph (2) classifying the device in class I or II.

“(2) (A) The manufacturer or importer of a device classified under paragraph (1) may petition the Secretary (in such form and manner as he shall prescribe) for the issuance of an order classifying the device in class I or class II. Within thirty days of the filing of such a petition, the Secretary shall notify the petitioner of any deficiencies in the petition which prevent the Secretary from making a decision on the petition.

Petition.

Notification.

“(B) (i) Upon determining that a petition does not contain any deficiency which prevents the Secretary from making a decision on the petition, the Secretary shall refer the petition to an appropriate panel established or authorized to be used under subsection (b). A panel to which such a petition has been referred shall not later than ninety days after the referral of the petition make a recommendation to the Secretary respecting approval or denial of the petition. Any such recommendation shall contain (I) a summary of the reasons for the recommendation, (II) a summary of the data upon which the recommendation is based, and (III) an identification of the risks to health (if any) presented by the device with respect to which the petition was filed. In the case of a petition for a device which is intended to be implanted in the human body or which is purported or represented to be for a use in supporting or sustaining human life, the panel shall recommend that the petition be denied unless the panel determines that the classification in class III of the device is not necessary to provide reasonable assurance of its safety and effectiveness. If the panel recommends that such petition be approved, it shall in its recommendation to the Secretary set forth its reasons for such recommendation.

“(ii) The requirements of paragraphs (1) and (2) of subsection (c) (relating to opportunities for submission of data and views and recommendations respecting priorities and exemptions from sections 510, 519, and 520(f)) shall apply with respect to consideration by panels of petitions submitted under subparagraph (A).

21 USC 360.
Post, pp. 564,
565.

“(C) (i) Within ninety days from the date the Secretary receives the recommendation of a panel respecting a petition (but not later than 210 days after the filing of such petition) the Secretary shall by order deny or approve the petition. If the Secretary approves the petition, the Secretary shall order the classification of the device into class I or class II in accordance with the criteria prescribed by subsection (a) (1) (A) or (a) (1) (B). In the case of a petition for a device which is intended to be implanted in the human body or which is purported or represented to be for a use in supporting or sustaining human life, the Secretary shall deny the petition unless the Secretary determines that the classification in class III of the device is not necessary to provide reasonable assurance of its safety and effectiveness. An order approving such petition shall be accompanied by a full statement of the reasons of the Secretary (and supporting documentation and data) for approving the petition and an identification of the risks to health (if any) presented by the device to which such order applies.

“(ii) The requirements of paragraphs (1) and (2) (A) of subsec-

21 USC 360.
Post, pp. 564,
 565.

tion (d) (relating to publication of recommendations, opportunity for submission of comments, and exemption from sections 510, 519, and 520(f)) shall apply with respect to action by the Secretary on petitions submitted under subparagraph (A).

"Information

"(g) Within sixty days of the receipt of a written request of any person for information respecting the class in which a device has been classified or the requirements applicable to a device under this Act, the Secretary shall provide such person a written statement of the classification (if any) of such device and the requirements of this Act applicable to the device.

"Definitions

21 USC 351, 360.
Post, pp. 552,
 560.

"(h) For purposes of this section and sections 501, 510, 514, 515, 516, 519, and 520—

"(1) a reference to 'general controls' is a reference to the controls authorized by or under sections 501, 502, 510, 516, 518, 519, and 520,

"(2) a reference to 'class I', 'class II', or 'class III' is a reference to a class of medical devices described in subparagraph (A), (B), or (C) of subsection (a)(1), and

Ante, p. 540.

"(3) a reference to a 'panel under section 513' is a reference to a panel established or authorized to be used under this section.

"PERFORMANCE STANDARDS

"Provisions of Standards

Regulation.
 21 USC 360d.

"SEC. 514. (a) (1) The Secretary may by regulation, promulgated in accordance with this section, establish a performance standard for a class II device. A class III device may also be considered a class II device for purposes of establishing a standard for the device under this section if the device has been reclassified as a class II device under a regulation under section 513(e) but such regulation provides that the reclassification is not to take effect until the effective date of such a standard for the device.

"(2) A performance standard established under this section for a device—

"(A) shall include provisions to provide reasonable assurance of its safe and effective performance;

"(B) shall, where necessary to provide reasonable assurance of its safe and effective performance, include—

"(i) provisions respecting the construction, components, ingredients, and properties of the device and its compatibility with power systems and connections to such systems,

Testing.

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the device or, if it is determined that no other more practicable means are available to the Secretary to assure the conformity of the device to the standard, provisions for the testing (on a sample basis or, if necessary, on an individual basis) by the Secretary or by another person at the direction of the Secretary,

"(iii) provisions for the measurement of the performance characteristics of the device,

"(iv) provisions requiring that the results of each or of certain of the tests of the device required to be made under

clause (ii) show that the device is in conformity with the portions of the standard for which the test or tests were required, and

“(v) a provision requiring that the sale and distribution of the device be restricted but only to the extent that the sale and distribution of a device may be restricted under a regulation under section 520(e); and

“(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper installation, maintenance, operation, and use of the device.

Post, p. 565.
Labeling.

“(4) The Secretary shall provide for periodic evaluation of performance standards established under this section to determine if such standards should be changed to reflect new medical, scientific, or other technological data.

Periodic
evaluation.

“(5) In carrying out his duties under this section, the Secretary shall, to the maximum extent practicable—

“(A) use personnel, facilities, and other technical support available in other Federal agencies,

“(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities, and

“(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in his judgment can make a significant contribution.

“Initiation of a Proceeding for a Performance Standard

“(b) (1) A proceeding for the development of a performance standard for a device shall be initiated by the Secretary by the publication in the Federal Register of notice of the opportunity to submit to the Secretary a request (within fifteen days of the date of the publication of the notice) for a change in the classification of the device based on new information relevant to its classification.

Publication in
Federal Register.

“(2) If, after publication of a notice pursuant to paragraph (1) the Secretary receives a request for a change in the device's classification, he shall, within sixty days of the publication of such notice and after consultation with the appropriate panel under section 513, by order published in the Federal Register, either deny the request for change in classification or give notice of his intent to initiate such a change under section 513(e).

Ante, p. 540.

“Invitation for Standards

“(c) (1) If, after the publication of a notice under subsection (b), no action is required under paragraph (2) of such subsection or the Secretary denies a request to change the classification of the device with respect to which such notice was published, the Secretary shall publish in the Federal Register a notice inviting any person, including any Federal agency, to—

Publication in
Federal Register.

“(A) submit to the Secretary, within sixty days after the date of publication of the notice, an existing standard as a proposed performance standard for such device, or

“(B) offer, within sixty days after the date of publication of the notice, to develop such a proposed standard.

“(2) A notice published pursuant to paragraph (1) for an offer for the development of a proposed performance standard for a device—

“(A) shall specify a period within which the standard is to be

developed, which period may be extended by the Secretary for good cause shown; and

“(B) shall include—

“(i) a description or other designation of the device,

“(ii) a statement of the nature of the risk or risks associated with the use of the device and intended to be controlled by a performance standard,

“(iii) a summary of the data on which the Secretary has found a need for initiation of the proceeding to develop a performance standard, and

“(iv) identification of any existing performance standard known to the Secretary which may be relevant to the proceeding.

Regulation.

“(3) The Secretary shall by regulation require that an offeror of an offer to develop a proposed performance standard submit (and if the offeror is a business entity, require that appropriate directors, officers, and employees of, and consultants to, the business entity submit) to the Secretary such information concerning the offeror as the Secretary determines is relevant with respect to the offeror's qualifications to develop a proposed performance standard for a device, including information respecting the offeror's financial stability, expertise, and experience, and any potential conflicts of interest, including financial interest in the device for which the proposed standard is to be developed, current industrial or commercial affiliates of the offeror, current sources of financial support for research, and business entities in which the offeror has a financial interest, which may be relevant with respect to the offeror's qualifications. Such information submitted by an offeror may not be made public by the Secretary unless required by section 552 of title 5, United States Code, except that in the case of information submitted by an offeror whose offer has been accepted, the Secretary shall make such information (other than information which because of subsection (b) (4) of section 552, title 5, United States Code, is exempt from disclosure pursuant to subsection (a) of such section) public at the time the offer is accepted.

“(4) If the Secretary determines that a performance standard can be developed by any Federal agency (including an agency within the Department of Health, Education, and Welfare), the Secretary may—

“(A) if such determination is made with respect to an agency within such Department, develop such a standard in lieu of accepting any offer to develop such a standard pursuant to a notice published pursuant to this subsection, or

“(B) if such determination is made with respect to any other agency, authorize such agency to develop such a standard in lieu of accepting any such offer.

In making such a determination respecting a Federal agency, the Secretary shall take into account the personnel and expertise within such agency. The requirements described in subparagraphs (B) and (C) of subsection (e) (4) shall apply to development of a standard under this paragraph.

“Acceptance of Certain Existing Standards

“(d) (1) If the Secretary—

“(A) determines that a performance standard has been issued or adopted or is being developed by any Federal agency or by any other qualified entity or receives a performance standard submitted pursuant to a notice published pursuant to subsection (c), and

“(B) determines that such performance standard is based upon scientific data and information and has been subjected to scientific consideration,

he may, in lieu of accepting any offer to develop such a standard pursuant to a notice published pursuant to subsection (c), accept such standard as a proposed performance standard for such device or as a basis upon which a proposed performance standard may be developed.

“(2) If a standard is submitted to the Secretary pursuant to a notice published pursuant to subsection (c) and the Secretary does not accept such standard, he shall publish in the Federal Register notice of that fact together with the reasons therefor.

Publication in
Federal Register.

“Acceptance of Offer To Develop Standard

“(e) (1) Except as provided by subsections (c) (4) and (d), the Secretary shall accept one, and may accept more than one, offer to develop a proposed performance standard for a device pursuant to a notice published pursuant to subsection (c) if he determines that (A) the offeror is qualified to develop such a standard and is technically competent to undertake and complete the development of an appropriate performance standard within the period specified in the notice, and (B) the offeror will comply with procedures prescribed by regulations of the Secretary under paragraph (4) of this subsection. In determining the qualifications of an offeror to develop a standard, the Secretary shall take into account the offeror's financial stability, expertise, experience, and any potential conflicts of interests (including financial interest in the device for which such standard is to be developed) and other information submitted pursuant to subsection (c) (3), which may be relevant with respect to the offeror's qualifications.

“(2) The Secretary shall publish in the Federal Register the name and address of each person whose offer is accepted under paragraph (1) and a summary of the terms of such offer as accepted.

Publication in
Federal Register.

“(3) If such an offer is accepted, the Secretary may, upon application which may be made prior to the acceptance of the offer, agree to contribute to the offeror's cost in developing a proposed standard if the Secretary determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution. The Secretary shall by regulation prescribe the items of cost in which he will participate, except that such items may not include the cost of construction (except minor remodeling) or the acquisition of land or buildings. Payments to an offeror under this paragraph may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

Regulation.

“(4) The Secretary shall prescribe regulations governing the development of proposed standards by persons whose offers are accepted under paragraph (1). Such regulations shall, notwithstanding subsection (b) (A) of section 553 of title 5, United States Code, be promulgated in accordance with the requirements of that section for notice and opportunity for participation and shall—

Regulations.

“(A) require that performance standards proposed for promulgation be supported by such test data or other documents or materials as the Secretary may reasonably require to be obtained;

Performance
standards.

“(B) require that notice be given to interested persons of the opportunity to participate in the development of such performance standards and require the provision of such opportunity;

Notice.

“(C) require the maintenance of records to disclose (i) the course of the development of performance standards proposed for promulgation, (ii) the comments and other information sub-

Record
maintenance.

mitted by any person in connection with such development, including comments and information with respect to the need for such performance standards, and (iii) such other matters as may be relevant to the evaluation of such performance standards;

Audit, access to books.

“(D) provide that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and other records, relevant to the expenditure of any funds contributed by the Secretary under paragraph (3); and

Reports.

“(E) require the submission of such periodic reports as the Secretary may require to disclose the course of the development of performance standards proposed for promulgation.

Publication in Federal Register.

“(5) If an offer is made pursuant to a notice published pursuant to subsection (c) and the Secretary does not accept such offer, he shall publish in the Federal Register notice of that fact together with the reasons therefor.

“Development of Standard by Secretary After Publication of Subsection (c) Notice

“(f) If the Secretary has published a notice pursuant to subsection (c) and—

“(1) no person makes an offer or submits a standard pursuant to the notice;

“(2) the Secretary has not accepted an existing performance standard under subsection (d) or accepted an offer to develop a proposed performance standard pursuant to the notice; or

“(3) the Secretary has accepted an offer or offers to develop a proposed performance standard, but determines thereafter that—

“(A) the offeror under each such offer is unwilling or unable to continue the development of the performance standard which was the subject of the offer or offers, or

“(B) the performance standard which has been developed is not satisfactory,

Publication in Federal Register.

and publishes notice of that determination in the Federal Register together with his reasons therefor;

then the Secretary may proceed to develop a proposed performance standard. The authority provided by this subsection is in addition to the authority provided by subsection (c)(4). The requirements described in subparagraphs (B) and (C) of subsection (e)(4) shall apply to the development of a standard by the Secretary under this subsection.

“Establishment of a Standard

“(g)(1)(A) After publication pursuant to subsection (c) of a notice respecting a performance standard for a device, the Secretary shall either—

Publication in Federal Register.

“(i) publish, in the Federal Register in a notice of proposed rulemaking, a proposed performance standard for the device (I) developed by an offeror under such notice and accepted by the Secretary, (II) developed under subsection (c)(4), (III) accepted by the Secretary under subsection (d), or (IV) developed by him under subsection (f), or

Publication in Federal Register.

“(ii) issue a notice in the Federal Register that the proceeding is terminated together with the reasons for such termination.

"(B) If the Secretary issues under subparagraph (A) (ii) a notice of termination of a proceeding to establish a performance standard for a device, he shall (unless such notice is issued because the device is a banned device under section 516) initiate a proceeding under section 513(e) to reclassify the device subject to the proceeding terminated by such notice.

Post, p. 560.
Ante, p. 540.

"(2) A notice of proposed rulemaking for the establishment of a performance standard for a device published under paragraph (1) (A) (i) shall set forth proposed findings with respect to the degree of the risk of illness or injury designed to be eliminated or reduced by the proposed standard and the benefit to the public from the device.

Notice of
proposed
rulemaking.

"(3) (A) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee under paragraph (5), the Secretary shall (i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (2), or (ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination. If a notice of termination is published, the Secretary shall (unless such notice is issued because the device is a banned device under section 516) initiate a proceeding under section 513(e) to reclassify the device subject to the proceeding terminated by such notice.

Publication in
Federal Register.

Notice.

"(B) A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless (i) the Secretary determines that an earlier effective date is necessary for the protection of the public health and safety, or (ii) such standard has been established for a device which, effective upon the effective date of the standard, has been reclassified from class III to class II. Such date or dates shall be established so as to minimize, consistent with the public health and safety, economic loss to, and disruption or dislocation of, domestic and international trade.

"(4) (A) The Secretary, upon his own initiative or upon petition of an interested person may by regulation, promulgated in accordance with the requirements of paragraphs (2) and (3) (B) of this subsection, amend or revoke a performance standard.

Regulation.

"(B) The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if he determines, after affording all interested persons an opportunity for an informal hearing, that making it so effective is in the public interest. A proposed amendment of a performance standard made so effective under the preceding sentence may not prohibit, during the period in which it is so effective, the introduction or delivery for introduction into interstate commerce of a device which conforms to such standard without the change or changes provided by such proposed amendment.

"(5) (A) The Secretary—

"(i) may on his own initiative refer a proposed regulation for the establishment, amendment, or revocation of a performance standard, or

"(ii) shall, upon the request of an interested person unless the Secretary finds the request to be without good cause or the request is made after the expiration of the period for submission of comments on such proposed regulation refer such proposed regulation, to an advisory committee of experts, established pursuant to subpara-

Report and
recommendation.

Information,
availability to
public.

Advisory
committees.
Ante, p. 540.

5 USC 5332 note.

Procedures,
regulation.

graph (B), for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this subparagraph to an advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within sixty days of the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

“(B) The Secretary shall establish advisory committees (which may not be panels under section 513) to receive referrals under subparagraph (A). The Secretary shall appoint as members of any such advisory committee persons qualified in the subject matter to be referred to the committee and of appropriately diversified professional background, except that the Secretary may not appoint to such a committee any individual who is in the regular full-time employ of the United States and engaged in the administration of this Act. Each such committee shall include as nonvoting members a representative of consumer interests and a representative of interests of the device manufacturing industry. Members of an advisory committee who are not officers or employees of the United States, while attending conferences or meetings of their committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, which rates may not exceed the daily equivalent of the rate in effect for grade GS-18 of the General Schedule, for each day (including traveltime) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently. The Secretary shall designate one of the members of each advisory committee to serve as chairman thereof. The Secretary shall furnish each advisory committee with clerical and other assistance, and shall by regulation prescribe the procedures to be followed by each such committee in acting on referrals made under subparagraph (A).

“PREMARKET APPROVAL

“General Requirement

21 USC 360e.

“SEC. 515. (a) A class III device—

“(1) which is subject to a regulation promulgated under subsection (b); or

Post, p. 565.

“(2) which is a class III device because of section 513(f), is required to have, unless exempt under section 520(g), an approval under this section of an application for premarket approval.

“Regulation To Require Premarket Approval

“(b) (1) In the case of a class III device which—

“(A) was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this section; or

“(B) is (i) of a type so introduced or delivered, and (ii) is substantially equivalent to another device within that type, the Secretary shall by regulation, promulgated in accordance with this subsection, require that such device have an approval under this section of an application for premarket approval.

“(2) (A) A proceeding for the promulgation of a regulation under paragraph (1) respecting a device shall be initiated by the publication in the Federal Register of a notice of proposed rulemaking. Such notice shall contain—

Publication in
Federal Register.

“(i) the proposed regulation;

“(ii) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved application for premarket approval and the benefit to the public from use of the device;

“(iii) opportunity for the submission of comments on the proposed regulation and the proposed findings; and

“(iv) opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

“(B) If, within fifteen days after publication of a notice under subparagraph (A), the Secretary receives a request for a change in the classification of a device, he shall, within sixty days of the publication of such notice and after consultation with the appropriate panel under section 513, by order published in the Federal Register, either deny the request for change in classification or give notice of his intent to initiate such a change under section 513(e).

Publication in
Federal Register.

Ante, p. 540.

“(3) After the expiration of the period for comment on a proposed regulation and proposed findings published under paragraph (2) and after consideration of comments submitted on such proposed regulation and findings, the Secretary shall (A) promulgate such regulation and publish in the Federal Register findings on the matters referred to in paragraph (2) (A) (ii), or (B) publish a notice terminating the proceeding for the promulgation of the regulation together with the reasons for such termination. If a notice of termination is published, the Secretary shall (unless such notice is issued because the device is a banned device under section 516) initiate a proceeding under section 513(e) to reclassify the device subject to the proceeding terminated by such notice.

Publication in
Federal Register.

Post, p. 560.

“(4) The Secretary, upon his own initiative or upon petition of an interested person, may by regulation amend or revoke any regulation promulgated under this subsection. A regulation to amend or revoke a regulation under this subsection shall be promulgated in accordance with the requirements prescribed by this subsection for the promulgation of the regulation to be amended or revoked.

“Application for Premarket Approval

“(c) (1) Any person may file with the Secretary an application for premarket approval for a class III device. Such an application for a device shall contain—

“(A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show whether or not such device is safe and effective;

“(B) a full statement of the components, ingredients, and properties and of the principle or principles of operation, of such device;

“(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such device;

Ante, p. 546.

“(D) an identifying reference to any performance standard under section 514 which would be applicable to any aspect of such device if it were a class II device, and either adequate information to show that such aspect of such device fully meets such performance standard or adequate information to justify any deviation from such standard;

“(E) such samples of such device and of components thereof as the Secretary may reasonably require, except that where the submission of such samples is impracticable or unduly burdensome, the requirement of this subparagraph may be met by the submission of complete information concerning the location of one or more such devices readily available for examination and testing;

“(F) specimens of the labeling proposed to be used for such device; and

Ante, p. 540.

“(G) such other information relevant to the subject matter of the application as the Secretary, with the concurrence of the appropriate panel under section 513, may require.

“(2) Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary shall refer such application to the appropriate panel under section 513 for study and for submission (within such period as he may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

“Action on an Application for Premarket Approval

Post, p. 565.

“(d) (1) (A) As promptly as possible, but in no event later than one hundred and eighty days after the receipt of an application under subsection (c) (except as provided in section 520(l)(3)(D)(ii) or unless, in accordance with subparagraph (B) (i), an additional period as agreed upon by the Secretary and the applicant), the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

“(i) issue an order approving the application if he finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

“(ii) deny approval of the application if he finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

“(B) (i) The Secretary may not enter into an agreement to extend the period in which to take action with respect to an application submitted for a device subject to a regulation promulgated under subsection (b) unless he finds that the continued availability of the device is necessary for the public health.

“(ii) An order approving an application for a device may require as a condition to such approval that the sale and distribution of the device be restricted but only to the extent that the sale and distribution of a device may be restricted under a regulation under section 520(e).

Denial.

“(2) The Secretary shall deny approval of an application for a device if, upon the basis of the information submitted to the Secretary as part of the application and any other information before him with respect to such device, the Secretary finds that—

“(A) there is a lack of a showing of reasonable assurance that such device is safe under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof;

“(B) there is a lack of a showing of reasonable assurance that the device is effective under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof;

“(C) the methods used in, or the facilities or controls used for, the manufacture, processing, packing, or installation of such device do not conform to the requirements of section 520(f); *Post*, p. 565.

“(D) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

“(E) such device is not shown to conform in all respects to a performance standard in effect under section 514 compliance with which is a condition to approval of the application and there is a lack of adequate information to justify the deviation from such standard. *Ante*, p. 546.

Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary). *Statement*.

“(3) An applicant whose application has been denied approval may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such denial, obtain review thereof in accordance with either paragraph (1) or (2) of subsection (g), and any interested person may obtain review, in accordance with paragraph (1) or (2) of subsection (g), of an order of the Secretary approving an application. *Review*.

“Withdrawal of Approval of Application

“(e) (1) The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from a panel or panels under section 513, and after due notice and opportunity for informal hearing to the holder of an approved application for a device, issue an order withdrawing approval of the application if the Secretary finds— *Notice and hearing. Ante*, p. 540.

“(A) that such device is unsafe or ineffective under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

“(B) on the basis of new information before him with respect to such device, evaluated together with the evidence available to him when the application was approved, that there is a lack of a showing of reasonable assurance that the device is safe or effective under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

“(C) that the application contained or was accompanied by an untrue statement of a material fact;

“(D) that the applicant (i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 519(a), (ii) has refused to permit access to, or copying or verification of, such records as required by section 704, or (iii) has not complied with the requirements of section 510; *Record maintenance. Post*, p. 564.

“(E) on the basis of new information before him with respect to such device, evaluated together with the evidence before him when the application was approved, that the methods used in, or *21 USC 374. 21 USC 360.*

Post, p. 565.

the facilities and controls used for, the manufacture, processing, packing, or installation of such device do not conform with the requirements of section 520(f) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

“(F) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the labeling of such device, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

Ante, p. 546.

“(G) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that such device is not shown to conform in all respects to a performance standard which is in effect under section 514 compliance with which was a condition to approval of the application and that there is a lack of adequate information to justify the deviation from such standard.

“(2) The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such withdrawal, obtain review thereof in accordance with either paragraph (1) or (2) of subsection (g).

“Product Development Protocol

“(f) (1) In the case of a class III device which is required to have an approval of an application submitted under subsection (c), such device shall be considered as having such an approval if a notice of completion of testing conducted in accordance with a product development protocol approved under paragraph (4) has been declared completed under paragraph (6).

Ante, p. 540.

“(2) Any person may submit to the Secretary a proposed product development protocol with respect to a device. Such a protocol shall be accompanied by data supporting it. If, within thirty days of the receipt of such a protocol, the Secretary determines that it appears to be appropriate to apply the requirements of this subsection to the device with respect to which the protocol is submitted, he shall refer the proposed protocol to the appropriate panel under section 513 for its recommendation respecting approval of the protocol.

“(3) A proposed product development protocol for a device may be approved only if—

“(A) the Secretary determines that it is appropriate to apply the requirements of this subsection to the device in lieu of the requirement of approval of an application submitted under subsection (c); and

“(B) the Secretary determines that the proposed protocol provides—

“(i) a description of the device and the changes which may be made in the device,

“(ii) a description of the preclinical trials (if any) of the device and a specification of (I) the results from such trials to be required before the commencement of clinical trials of the device, and (II) any permissible variations in preclinical trials and the results therefrom,

“(iii) a description of the clinical trials (if any) of the device and a specification of (I) the results from such trials to be required before the filing of a notice of completion of the

requirements of the protocol, and (II) any permissible variations in such trials and the results therefrom,

“(iv) a description of the methods to be used in, and the facilities and controls to be used for, the manufacture, processing, and, when relevant, packing and installation of the device,

“(v) an identifying reference to any performance standard under section 514 to be applicable to any aspect of such device,

Ante, p. 546.

“(vi) if appropriate, specimens of the labeling proposed to be used for such device,

“(vii) such other information relevant to the subject matter of the protocol as the Secretary, with the concurrence of the appropriate panel or panels under section 513, may require, and

Ante, p. 540.

“(viii) a requirement for submission of progress reports and, when completed, records of the trials conducted under the protocol which records are adequate to show compliance with the protocol.

Progress report.

“(4) The Secretary shall approve or disapprove a proposed product development protocol submitted under paragraph (2) within one hundred and twenty days of its receipt unless an additional period is agreed upon by the Secretary and the person who submitted the protocol. Approval of a protocol or denial of approval of a protocol is final agency action subject to judicial review under chapter 7 of title 5, United States Code.

5 USC 701 *et seq.*
Notice of completion.

“(5) At any time after a product development protocol for a device has been approved pursuant to paragraph (4), the person for whom the protocol was approved may submit a notice of completion—

“(A) stating (i) his determination that the requirements of the protocol have been fulfilled and that, to the best of his knowledge, there is no reason bearing on safety or effectiveness why the notice of completion should not become effective, and (ii) the data and other information upon which such determination was made, and

“(B) setting forth the results of the trials required by the protocol and all the information required by subsection (c) (1).

“(6) (A) The Secretary may, after providing the person who has an approved protocol an opportunity for an informal hearing and at any time prior to receipt of notice of completion of such protocol, issue a final order to revoke such protocol if he finds that—

Final order to revoke protocol.

“(i) such person has failed substantially to comply with the requirements of the protocol,

“(ii) the results of the trials obtained under the protocol differ so substantially from the results required by the protocol that further trials cannot be justified, or

“(iii) the results of the trials conducted under the protocol or available new information do not demonstrate that the device tested under the protocol does not present an unreasonable risk to health and safety.

“(B) After the receipt of a notice of completion of an approved protocol the Secretary shall, within the ninety-day period beginning on the date such notice is received, by order either declare the protocol completed or declare it not completed. An order declaring a protocol not completed may take effect only after the Secretary has provided the person who has the protocol opportunity for an informal hearing on the order. Such an order may be issued only if the Secretary finds—

“(i) such person has failed substantially to comply with the requirements of the protocol,

“(ii) the results of the trials obtained under the protocol differ substantially from the results required by the protocol, or

“(iii) there is a lack of a showing of reasonable assurance of the safety and effectiveness of the device under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof.

“(C) A final order issued under subparagraph (A) or (B) shall be in writing and shall contain the reasons to support the conclusions thereof.

“(7) At any time after a notice of completion has become effective, the Secretary may issue an order (after due notice and opportunity for an informal hearing to the person for whom the notice is effective) revoking the approval of a device provided by a notice of completion which has become effective as provided in subparagraph (B) if he finds that any of the grounds listed in subparagraphs (A) through (G) of subsection (e) (1) of this section apply. Each reference in such subparagraphs to an application shall be considered for purposes of this paragraph as a reference to a protocol and the notice of completion of such protocol, and each reference to the time when an application was approved shall be considered for purposes of this paragraph as a reference to the time when a notice of completion took effect.

“(8) A person who has an approved protocol subject to an order issued under paragraph (6) (A) revoking such protocol, a person who has an approved protocol with respect to which an order under paragraph (6) (B) was issued declaring that the protocol had not been completed, or a person subject to an order issued under paragraph (7) revoking the approval of a device may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such order, obtain review thereof in accordance with either paragraph (1) or (2) of subsection (g).

“Review

Hearing.

“(g) (1) Upon petition for review of—

“(A) an order under subsection (d) approving or denying approval of an application or an order under subsection (e) withdrawing approval of an application, or

“(B) an order under subsection (f) (6) (A) revoking an approved protocol, under subsection (f) (6) (B) declaring that an approved protocol has not been completed, or under subsection (f) (7) revoking the approval of a device,

the Secretary shall, unless he finds the petition to be without good cause or unless a petition for review of such order has been submitted under paragraph (2), hold a hearing, in accordance with section 554 of title 5 of the United States Code, on the order. The panel or panels which considered the application, protocol, or device subject to such order shall designate a member to appear and testify at any such hearing upon request of the Secretary, the petitioner, or the officer conducting the hearing, but this requirement does not preclude any other member of the panel or panels from appearing and testifying at any such hearing. Upon completion of such hearing and after considering the record established in such hearing, the Secretary shall issue an order either affirming the order subject to the hearing or reversing such order and, as appropriate, approving or denying approval of the application, reinstating the application's approval, approving the protocol, or placing in effect a notice of completion.

Order.

“(2) (A) Upon petition for review of—

“(i) an order under subsection (d) approving or denying approval of an application or an order under subsection (e) withdrawing approval of an application, or

“(ii) an order under subsection (f) (6) (A) revoking an approved protocol, under subsection (f) (6) (B) declaring that an approved protocol has not been completed, or under subsection (f) (7) revoking the approval of a device,

the Secretary shall refer the application or protocol subject to the order and the basis for the order to an advisory committee of experts established pursuant to subparagraph (B) for a report and recommendation with respect to the order. The advisory committee shall, after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation, together with all underlying data and information and a statement of the reasons or basis for the recommendation. A copy of such report shall be promptly supplied by the Secretary to any person who petitioned for such referral to the advisory committee.

Report and
recommendation.

“(B) The Secretary shall establish advisory committees (which may not be panels under section 513) to receive referrals under subparagraph (A). The Secretary shall appoint as members of any such advisory committee persons qualified in the subject matter to be referred to the committee and of appropriately diversified professional backgrounds, except that the Secretary may not appoint to such a committee any individual who is in the regular full-time employ of the United States and engaged in the administration of this Act. Members of an advisory committee (other than officers or employees of the United States), while attending conferences or meetings of their committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, which rates may not exceed the daily equivalent for grade GS-18 of the General Schedule for each day (including traveltime) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently. The Secretary shall designate the chairman of an advisory committee from its members. The Secretary shall furnish each advisory committee with clerical and other assistance, and shall by regulation prescribe the procedures to be followed by each such committee in acting on referrals made under subparagraph (A).

Advisory
committees.
Establishment.

Compensation.

5 USC 5332 note.

Chairman.

“(C) The Secretary shall make public the report and recommendation made by an advisory committee with respect to an application and shall by order, stating the reasons therefor, either affirm the order referred to the advisory committee or reverse such order and, if appropriate, approve or deny approval of the application, reinstate the application's approval, approve the protocol, or place in effect a notice of completion.

Information,
availability to
public.

“Service of Orders

“(h) Orders of the Secretary under this section shall be served (1) in person by any officer or employee of the department designated by the Secretary, or (2) by mailing the order by registered mail or certified mail addressed to the applicant at his last known address in the records of the Secretary.

"BANNED DEVICES

"General Rule

21 USC 360f.

Ante, p. 540.

"SEC. 516. (a) Whenever the Secretary finds, on the basis of all available data and information and after consultation with the appropriate panel or panels under section 513, that—

"(1) a device intended for human use presents substantial deception or an unreasonable and substantial risk of illness or injury; and

"(2) in the case of substantial deception or an unreasonable and substantial risk of illness or injury which the Secretary determined could be corrected or eliminated by labeling or change in labeling and with respect to which the Secretary provided written notice to the manufacturer specifying the deception or risk of illness or injury, the labeling or change in labeling to correct the deception or eliminate or reduce such risk, and the period within which such labeling or change in labeling was to be done, such labeling or change in labeling was not done within such period;

Hearing.

he may initiate a proceeding to promulgate a regulation to make such device a banned device. The Secretary shall afford all interested persons opportunity for an informal hearing on a regulation proposed under this subsection.

"Special Effective Date

Publication in
Federal Register.

"(b) The Secretary may declare a proposed regulation under subsection (a) to be effective upon its publication in the Federal Register and until the effective date of any final action taken respecting such regulation if (1) he determines, on the basis of all available data and information, that the deception or risk of illness or injury associated with the use of the device which is subject to the regulation presents an unreasonable, direct, and substantial danger to the health of individuals, and (2) before the date of the publication of such regulation, the Secretary notifies the manufacturer of such device that such regulation is to be made so effective. If the Secretary makes a proposed regulation so effective, he shall, as expeditiously as possible, give interested persons prompt notice of his action under this subsection, provide reasonable opportunity for an informal hearing on the proposed regulation, and either affirm, modify, or revoke such proposed regulation.

Notice and
hearing.

"JUDICIAL REVIEW

"Application of Section

21 USC 360g.

"SEC. 517. (a) Not later than thirty days after—

"(1) the promulgation of a regulation under section 513 classifying a device in class I or changing the classification of a device to class I or an order under subsection (f) (2) of such section reclassifying a device or denying a petition for reclassification of a device,

Ante, p. 546.

"(2) the promulgation of a regulation under section 514 establishing, amending, or revoking a performance standard for a device,

Ante, p. 552.

"(3) the issuance of an order under section 514(b) (2) or 515 (b) (2) (B) denying a request for reclassification of a device,

"(4) the promulgation of a regulation under paragraph (3) of section 515(b) requiring a device to have an approval of a pre-

market application, a regulation under paragraph (4) of that section amending or revoking a regulation under paragraph (3), or an order pursuant to section 515(g) (1) or 515(g) (2) (C),

Ante, p. 552.

“(5) the promulgation of a regulation under section 516 (other than a proposed regulation made effective under subsection (b) of such section upon the regulation’s publication) making a device a banned device,

Ante, p. 560.

“(6) the issuance of an order under section 520(f) (2), or

Post, p. 565.

“(7) an order under section 520(g) (4) disapproving an application for an exemption of a device for investigational use or an order under section 520(g) (5) withdrawing such an exemption for a device,

any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business for judicial review of such regulation or order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based his regulation or order as provided in section 2112 of title 28, United States Code. For purposes of this section, the term ‘record’ means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

“Record.”

“Additional Data, Views, and Arguments

“(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner’s failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Secretary may modify his findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with the return of such additional data, views, or arguments.

Modifications.

“Standard for Review

“(c) Upon the filing of the petition under subsection (a) of this section for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation described in paragraph (2) or (5) of subsection (a) and an order issued after the review provided by section 515(g) shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

5 USC 701 *et seq.*

"Finality of Judgments**Review.**

"(d) The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

"Other Remedies

"(e) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

"Statement of Reasons

"(f) To facilitate judicial review under this section or under any other provision of law of a regulation or order issued under section 513, 514, 515, 516, 518, 519, 520, or 521 each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

"NOTIFICATION AND OTHER REMEDIES**"Notification****21 USC 360h.**

"SEC. 518. (a) If the Secretary determines that—

"(1) a device intended for human use which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health, and

"(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this Act (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all health professionals who prescribe or use the device and to any other person (including manufacturers, importers, distributors, retailers, and device users) who should properly receive such notification in order to eliminate such risk. An order under this subsection shall require that the individuals subject to the risk with respect to which the order is to be issued be included in the persons to be notified of the risk unless the Secretary determines that notice to such individuals would present a greater danger to the health of such individuals than no such notification. If the Secretary makes such a determination with respect to such individuals, the order shall require that the health professionals who prescribe or use the device provide for the notification of the individuals whom the health professionals treated with the device of the risk presented by the device and of any action which may be taken by or on behalf of such individuals to eliminate or reduce such risk. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

"Repair, Replacement, or Refund**Hearing.**

"(b) (1) (A) If, after affording opportunity for an informal hearing, the Secretary determines that—

"(i) a device intended for human use which is introduced or delivered for introduction into interstate commerce for commer-

cial distribution presents an unreasonable risk of substantial harm to the public health,

“(ii) there are reasonable grounds to believe that the device was not properly designed and manufactured with reference to the state of the art as it existed at the time of its design and manufacture,

“(iii) there are reasonable grounds to believe that the unreasonable risk was not caused by failure of a person other than a manufacturer, importer, distributor, or retailer of the device to exercise due care in the installation, maintenance, repair, or use of the device, and

“(iv) the notification authorized by subsection (a) would not by itself be sufficient to eliminate the unreasonable risk and action described in paragraph (2) of this subsection is necessary to eliminate such risk,

the Secretary may order the manufacturer, importer, or any distributor of such device, or any combination of such persons, to submit to him within a reasonable time a plan for taking one or more of the actions described in paragraph (2). An order issued under the preceding sentence which is directed to more than one person shall specify which person may decide which action shall be taken under such plan and the person specified shall be the person who the Secretary determines bears the principal, ultimate financial responsibility for action taken under the plan unless the Secretary cannot determine who bears such responsibility or the Secretary determines that the protection of the public health requires that such decision be made by a person (including a device user or health professional) other than the person he determines bears such responsibility.

“(B) The Secretary shall approve a plan submitted pursuant to an order issued under subparagraph (A) unless he determines (after affording opportunity for an informal hearing) that the action or actions to be taken under the plan or the manner in which such action or actions are to be taken under the plan will not assure that the unreasonable risk with respect to which such order was issued will be eliminated. If the Secretary disapproves a plan, he shall order a revised plan to be submitted to him within a reasonable time. If the Secretary determines (after affording opportunity for an informal hearing) that the revised plan is unsatisfactory or if no revised plan or no initial plan has been submitted to the Secretary within the prescribed time, the Secretary shall (i) prescribe a plan to be carried out by the person or persons to whom the order issued under subparagraph (A) was directed, or (ii) after affording an opportunity for an informal hearing, by order prescribe a plan to be carried out by a person who is a manufacturer, importer, distributor, or retailer of the device with respect to which the order was issued but to whom the order under subparagraph (A) was not directed. Hearing.

“(2) The actions which may be taken under a plan submitted under an order issued under paragraph (1) are as follows: Hearing.

“(A) To repair the device so that it does not present the unreasonable risk of substantial harm with respect to which the order under paragraph (1) was issued.

“(B) To replace the device with a like or equivalent device which is in conformity with all applicable requirements of this Act.

“(C) To refund the purchase price of the device (less a reasonable allowance for use if such device has been in the possession of the device user for one year or more—

“(i) at the time of notification ordered under subsection (a), or

“(ii) at the time the device user receives actual notice of the unreasonable risk with respect to which the order was issued under paragraph (1),

whichever first occurs).

“(3) No charge shall be made to any person (other than a manufacturer, importer, distributor or retailer) for availing himself of any remedy, described in paragraph (2) and provided under an order issued under paragraph (1), and the person subject to the order shall reimburse each person (other than a manufacturer, importer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses actually incurred by such person in availing himself of such remedy.

“Reimbursement

“(c) An order issued under subsection (b) with respect to a device may require any person who is a manufacturer, importer, distributor, or retailer of the device to reimburse any other person who is a manufacturer, importer, distributor, or retailer of such device for such other person's expenses actually incurred in connection with carrying out the order if the Secretary determines such reimbursement is required for the protection of the public health. Any such requirement shall not affect any rights or obligations under any contract to which the person receiving reimbursement or the person making such reimbursement is a party.

“Effect on Other Liability

“(d) Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided him under such order shall be taken into account.

“RECORDS AND REPORTS ON DEVICES

“General Rule

21 USC 360i.

“SEC. 519. (a) Every person who is a manufacturer, importer, or distributor of a device intended for human use shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such device is not adulterated or misbranded and to otherwise assure its safety and effectiveness. Regulations prescribed under the preceding sentence—

“(1) shall not impose requirements unduly burdensome to a device manufacturer, importer, or distributor taking into account his cost of complying with such requirements and the need for the protection of the public health and the implementation of this Act;

“(2) which prescribe the procedure for making requests for reports or information shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

“(3) which require submission of a report or information to the Secretary shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information;

"(4) may not require that the identity of any patient be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine the safety or effectiveness of a device, or to verify a record, report, or information submitted under this Act; and

"(5) may not require a manufacturer, importer, or distributor of a class I device to—

"(A) maintain for such a device records respecting information not in the possession of the manufacturer, importer, or distributor, or

"(B) to submit for such a device to the Secretary any report or information—

"(i) not in the possession of the manufacturer, importer, or distributor, or

"(ii) on a periodic basis, unless such report or information is necessary to determine if the device should be reclassified or if the device is adulterated or misbranded.

In prescribing such regulations, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (4) of this subsection continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"Persons Exempt

"(b) Subsection (a) shall not apply to—

"(1) any practitioner who is licensed by law to prescribe or administer devices intended for use in humans and who manufactures or imports devices solely for use in the course of his professional practice;

"(2) any person who manufactures or imports devices intended for use in humans solely for such person's use in research or teaching and not for sale (including any person who uses a device under an exemption granted under section 520(g)) ; and

"(3) any other class of persons as the Secretary may by regulation exempt from subsection (a) upon a finding that compliance with the requirements of such subsection by such class with respect to a device is not necessary to (A) assure that a device is not adulterated or misbranded or (B) otherwise to assure its safety and effectiveness.

Infra.

"GENERAL PROVISIONS RESPECTING CONTROL OF DEVICES INTENDED FOR HUMAN USE

"General Rule

"SEC. 520. (a) Any requirement authorized by or under section 501, 502, 510, or 519 applicable to a device intended for human use shall apply to such device until the applicability of the requirement to the device has been changed by action taken under section 513, 514, or 515 or under subsection (g) of this section, and any requirement established by or under section 501, 502, 510, or 519 which is inconsistent with a requirement imposed on such device under section 514 or 515 or under subsection (g) of this section shall not apply to such device.

21 USC 360j;
21 USC 351, 352,
360.

Ante, p. 564.
Ante, pp. 540,
546, 552.

“Custom Devices

“(b) Sections 514 and 515 do not apply to any device which, in order to comply with the order of an individual physician or dentist (or any other specially qualified person designated under regulations promulgated by the Secretary after an opportunity for an oral hearing) necessarily deviates from an otherwise applicable performance standard or requirement prescribed by or under section 515 if (1) the device is not generally available in finished form for purchase or for dispensing upon prescription and is not offered through labeling or advertising by the manufacturer, importer, or distributor thereof for commercial distribution, and (2) such device—

“(A) (i) is intended for use by an individual patient named in such order of such physician or dentist (or other specially qualified person so designated) and is to be made in a specific form for such patient, or

“(ii) is intended to meet the special needs of such physician or dentist (or other specially qualified person so designated) in the course of the professional practice of such physician or dentist (or other specially qualified person so designated), and

“(B) is not generally available to or generally used by other physicians or dentists (or other specially qualified persons so designated).

“Trade Secrets

“(c) Any information reported to or otherwise obtained by the Secretary or his representative under section 513, 514, 515, 516, 518, 519, or 704 or under subsection (f) or (g) of this section which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b) (4) of such section shall be considered confidential and shall not be disclosed and may not be used by the Secretary as the basis for the reclassification of a device under section 513 from class III to class II or as the basis for the establishment or amendment of a performance standard under section 514 for a device reclassified from class III to class II, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act (other than section 513 or 514 thereof).

“Notices and Findings

“(d) Each notice of proposed rulemaking under section 513, 514, 515, 516, 518, or 519, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

“(1) the manner in which interested persons may examine data and other information on which the notice or findings is based, and

“(2) the period within which interested persons may present their comments on the notice or findings (including the need therefor) orally or in writing, which period shall be at least sixty days but may not exceed ninety days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefor.

Ante, pp. 540,
546, 552, 560,
562, 564.
21 USC 374.

Publication in
Federal Register.

“Restricted Devices

“(e) (1) The Secretary may by regulation require that a device be restricted to sale, distribution, or use— **Regulation.**

“(A) only upon the written or oral authorization of a practitioner licensed by law to administer or use such device, or

“(B) upon such other conditions as the Secretary may prescribe in such regulation,

if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that there cannot otherwise be reasonable assurance of its safety and effectiveness. No condition prescribed under subparagraph (B) may restrict the use of a device to persons with specific training or experience in its use or to persons for use in certain facilities unless the Secretary determines that such a restriction is required for the safe and effective use of the device. No such condition may exclude a person from using a device solely because the person does not have the training or experience to make him eligible for certification by a certifying board recognized by the American Board of Medical Specialties or has not been certified by such a Board. A device subject to a regulation under this subsection is a restricted device.

“(2) The label of a restricted device shall bear such appropriate statements of the restrictions required by a regulation under paragraph (1) as the Secretary may in such regulation prescribe. **Labeling.**

“Good Manufacturing Practice Requirements

“(f) (1) (A) The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of a device conform to current good manufacturing practice, as prescribed in such regulations, to assure that the device will be safe and effective and otherwise in compliance with this Act. **Regulations.**

“(B) Before the Secretary may promulgate any regulation under subparagraph (A) he shall—

“(i) afford the advisory committee established under paragraph (3) an opportunity to submit recommendations to him with respect to the regulation proposed to be promulgated, and **Recommendations.**

“(ii) afford opportunity for an oral hearing. **Hearing.**

The Secretary shall provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A).

“(2) (A) Any person subject to any requirement prescribed by regulations under paragraph (1) may petition the Secretary for an exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as he shall prescribe and shall— **Petition for exemption or variance.**

“(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the device will be safe and effective and otherwise in compliance with this Act,

“(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, storage, and installation of the device in lieu of the methods, facilities, and controls prescribed by the requirement, and

Recommendations.

“(iii) contain such other information as the Secretary shall prescribe.

“(B) The Secretary may refer to the advisory committee established under paragraph (3) any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within sixty days of the date of the petition’s referral. Within sixty days after—

“(i) the date the petition was submitted to the Secretary under subparagraph (A), or

“(ii) if the petition was referred to an advisory committee, the expiration of the sixty-day period beginning on the date the petition was referred to the advisory committee, whichever occurs later, the Secretary shall by order either deny the petition or approve it.

“(C) The Secretary may approve—

“(i) a petition for an exemption for a device from a requirement if he determines that compliance with such requirement is not required to assure that the device will be safe and effective and otherwise in compliance with this Act, and

“(ii) a petition for a variance for a device from a requirement if he determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, storage, and installation of the device in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the device will be safe and effective and otherwise in compliance with this Act.

An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of the device to be granted the variance under the petition as may be necessary to assure that the device will be safe and effective and otherwise in compliance with this Act.

Hearing.

“(D) After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

Advisory committee. Establishment.

“(3) The Secretary shall establish an advisory committee for the purpose of advising and making recommendations to him with respect to regulations proposed to be promulgated under paragraph (1) (A) and the approval or disapproval of petitions submitted under paragraph (2). The advisory committee shall be composed of nine members as follows:

Membership.

“(A) Three of the members shall be appointed from persons who are officers or employees of any State or local government or of the Federal Government.

“(B) Two of the members shall be appointed from persons who are representative of interests of the device manufacturing industry; two of the members shall be appointed from persons who are representative of the interests of physicians and other health professionals; and two of the members shall be representative of the interests of the general public.

Members of the advisory committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which rates may not exceed the daily equivalent of the rate in effect for grade GS-18 of the General Schedule, for each day (including traveltime) they are so engaged; and while so serving away from their homes or

regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently. The Secretary shall designate one of the members of the advisory committee to serve as its chairman. The Secretary shall furnish the advisory committee with clerical and other assistance. Section 14 of the Federal Advisory Committee Act shall not apply with respect to the duration of the advisory committee established under this paragraph.

5 USC app. I.

"Exemption for Devices for Investigational Use

"(g)(1) It is the purpose of this subsection to encourage, to the extent consistent with the protection of the public health and safety and with ethical standards, the discovery and development of useful devices intended for human use and to that end to maintain optimum freedom for scientific investigators in their pursuit of that purpose.

"(2)(A) The Secretary shall, within the one hundred and twenty-day period beginning on the date of the enactment of this section, by regulation prescribe procedures and conditions under which devices intended for human use may upon application be granted an exemption from the requirements of section 502, 510, 514, 515, 516, 519, or 706 or subsection (e) or (f) of this section or from any combination of such requirements to permit the investigational use of such devices by experts qualified by scientific training and experience to investigate the safety and effectiveness of such devices.

Regulation.

21 USC 352, 360.
Ante, pp. 546,
 552, 560, 564.
 21 USC 376.

"(B) The conditions prescribed pursuant to subparagraph (A) shall include the following:

"(i) A requirement that an application be submitted to the Secretary before an exemption may be granted and that the application be submitted in such form and manner as the Secretary shall specify.

"(ii) A requirement that the person applying for an exemption for a device assure the establishment and maintenance of such records, and the making of such reports to the Secretary of data obtained as a result of the investigational use of the device during the exemption, as the Secretary determines will enable him to assure compliance with such conditions, review the progress of the investigation, and evaluate the safety and effectiveness of the device.

"(iii) Such other requirements as the Secretary may determine to be necessary for the protection of the public health and safety.

"(C) Procedures and conditions prescribed pursuant to subparagraph (A) for an exemption may appropriately vary depending on (i) the scope and duration of clinical testing to be conducted under such exemption, (ii) the number of human subjects that are to be involved in such testing, (iii) the need to permit changes to be made in the device subject to the exemption during testing conducted in accordance with a clinical testing plan required under paragraph (3)(A), and (iv) whether the clinical testing of such device is for the purpose of developing data to obtain approval for the commercial distribution of such device.

"(3) Procedures and conditions prescribed pursuant to paragraph (2)(A) shall require, as a condition to the exemption of any device to be the subject of testing involving human subjects, that the person applying for the exemption—

"(A) submit a plan for any proposed clinical testing of the device and a report of prior investigations of the device (includ-

ing, where appropriate, tests on animals) adequate to justify the proposed clinical testing—

“(i) to the local institutional review committee which has been established in accordance with regulations of the Secretary to supervise clinical testing of devices in the facilities where the proposed clinical testing is to be conducted, or

“(ii) to the Secretary, if—

“(I) no such committee exists, or

“(II) the Secretary finds that the process of review by such committee is inadequate (whether or not the plan for such testing has been approved by such committee), for review for adequacy to justify the commencement of such testing; and, unless the plan and report are submitted to the Secretary, submit to the Secretary a summary of the plan and a report of prior investigations of the device (including, where appropriate, tests on animals);

Notification.

“(B) promptly notify the Secretary (under such circumstances and in such manner as the Secretary prescribes) of approval by a local institutional review committee of any clinical testing plan submitted to it in accordance with subparagraph (A);

“(C) in the case of a device to be distributed to investigators for testing, obtain signed agreements from each of such investigators that any testing of the device involving human subjects will be under such investigator's supervision and in accordance with subparagraph (D) and submit such agreements to the Secretary; and

“(D) assure that informed consent will be obtained from each human subject (or his representative) of proposed clinical testing involving such device, except where subject to such conditions as the Secretary may prescribe, the investigator conducting or supervising the proposed clinical testing of the device determines in writing that there exists a life threatening situation involving the human subject of such testing which necessitates the use of such device and it is not feasible to obtain informed consent from the subject and there is not sufficient time to obtain such consent from his representative.

The determination required by subparagraph (D) shall be concurred in by a licensed physician who is not involved in the testing of the human subject with respect to which such determination is made unless immediate use of the device is required to save the life of the human subject of such testing and there is not sufficient time to obtain such concurrence.

Application approval.
Ante, p. 560.

“(4) (A) An application, submitted in accordance with the procedures prescribed by regulations under paragraph (2), for an exemption for a device (other than an exemption from section 516) shall be deemed approved on the thirtieth day after the submission of the application to the Secretary unless on or before such day the Secretary by order disapproves the application and notifies the applicant of the disapproval of the application.

Hearing.

“(B) The Secretary may disapprove an application only if he finds that the investigation with respect to which the application is submitted does not conform to procedures and conditions prescribed under regulations under paragraph (2). Such a notification shall contain the order of disapproval and a complete statement of the reasons for the Secretary's disapproval of the application and afford the applicant opportunity for an informal hearing on the disapproval order.

Exemption withdrawal.

“(5) The Secretary may by order withdraw an exemption granted under this subsection for a device if the Secretary determines that the

conditions applicable to the device under this subsection for such exemption are not met. Such an order may be issued only after opportunity for an informal hearing, except that such an order may be issued before the provision of an opportunity for an informal hearing if the Secretary determines that the continuation of testing under the exemption with respect to which the order is to be issued will result in an unreasonable risk to the public health.

"Release of Safety and Effectiveness Information

"(h) (1) The Secretary shall promulgate regulations under which a detailed summary of information respecting the safety and effectiveness of a device which information was submitted to the Secretary and which was the basis for—

Regulations.

"(A) an order under section 515(d) (1) (A) approving an application for premarket approval for the device or denying approval of such an application or an order under section 515(e) withdrawing approval of such an application for the device,

Ante, p. 552.

"(B) an order under section 515(f) (6) (A) revoking an approved protocol for the device, an order under section 515(f) (6) (B) declaring a protocol for the device completed or not completed, or an order under section 515(f) (7) revoking the approval of the device, or

"(C) an order approving an application under subsection (g) for an exemption for the device from section 516 or an order disapproving, or withdrawing approval of, an application for an exemption under such subsection for the device,

shall be made available to the public upon issuance of the order. Summaries of information made available pursuant to this paragraph respecting a device shall include information respecting any adverse effects on health of the device.

Ante, p. 560.

"(2) The Secretary shall promulgate regulations under which each advisory committee established under section 515(g) (2) (B) shall make available to the public a detailed summary of information respecting the safety and effectiveness of a device which information was submitted to the advisory committee and which was the basis for its recommendation to the Secretary made pursuant to section 515 (g) (2) (A). A summary of information upon which such a recommendation is based shall be made available pursuant to this paragraph only after the issuance of the order with respect to which the recommendation was made and each summary shall include information respecting any adverse effect on health of the device subject to such order.

Regulations.

"(3) Any information respecting a device which is made available pursuant to paragraph (1) or (2) of this subsection (A) may not be used to establish the safety or effectiveness of another device for purposes of this Act by any person other than the person who submitted the information so made available, and (B) shall be made available subject to subsection (c) of this section.

"Proceedings of Advisory Panels and Committees

"(i) Each panel under section 513 and each advisory committee established under section 514(g) (5) (B) or 515(g) or under subsection (f) of this section shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made pursuant to this subsection information which under subsection (c) of this section is to be considered confidential.

Ante, p. 540.

Ante, p. 546.

“Traceability Requirements

“(j) No regulation under this Act may impose on a type or class of device requirements for the traceability of such type or class of device unless such requirements are necessary to assure the protection of the public health.

“Research and Development

Contracts.

“(k) The Secretary may enter into contracts for research, testing, and demonstrations respecting devices and may obtain devices for research, testing, and demonstration purposes without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

“Transitional Provisions for Devices Considered as New
Drugs or Antibiotic Drugs

“(1) (1) Any device intended for human use—

21 USC 355. “(A) for which on the date of enactment of the Medical Device Amendments of 1976 (hereinafter in this subsection referred to as the ‘enactment date’) an approval of an application submitted under section 505 (b) was in effect;

“ (B) for which such an application was filed on or before the enactment date and with respect to which application no order of approval or refusing to approve had been issued on such date under subsection (c) or (d) of such section;

“ (C) for which on the enactment date an exemption under subsection (i) of such section was in effect;

“ (D) which is within a type of device described in subparagraph (A), (B), or (C) and is substantially equivalent to another device within that type;

“ (E) which the Secretary in a notice published in the Federal Register before the enactment date has declared to be a new drug subject to section 505; or

21 USC 332-334.
21 USC 331. “ (F) with respect to which on the enactment date an action is pending in a United States court under section 302, 303, or 304 for an alleged violation of a provision of section 301 which enforces a requirement of section 505 or for an alleged violation of section 505(a),

is classified in class III unless the Secretary in response to a petition submitted under paragraph (2) has classified such device in class I or II.

Petition.

“(2) The manufacturer or importer of a device classified under paragraph (1) may petition the Secretary (in such form and manner as he shall prescribe) for the issuance of an order classifying the device in class I or class II. Within thirty days of the filing of such a petition, the Secretary shall notify the petitioner of any deficiencies in the petition which prevent the Secretary from making a decision on the petition. Except as provided in paragraph (3) (D) (ii), within one hundred and eighty days after the filing of a petition under this paragraph and after affording the petitioner an opportunity for an informal hearing, the Secretary shall, after consultation with the appropriate panel under section 513, by order either deny the petition or order the classification, in accordance with the criteria prescribed by section 513(a) (1) (A) or 513(a) (1) (B), of the device in class I or class II.

Notification.

Hearing.

Ante, p. 540.

“(3) (A) In the case of a device which is described in paragraph (1) (A) and which is in class III—

“(i) such device shall on the enactment date be considered a device with an approved application under section 515, and

Ante, p. 552.

“(ii) the requirements applicable to such device before the enactment date under section 505 shall continue to apply to such device until changed by the Secretary as authorized by this Act.

21 USC 355.

“(B) In the case of a device which is described in paragraph (1) (B) and which is in class III, an application for such device shall be considered as having been filed under section 515 on the enactment date. The period in which the Secretary shall act on such application in accordance with section 515(d) (1) shall be one hundred and eighty days from the enactment date (or such greater period as the Secretary and the applicant may agree upon after the Secretary has made the finding required by section 515(d) (1) (B) (i)) less the number of days in the period beginning on the date an application for such device was filed under section 505 and ending on the enactment date. After the expiration of such period such device is required, unless exempt under subsection (g), to have in effect an approved application under section 515.

“(C) A device which is described in paragraph (1) (C) and which is in class III shall be considered a new drug until the expiration of the ninety-day period beginning on the date of the promulgation of regulations under subsection (g) of this section. After the expiration of such period such device is required, unless exempt under subsection (g), to have in effect an approved application under section 515.

“(D) (i) Except as provided in clauses (ii) and (iii), a device which is described in subparagraph (D), (E), or (F) of paragraph (1) and which is in class III is required, unless exempt under subsection (g) of this section, to have on and after sixty days after the enactment date in effect an approved application under section 515.

“(ii) If—

“(I) a petition is filed under paragraph (2) for a device described in subparagraph (D), (E), or (F) of paragraph (1), or

“(II) an application for premarket approval is filed under section 515 for such a device, within the sixty-day period beginning on the enactment date (or within such greater period as the Secretary, after making the finding required under section 515(d) (1) (B), and the petitioner or applicant may agree upon), the Secretary shall act on such petition or application in accordance with paragraph (2) or section 515 except that the period within which the Secretary must act on the petition or application shall be within the one hundred and twenty-day period beginning on the date the petition or application is filed. If such a petition or application is filed within such sixty-day (or greater) period, clause (i) of this subparagraph shall not apply to such device before the expiration of such one hundred and twenty-day period, or if such petition is denied or such application is denied approval, before the date of such denial, whichever occurs first.

“(iii) In the case of a device which is described in subparagraph (E) of paragraph (1), which the Secretary in a notice published in the Federal Register after March 31, 1976, declared to be a new drug subject to section 505, and which is in class III—

Publication in
Federal Register.

“(I) the device shall, after eighteen months after the enactment date, have in effect an approved application under section 515 unless exempt under subsection (g) of this section, and

“(II) the Secretary may, during the period beginning one

hundred and eighty days after the enactment date and ending eighteen months after such date, restrict the use of the device to investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of such device, and to investigational use in accordance with the requirements applicable under regulations under subsection (g) of this section to investigational use of devices granted an exemption under such subsection.

If the requirements under subsection (g) of this section are made applicable to the investigational use of such a device, they shall be made applicable in such a manner that the device shall be made reasonably available to physicians meeting appropriate qualifications prescribed by the Secretary.

21 USC 357.

“(4) Any device intended for human use which on the enactment date was subject to the requirements of section 507 shall be subject to such requirements as follows:

“(A) In the case of such a device which is classified into class I, such requirements shall apply to such device until the effective date of the regulation classifying the device into such class.

Ante, p. 546.

“(B) In the case of such a device which is classified into class II, such requirements shall apply to such device until the effective date of a performance standard applicable to the device under section 514.

Ante, p. 552.

“(C) In the case of such a device which is classified into class III, such requirements shall apply to such device until the date on which the device is required to have in effect an approved application under section 515.

“STATE AND LOCAL REQUIREMENTS RESPECTING DEVICES

“General Rule

21 USC 360k.

“SEC. 521. (a) Except as provided in subsection (b), no State or political subdivision of a State may establish or continue in effect with respect to a device intended for human use any requirement—

“(1) which is different from, or in addition to, any requirement applicable under this Act to the device, and

“(2) which relates to the safety or effectiveness of the device or to any other matter included in a requirement applicable to the device under this Act.

“Exempt Requirements

Regulation.
Notice and
hearing.

“(b) Upon application of a State or a political subdivision thereof, the Secretary may, by regulation promulgated after notice and opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a device intended for human use if—

“(1) the requirement is more stringent than a requirement under this Act which would be applicable to the device if an exemption were not in effect under this subsection; or

“(2) the requirement—

“(A) is required by compelling local conditions, and

“(B) compliance with the requirement would not cause the device to be in violation of any applicable requirement under this Act.”.

CONFORMING AMENDMENTS

Amendments to Section 201

SEC. 3. (a) (1) (A) Paragraph (h) of section 201 is amended to read 21 USC 321.
as follows:

“(h) The term ‘device’ (except when used in paragraph (n) of this section and in sections 301(i), 403(f), 502(e), and 602(c)) means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is—

“(1) recognized in the official National Formulary, or the United States Pharmacopeia, or any supplement to them,

“(2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or

“(3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.”

(3) Section 15(d) of the Federal Trade Commission Act is amended to read as follows: 15 USC 55.

“(d) The term ‘device’ (except when used in subsection (a) of this section) means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is—

“(1) recognized in the official National Formulary, or the United States Pharmacopeia, or any supplement to them,

“(2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or

“(3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.”

(2) Section 201 is amended by adding at the end the following:

“(y) The term ‘informal hearing’ means a hearing which is not subject to section 554, 556, or 557 of title 5 of the United States Code and which provides for the following: “Informal hearing.”

“(1) The presiding officer in the hearing shall be designated by the Secretary from officers and employees of the Department of Health, Education, and Welfare who have not participated in any action of the Secretary which is the subject of the hearing and who are not directly responsible to an officer or employee of the Department who has participated in any such action.

“(2) Each party to the hearing shall have the right at all times to be advised and accompanied by an attorney.

“(3) Before the hearing, each party to the hearing shall be given reasonable notice of the matters to be considered at the hearing, including a comprehensive statement of the basis for the action taken or proposed by the Secretary which is the subject of the hearing and a general summary of the information which will be presented by the Secretary at the hearing in support of such action. Notice.

- Statement.** “(4) At the hearing the parties to the hearing shall have the right to hear a full and complete statement of the action of the Secretary which is the subject of the hearing together with the information and reasons supporting such action, to conduct reasonable questioning, and to present any oral or written information relevant to such action.
- Report.** “(5) The presiding officer in such hearing shall prepare a written report of the hearing to which shall be attached all written material presented at the hearing. The participants in the hearing shall be given the opportunity to review and correct or supplement the presiding officer’s report of the hearing.
- Review.**
- Transcription.** “(6) The Secretary may require the hearing to be transcribed. A party to the hearing shall have the right to have the hearing transcribed at his expense. Any transcription of a hearing shall be included in the presiding officer’s report of the hearing.”.

Amendments to Section 301

- 21 USC 331. (b) (1) Section 301 is amended by adding at the end the following new paragraphs:
- Ante*, pp. 562, 565. “(q) (1) The failure or refusal to (A) comply with any requirement prescribed under section 518 or 520(g), or (B) furnish any notification or other material or information required by or under section 519 or 520(g).
- Ante*, p. 564. “(2) With respect to any device, the submission of any report that is required by or under this Act that is false or misleading in any material respect.”.
- “(2) Section 301(e) is amended by striking out “or” before “512” and by inserting after “(m)” a comma and the following: “515(f), or 519”.
- “(3) Section 301(j) is amended by inserting “510,” before “512”, by inserting “513, 514, 515, 516, 518, 519, 520,” before “704”, and by striking out “or 706” and inserting in lieu thereof “706, or 708”.
- “(4) Section 301(l) is amended (A) by inserting “or device” after “drug” each time it occurs, and (B) by striking out “505” and inserting in lieu thereof “505, 515, or 520(g), as the case may be”.

Amendments to Section 304

- 21 USC 334. (c) Section 304(a) is amended (1) by striking out “device,” in paragraph (1), and (2) by striking out “and” before “(C)” in paragraph (2), and (3) by striking out the period at the end of that paragraph and inserting in lieu thereof a comma and the following: “and (D) Any adulterated or misbranded device.”.

Amendments to Section 501

- 21 USC 351. (d) Section 501 is amended by adding at the end the following new paragraphs:
- Ante*, p. 546. “(e) If it is, or purports to be or is represented as, a device which is subject to a performance standard established under section 514, unless such device is in all respects in conformity with such standard.
- “(f) (1) If it is a class III device—
- Ante*, p. 552. “(A) (i) which is required by a regulation promulgated under subsection (b) of section 515 to have an approval under such section of an application for premarket approval and which is not exempt from section 515 under section 520(g), and

“(ii) (I) for which an application for premarket approval or a notice of completion of a product development protocol was not filed with the Secretary within the ninety-day period beginning on the date of the promulgation of such regulation, or

“(II) for which such an application was filed and approval of the application has been denied or withdrawn, or such a notice was filed and has been declared not completed or the approval of the device under the protocol has been withdrawn;

“(B) (i) which was classified under section 513(f) into class III, which under section 515(a) is required to have in effect an approved application for premarket approval, and which is not exempt from section 515 under section 520(g), and

“(ii) which does not have such an application in effect; or

“(C) which was classified under section 520(l) into class III, which under such section is required to have in effect an approved application under section 515, and which does not have such an application in effect.

“(2) (A) In the case of a device classified under section 513(f) into class III and intended solely for investigational use, paragraph (1) (B) shall not apply with respect to such device during the period ending on the ninetieth day after the date of the promulgation of the regulations prescribing the procedures and conditions required by section 520(g) (2).

“(B) In the case of a device subject to a regulation promulgated under subsection (b) of section 515, paragraph (1) shall not apply with respect to such device during the period ending—

“(i) on the last day of the thirtieth calendar month beginning after the month in which the classification of the device in class III became effective under section 513, or

“(ii) on the ninetieth day after the date of the promulgation of such regulation,

whichever occurs later.

“(g) If it is a banned device.

“(h) If it is a device and the methods used in, or the facilities or controls used for, its manufacture, packing, storage, or installation are not in conformity with applicable requirements under section 520(f) (1) or an applicable condition prescribed by an order under section 520(f) (2).

“(i) If it is a device for which an exemption has been granted under section 520(g) for investigational use and the person who was granted such exemption or any investigator who uses such device under such exemption fails to comply with a requirement prescribed by or under such section.”.

Amendments to Section 502

(e) (1) Section 502 is amended by adding at the end the following new paragraphs:

21 USC 352.

“(q) In the case of any restricted device distributed or offered for sale in any State, if (1) its advertising is false or misleading in any particular, or (2) it is sold, distributed, or used in violation of regulations prescribed under section 520(e).

“(r) In the case of any restricted device distributed or offered for sale in any State, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that device (1) a true statement of the device's

Ante, p. 540.

Ante, p. 552.

Ante, p. 565.

21 USC 352.

Notice and
hearing.

established name as defined in section 502(e), printed prominently and in type at least half as large as that used for any trade or brand name thereof, and (2) a brief statement of the intended uses of the device and relevant warnings, precautions, side effects, and contraindications and, in the case of specific devices made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such device or the formula showing quantitatively each ingredient of such device to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing. Except in extraordinary circumstances, no regulation issued under this paragraph shall require prior approval by the Secretary of the content of any advertisement and no advertisement of a restricted device, published after the effective date of this paragraph shall, with respect to the matters specified in this paragraph or covered by regulations issued hereunder, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52-55). This paragraph shall not be applicable to any printed matter which the Secretary determines to be labeling as defined in section 201(m).

21 USC 321.

Ante, p. 546.

"(s) If it is a device subject to a performance standard established under section 514, unless it bears such labeling as may be prescribed in such performance standard.

Ante, p. 562.

"(t) If it is a device and there was a failure or refusal (1) to comply with any requirement prescribed under section 518 respecting the device, or (2) to furnish any material or information required by or under section 519 respecting the device."

Ante, p. 564.

(2) Section 502(j) is amended by inserting "or manner" after "dosage".

Amendments to Section 801

21 USC 381.

(f) (1) Section 801(d) is amended to read as follows:

"(d) (1) A food, drug, device, or cosmetic intended for export shall not be deemed to be adulterated or misbranded under this Act if it—

"(A) accords to the specifications of the foreign purchaser,

"(B) is not in conflict with the laws of the country to which it is intended for export,

"(C) is labeled on the outside of the shipping package that it is intended for export, and

"(D) is not sold or offered for sale in domestic commerce.

This paragraph does not authorize the exportation of any new animal drug, or an animal feed bearing or containing a new animal drug, which is unsafe within the meaning of section 512.

21 USC 360b.

"(2) Paragraph (1) does not apply to any device—

Ante, p. 552.

"(A) which does not comply with an applicable requirement of section 514 or 515,

"(B) which under section 520(g) is exempt from either such section, or

Ante, p. 560.

"(C) which is a banned device under section 516, unless, in addition to the requirements of paragraph (1), the Secretary has determined that the exportation of the device is not contrary to public health and safety and has the approval of the country to which it is intended for export."

(2) Section 801(a) (1) is amended by inserting after "conditions" the following: "or, in the case of a device, the methods used in, or the facilities or controls used for, the manufacture, packing, storage,

or installation of the device do not conform to the requirements of section 520(f)".

Ante, p. 565.

REGISTRATION OF DEVICE MANUFACTURERS

SEC. 4. (a) Section 510 is amended as follows:

21 USC 360.

(1) The section heading is amended by inserting "AND DEVICES" after "drugs".

(2) Subsection (a) (1) is amended by inserting "or device package" after "drug package"; by inserting "or device" after "the drug"; and by inserting "or user" after "consumer".

(3) Subsections (b), (c), and (d) are amended by inserting "or a device or devices" after "drugs" each time it occurs.

(4) Subsection (e) is amended by adding at the end the following: "The Secretary may by regulation prescribe a uniform system for the identification of devices intended for human use and may require that persons who are required to list such devices pursuant to subsection (j) shall list such devices in accordance with such system."

(5) Subsection (g) is amended by inserting "or devices" after "drugs" each time such term occurs in paragraphs (1), (2), and (3) of such subsection.

(6) Subsection (h) is amended by inserting after "704 and" the following: "every such establishment engaged in the manufacture, propagation, compounding, or processing of a drug or drugs or of a device or devices classified in class II or III".

(7) The first sentence of subsection (i) is amended by inserting ", or a device or devices," after "drug or drugs"; and the second sentence of such subsection is amended by inserting "shall require such establishment to provide the information required by subsection (j) in the case of a device or devices and" immediately before "shall include" and by inserting "or devices" after "drugs".

(8) Subsection (j) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking out "a list of all drugs (by established name)" and inserting in lieu thereof "a list of all drugs and a list of all devices and a brief statement of the basis for believing that each device included in the list is a device rather than a drug (with each drug and device in each list listed by its established name)", and by striking out "drugs filed" and inserting in lieu thereof "drugs or devices filed";

(B) in paragraph (1) (A), by striking out "such list" and inserting in lieu thereof "the applicable list"; by inserting "or a device intended for human use contained in the applicable list with respect to which a performance standard has been established under section 514 or which is subject to section 515," after "512," and by inserting "or device" after "such drug" each time it appears;

Ante, pp. 546, 552.

(C) in paragraph (1) (B), by striking out "drug contained in such list" before clause (i) and inserting in lieu thereof "drug or device contained in an applicable list";

(D) by amending clause (i) of paragraph (1) (B) to read as follows—

"(i) which drug is subject to section 503(b) (1), or which device is a restricted device, a copy of all labeling for such drug or device, a representative sampling of advertisements for such drug or device, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular drug product or device, or";

21 USC 353.

(E) by amending clause (ii) of paragraph (1) (B) to read as follows:

21 USC 353.

“(ii) which drug is not subject to section 503(b)(1) or which device is not a restricted device, the label and package insert for such drug or device and a representative sampling of any other labeling for such drug or device;”;

(F) in paragraph (1)(C), by striking out “such list” and inserting “an applicable list” in lieu thereof;

Ante, pp. 546,
552.

(G) in paragraph (1)(D), by striking out “the list” and inserting in lieu thereof “a list”; by inserting “or the particular device contained in such list is not subject to a performance standard established under section 514 or to section 515 or is not a restricted device” after “512,”; and by inserting “or device” after “particular drug product” each place it occurs; and

(H) in paragraph (2), by inserting “or device” after “drug” each time it appears and, in paragraph (2)(C), by inserting “each” before “by established name”.

(9) Such section is amended by adding after subsection (j) the following new subsection:

Report.

“(k) Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a device intended for human use shall, at least ninety days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

Ante, p. 540.

“(1) the class in which the device is classified under section 513 or if such person determines that the device is not classified under such section, a statement of that determination and the basis for such person’s determination that the device is or is not so classified, and

“(2) action taken by such person to comply with requirements under section 514 or 515 which are applicable to the device.”.

21 USC 331.

(b) (1) Section 301(p) is amended by striking out “510(j),” and inserting in lieu thereof “510(j) or 510(k),”.

21 USC 352.

(2) Section 502(o) is amended (A) by striking out “is a drug and” and (B) by inserting before the period a comma and the following: “if it was not included in a list required by section 510(j), if a notice or other information respecting it was not provided as required by such section or section 510(k), or if it does not bear such symbols from the uniform system for identification of devices prescribed under section 510(e) as the Secretary by regulation requires”.

21 USC 381.

(3) The second sentence of section 801(a) is amended by inserting “or devices” after “drugs” each time it occurs.

DEVICE ESTABLISHED AND OFFICIAL NAMES

21 USC 352.

SEC. 5. (a) (1) Subparagraph (1) of section 502(e) is amended by striking out “subparagraph (2)” and inserting in lieu thereof “subparagraph (3)”.

(2) Subparagraph (2) of such section is redesignated as subparagraph (3) and is amended by striking out “this paragraph (e)” and inserting in lieu thereof “subparagraph (1)”.

(3) Such section is amended by adding after subparagraph (1) the following new subparagraph:

“(2) If it is a device and it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name (as defined in subparagraph (4)) prominently printed in type at least half as large as that used thereon for any proprietary

name or designation for such device, except that to the extent compliance with the requirements of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary."

(4) Such section is amended by adding after subparagraph (3) (as so redesignated) the following:

"(4) As used in subparagraph (2), the term 'established name' with respect to a device means (A) the applicable official name of the device designated pursuant to section 508, (B) if there is no such name and such device is an article recognized in an official compendium, then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then any common or usual name of such device."

"Established name."
21 USC 358.

(b) Section 508 is amended (1) in subsections (a) and (e) by adding "or device" after "drug" each time it appears; (2) in subsection (b) by adding after "all supplements thereto," the following: "and at such times as he may deem necessary shall cause a review to be made of the official names by which devices are identified in any official compendium (and all supplements thereto)"; (3) in subsection (c) (2) by adding "or device" after "single drug", and by adding "or to two or more devices which are substantially equivalent in design and purpose" after "purity,"; (4) in subsection (c) (3) by adding "or device" after "useful drug", and after "drug or drugs" each time it appears; and (5) in subsection (d) by adding "or devices" after "drugs".

Review.

INSPECTIONS RELATING TO DEVICES

SEC. 6. (a) The second sentence of subsection (a) of section 704 (21 U.S.C. 374) is amended by inserting "or restricted devices" after "prescription drugs" both times it appears.

(b) The third sentence of such subsection is amended to read as follows: "No inspection authorized by the preceding sentence shall extend to financial data, sales data other than shipment data, pricing data, personnel data (other than data as to qualifications of technical and professional personnel performing functions subject to this Act), and research data (other than data relating to new drugs, antibiotic drugs, and devices and subject to reporting and inspection under regulations lawfully issued pursuant to section 505 (i) or (j), section 507 (d) or (g), section 519, or 520 (g), and data relating to other drugs or devices which in the case of a new drug would be subject to reporting or inspection under lawful regulations issued pursuant to section 505 (j))."

21 USC 355, 357.
Ante, pp. 564, 565.

(c) (1) Paragraph (1) of the sixth sentence of such subsection is amended by inserting "or devices" after "drugs" each time it occurs.

(2) Paragraph (2) of that sentence is amended by inserting "or prescribe or use devices, as the case may be," after "administer drugs"; and by inserting "or manufacture or process devices," after "process drugs".

(3) Paragraph (3) of that sentence is amended by inserting "or manufacture or process devices," after "process drugs".

(d) Section 704 is amended by adding at the end the following new subsection:

"(e) Every person required under section 519 or 520 (g) to maintain records and every person who is in charge or custody of such records shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to, and to copy and verify, such records."

Records, accessibility.

ADMINISTRATIVE RESTRAINT

- 21 USC 334. SEC. 7. (a) Section 304 is amended by adding at the end the following new subsection:
- Detention.
21 USC 374. “(g) (1) If during an inspection conducted under section 704 of a facility or a vehicle, a device which the officer or employee making the inspection has reason to believe is adulterated or misbranded is found in such facility or vehicle, such officer or employee may order the device detained (in accordance with regulations prescribed by the Secretary) for a reasonable period which may not exceed twenty days unless the Secretary determines that a period of detention greater than twenty days is required to institute an action under subsection (a) or section 302, in which case he may authorize a detention period of not to exceed thirty days. Regulations of the Secretary prescribed under this paragraph shall require that before a device may be ordered detained under this paragraph the Secretary or an officer or employee designated by the Secretary approve such order. A detention order under this paragraph may require the labeling or marking of a device during the period of its detention for the purpose of identifying the device as detained. Any person who would be entitled to claim a device if it were seized under subsection (a) may appeal to the Secretary a detention of such device under this paragraph. Within five days of the date an appeal of a detention is filed with the Secretary, the Secretary shall after affording opportunity for an informal hearing by order confirm the detention or revoke it.
- 21 USC 332. Regulations.
Appeal. “(2) (A) Except as authorized by subparagraph (B), a device subject to a detention order issued under paragraph (1) shall not be moved by any person from the place at which it is ordered detained until—
“(i) released by the Secretary, or
“(ii) the expiration of the detention period applicable to such order,
whichever occurs first.
“(B) A device subject to a detention order under paragraph (1) may be moved—
“(i) in accordance with regulations prescribed by the Secretary, and
“(ii) if not in final form for shipment, at the discretion of the manufacturer of the device for the purpose of completing the work required to put it in such form.”
- 21 USC 331. (b) Section 301 is amended by adding after the paragraph added by section 3(b) (1) the following new paragraph:
“(r) The movement of a device in violation of an order under section 304(g) or the removal or alteration of any mark or label required by the order to identify the device as detained.”

CONFIDENTIAL INFORMATION ; PRESUMPTION

SEC. 8. Chapter 7 is amended by adding at the end the following new sections:

“CONFIDENTIAL INFORMATION

- 21 USC 379. “SEC. 708. The Secretary may provide any information which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b) (4) of such section to a person other than an officer or employee of the Department if the Secretary determines such other person requires the information in connection with an activity which is undertaken under contract with the Secretary, which relates to the administration of this Act, and with

respect to which the Secretary (or an officer or employee of the Department) is not prohibited from using such information. The Secretary shall require as a condition to the provision of information under this section that the person receiving it take such security precautions respecting the information as the Secretary may by regulation prescribe.

“PRESUMPTION

“SEC. 709. In any action to enforce the requirements of this Act respecting a device the connection with interstate commerce required for jurisdiction in such action shall be presumed to exist.”. 21 USC 379a.

COLOR ADDITIVES

SEC. 9. (a) Section 706 is amended (1) by inserting “or device” after “drug” each time it occurs, (2) by inserting “or devices” after “drugs” each time it occurs, and (3) by adding at the end of subsection (a) the following new sentences: “A color additive for use in or on a device shall be subject to this section only if the color additive comes in direct contact with the body of man or other animals for a significant period of time. The Secretary may by regulation designate the uses of color additives in or on devices which are subject to this section.”. 21 USC 376.

(b) (1) Section 501(a) is amended (A) by inserting “(3) if its” in lieu of “(3) if it is a drug and its”; (2) by inserting “(4) if (A) it bears or contains” in lieu of “(4) if (A) it is a drug which bears or contains”; and (3) by inserting “or devices” after “drugs” in subclause (B) of clause (4). 21 USC 351.

(2) Section 502(m) is amended by striking out “in or on drugs”. 21 USC 352.

ASSISTANCE FOR SMALL MANUFACTURERS OF DEVICES

SEC. 10. The Secretary of Health, Education, and Welfare shall establish within the Department of Health, Education, and Welfare an identifiable office to provide technical and other nonfinancial assistance to small manufacturers of medical devices to assist them in complying with the requirements of the Federal Food, Drug, and Cosmetic Act, as amended by this Act. Office. Establishment. 42 USC 3512.

Approved May 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-853 accompanying H.R. 11124 (Comm. on Interstate and Foreign Commerce) and No. 94-1090 (Comm. of Conference).

SENATE REPORT No. 94-33 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Apr. 17, considered and passed Senate.

Vol. 122 (1976): Mar. 9, considered and passed House, amended, in lieu of H.R. 11124.

May 13, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 22 (1976): May 28, Presidential statement.

Public Law 94-296
94th Congress

An Act

May 29, 1976

[H.R. 8089]

To amend section 404(d) of title 37, United States Code, relating to per diem expenses of members of the uniformed services traveling on official business.

Uniformed
services.
Travel expenses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 404(d) of title 37, United States Code, is amended—

(1) by striking out “of not more than \$25 a day” and inserting in lieu thereof “in an amount sufficient to meet actual and necessary expenses, but in no event more than \$35 a day”.

(2) by amending the last sentence to read as follows: “Under regulations prescribed by the Secretaries concerned, when either travel is to an area designated as a high cost area in those regulations or the per diem of clause (2) of this subsection is less than the amount of the actual and necessary expenses required by the unusual circumstances of the travel assignment, reimbursement may be authorized for actual and necessary expenses, but not for more than \$50 for each day in a travel status.”.

Effective date.
37 USC 404 note.

SEC. 2. The amendments made by this Act become effective on the first day of the first calendar month following the date of enactment.

Approved May 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-634 (Comm. on Armed Services).
SENATE REPORT No. 94-715 (Comm. on Armed Services).
CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 17, considered and passed House.
Vol. 122 (1976): Mar. 31, considered and passed Senate, amended.
May 18, House concurred in Senate amendment.

Public Law 94-297
94th Congress

An Act

To provide for the definition and punishment of certain crimes in accordance with the Federal laws in force within the special maritime and territorial jurisdiction of the United States when said crimes are committed by an Indian in order to insure equal treatment for Indian and non-Indian offenders.

May 29, 1976

[S. 2129]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Crimes Act of 1976".

Indian Crimes
Act of 1976.
18 USC 1153
note.

SEC. 2. Section 1153, title 18, United States Code, is amended to read as follows:

"§ 1153. Offenses committed within Indian country

"Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnaping, rape, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, arson, burglary, robbery, and larceny within the Indian country, shall be subject to the same laws and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

"As used in this section, the offenses of burglary and incest shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

"In addition to the offenses of burglary and incest, any other of the above offenses which are not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense."

SEC. 3. Section 113 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

Assault,
penalties.

"(f) Assault resulting in serious bodily injury, by fine of not more than \$10,000 or imprisonment for not more than ten years, or both."

Sec. 4. Section 3242, title 18, United States Code, is amended to read as follows:

“§ 3242. Indians committing certain offenses; acts on reservations

Ante, p. 585.

“All Indians committing any offense listed in the first paragraph of and punishable under section 1153 (relating to offenses committed within Indian country) of this title shall be tried in the same courts and in the same manner as are all other persons committing such offense within the exclusive jurisdiction of the United States.”.

Approved May 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1038 (Comm. on the Judiciary).
SENATE REPORT No. 94-620 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 4, considered and passed Senate.

May 18, considered and passed House, amended.

May 20, Senate concurred in House amendment.

Public Law 94-298
94th Congress

An Act

To authorize further appropriations for the Council on Environmental Quality.

May 29, 1976

[H.R. 11619]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended to read as follows:

“SEC. 205. There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality not to exceed the following sums for the following fiscal years which sums are in addition to those contained in Public Law 91-190:

“(a) \$2,000,000 for the fiscal year ending June 30, 1976.

“(b) \$500,000 for the transition period (July 1, 1976, to September 30, 1976).

“(c) \$3,000,000 for the fiscal year ending September 30, 1977.

“(d) \$3,000,000 for the fiscal year ending September 30, 1978.”

Council on
Environmental
Quality.
Appropriation
authorization.

42 USC 4321
note.

Approved May 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-888 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-814 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 15, considered and passed House.

May 17, considered and passed Senate.

Public Law 94-299
94th Congress

An Act

May 29, 1976
[H.R. 12527]

To amend the Federal Trade Commission Act to increase the authorization of appropriations for fiscal year 1976, and for other purposes.

15 USC 57c. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 20 of the Federal Trade Commission Act (15 U.S.C. 57(c)) is amended by striking out "\$46,000,000" and inserting in lieu thereof "\$47,091,000".

15 USC 57a note. SEC. 2. Section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act is amended by striking out "18 months after the date of enactment of this Act" and inserting in lieu thereof "July 5, 1978".

Approved May 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1104 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 94-701 accompanying S. 2935 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 122 (1976):

May 17, considered and passed House.

May 19, considered and passed Senate, amended.

May 21, House concurred in Senate amendments.

Public Law 94-300
94th Congress

An Act

To authorize and direct the Administrator of General Services to convey certain land in Cambridge, Massachusetts, to the Commonwealth of Massachusetts.

May 29, 1976
[S. 3399]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is authorized and directed to convey to the Commonwealth of Massachusetts, without consideration and by quitclaim deed, all right, title, and interest of the United States in and to that certain tract of land, situated in Cambridge, Massachusetts, which was conveyed to the United States, by the Commonwealth of Massachusetts, as a gift on behalf of its people in order to provide a site for the Presidential archival depository of the John Fitzgerald Kennedy Library, by a deed dated January 24, 1968, and recorded with the Middlesex, Massachusetts, Southern District Registry of Deeds in book 11467 at page 668.

Commonwealth
of Massachusetts.
Land con-
veyance.

Approved May 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1182 accompanying H.R. 12339 (Comm. on Government Operations).

SENATE REPORT No. 94-840 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 18, considered and passed Senate.

May 20, considered and passed House, in lieu of H.R. 12339.

Public Law 94-301
94th Congress

An Act

May 31, 1976
[H.R. 5272]

Noise Control
Act of 1972,
appropriation
authorization.

To amend the Noise Control Act of 1972 to authorize additional appropriations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 15 of the Noise Control Act of 1972 (42 U.S.C. 4914(g)) is amended by striking out the period at the end thereof and substituting a comma and the following: "\$2,200,000 for the fiscal year ending June 30, 1976, \$550,000 for the transition period of July 1, 1976, through September 30, 1976, and \$2,420,000 for the fiscal year ending September 30, 1977."

SEC. 2. Section 19 of the Noise Control Act of 1972 (42 U.S.C. 4918) is amended by striking out "and" and by inserting immediately before the period at the end thereof the following: "; \$11,090,000 for the fiscal year ending June 30, 1976; \$2,772,500 for the transition period of July 1, 1976, through September 30, 1976; and \$12,199,000 for the fiscal year ending September 30, 1977; except that no part of any amount appropriated pursuant to this section or section 15 for any period after the fiscal year ending June 30, 1975, shall be available for research or development".

Approved May 31, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-179 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-481 (Comm. on Public Works).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 29, considered and passed House.

Dec. 1, considered and passed Senate, amended.

Vol. 122 (1976): May 20, Senate receded from its amendments.

Public Law 94-302
94th Congress

An Act

To provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

May 31, 1976

[H.R. 9721]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTER-AMERICAN DEVELOPMENT BANK

SEC. 101. The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is further amended by adding at the end thereof the following new sections:

“SEC. 26. (a) The United States Governor of the Bank is hereby authorized to vote in favor of two resolutions proposed by the Governors at a special meeting in July 1975, and now pending before the Board of Governors of the Bank, which provide for (1) an increase in the authorized capital stock of the Bank and additional subscriptions of members thereto and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of such resolutions, the United States Governor is authorized to agree on behalf of the United States (1) to subscribe to ninety-nine thousand four hundred and seventy-four shares of \$10,000 par value of the increase in the authorized capital stock of the Bank of which eighty-nine thousand five hundred and twenty-six shall be callable shares and nine thousand nine hundred and forty-eight shall be paid in and (2) to contribute to the Fund for Special Operations \$600,000,000, in accordance with and subject to the terms and conditions of such resolutions.

“(b) There are hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of (1) \$1,199,997,873 for the United States subscription to the capital stock of the Bank and (2) \$600,000,000 for the United States share of the increase in the resources of the Fund for Special Operations.

“SEC. 27. (a) The United States Governor of the Bank is hereby authorized to vote for an additional increase of one hundred and eight thousand shares of \$10,000 par value in the authorized callable capital stock of the Bank as recommended in the resolution of the Board of Governors entitled ‘Increase of US\$4 Billion in the Authorized Capital Stock and Subscriptions Thereto’. Upon adoption of a Board of Governors resolution increasing the authorized capital stock of the Bank by such amount, the United States Governor is authorized to agree on behalf of the United States to subscribe to thirty-seven thousand three hundred and three shares of \$10,000 par value of such additional increase in callable capital in accordance with and subject to the terms and conditions of such resolution.

Inter-American
Development
Bank and the
African
Development
Fund, increased
U.S.
participation.
Swine influenza,
control.
22 USC 283w.

Appropriation
authorization.

22 USC 283x.

Appropriation
authorization.

“(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, \$450,002,218 for payment by the Secretary of the Treasury.”

89 Stat. 22.

SEC. 102. Under the center heading “INVESTMENT IN INTER-AMERICAN DEVELOPMENT BANK” in title III of the Foreign Assistance and Related Programs Appropriations Act, 1975, strike out all that follows after “to remain available until expended” and insert in lieu thereof a period.

SEC. 103. (a) The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is further amended as follows:

22 USC 283t.

(1) By adding after section 22 the following new sections:

“SEC. 23. The United States Governor of the Bank is authorized to vote for three proposed resolutions of the Board of Governors entitled (a) ‘Amendments to the Agreement Establishing the Bank with respect to the Creation of the Inter-Regional Capital Stock of the Bank and to Related Matters’, (b) ‘General Rules Governing Admission of Nonregional Countries to Membership in the Bank’, and (c) ‘Increase in the Authorized Callable Ordinary Capital Stock and Subscriptions Thereto in Connection with the Admission of Nonregional Member Countries’, which were submitted to the Board of Governors pursuant to a resolution of the Board of Executive Directors approved on March 4, 1975.

22 USC 283u.

“SEC. 24. The United States Governor of the Bank is authorized to agree to the amendments to article II, section 1(b) and article IV, section 3(b) of the Agreement Establishing the Bank, as proposed by the Board of Executive Directors, to provide for membership for the Bahamas and Guyana in the Bank at such times and in accordance with such terms as the Bank may determine.

22 USC 283v.

“SEC. 25. The United States Governor of the Bank is authorized to agree to the amendments to article III, sections 1, 4, and 6(b) of the Agreement Establishing the Bank, as proposed by the Board of Executive Directors, to provide for lending to the Caribbean Development Bank.

22 USC 283y.

“SEC. 28. (a) The United States Executive Director of the Bank is authorized and directed to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

“(b) In determining whether this standard is being met with regard to activities of the Inter-American Development Bank, the Committee on Foreign Relations of the Senate or the House Committee on International Relations, or the House Committee on Banking, Currency and Housing, may require the United States Governor of the Bank to submit in writing information demonstrating that such loan or assistance will directly benefit those persons in such country to which such loan or assistance is supposed to be directed, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit such persons in such country.

“(c) In determining whether or not a country falls within the provisions of subsection (a), the Senate Committee on Foreign Relations and the House Committee on International Relations and the House Committee on Banking, Currency and Housing shall give considera-

tion to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.”.

(2) By inserting in the first sentence of section 5 after “article II, section 3” a comma and the words “or article IIA, section 2,”; and by inserting in the last sentence of section 5 after “article II, section 2,” the words “or article IIA, section 1,”. 22 USC 283c.

(3) By deleting in the first sentence of section 11(a) the word “ordinary”; by inserting in section 11(a) after the words “article II, section 5,” the words “and article IIA, section 4,”; and by inserting in section 11(a) after the words “article II, section 4(a) (ii),” the words “or article IIA, section 3(c),”. 22 USC 283h.

(b) The amendments made by paragraphs (2) and (3) of this section shall become effective upon approval by the Board of Governors of the Bank of the resolutions referred to in section 23 of the Inter-American Development Bank Act (22 U.S.C. 283 et seq.). 22 USC 283c note.

Ante, p. 592.

SEC. 104. The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is further amended by adding at the end thereof the following new section:

“SEC. 29. (a) The United States Executive Director of the Bank shall propose to the Board of Executive Directors of the Bank the adoption of a resolution providing (1) that the development and utilization of light-capital or intermediate technologies should be accepted as major facets of the Bank’s development strategy, and (2) that such light-capital or intermediate technologies should be developed and utilized as soon as possible in all Bank activities. Such resolution shall further provide that, by the close of the calendar year 1977, some projects that employ primarily such light-capital or intermediate technologies shall be designed and approved. 22 USC 283z.

“(b) The United States Governor of the Bank shall report to the Congress no later than six months after the date of the enactment of this section on the proposal made under subsection (a), and no later than twelve months after such date on the progress that has been made with respect to such proposal.”. Report to Congress.

TITLE II—AFRICAN DEVELOPMENT FUND

SEC. 201. This Title may be cited as the “African Development Fund Act”.

African Development Fund Act.
22 USC 290g note.
22 USC 290g.

SEC. 202. The President is hereby authorized to accept participation for the United States in the African Development Fund (hereinafter referred to as the “Fund”) provided for by the agreement establishing the Fund (hereinafter referred to as the “agreement”) deposited in the Archives of the United Nations.

Governor, appointment
22 USC 290g-l.

SEC. 203. (a) The President, by and with the advice and consent of the Senate, shall appoint a Governor, and an Alternate Governor, of the Fund.

Compensation.

(b) The Governor, or in his absence the Alternate Governor, on the instructions of the President, shall cast the votes of the United States for the Director to represent the United States in the Fund. The Director representing the United States and his Alternate, if they are citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits not exceeding those authorized for a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended.

22 USC 801 note.

22 USC 290g-2. SEC. 204. The provisions of section 4 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286b), shall apply with respect to the Fund to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund. Reports with respect to the Fund under paragraphs (5) and (6) of subsection 4 of said Act, as amended, shall be included in the first report made thereunder after the United States accepts participation in the Fund.

22 USC 290g-3. SEC. 205. Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States:

(a) agree to an increase in the subscription of the United States to the Fund;

(b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which would change the purpose or functions of the Fund; or

(c) make a loan or provide other financing to the Fund, except that funds for technical assistance may be provided to the Fund by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

Appropriation authorization.
22 USC 290g-4. SEC. 206. (a) There is hereby authorized to be appropriated without fiscal year limitation, as the United States subscription, \$25,000,000 to be paid by the Secretary of the Treasury to the Fund in three annual installments of \$9,000,000, \$8,000,000, and \$8,000,000.

(b) Any repayment or distribution of moneys from the Fund to the United States shall be covered into the Treasury as a miscellaneous receipt.

22 USC 290g-5. SEC. 207. Any Federal Reserve bank which is requested to do so by the President shall act as a depository for the Fund, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

22 USC 290g-6. SEC. 208. For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Fund in accordance with the agreement, the Fund shall be deemed to be an inhabitant of the Federal judicial district in which its principal office or agency appointed for the purpose of accepting service or notice of service is located, and any such action to which the Fund shall be party shall be deemed to arise under the laws of the United States, and the district courts of the United States (including the courts enumerated in title 28, section 460, United States Code) shall have original jurisdiction of any such action. When the Fund is defendant in any action in a State court, it may, at any time before the trial thereof, remove such action into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

22 USC 290g-7. SEC. 209. The agreement, including without limitation articles 41 through 50, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon the acceptance of participation by the United States in, and the entry into force of, the Fund. The President, at the time of deposit of the instrument of acceptance of participation of the United States in the Fund, shall also deposit a declaration that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Fund to its citizens or nationals and may deposit a declaration providing for reservations on other matters set forth in article 58.

SEC. 210. The President shall instruct the United States Governor of the Fund to cause the Executive Director representing the United States in the Fund to cast the votes of the United States against any loan or other utilization of the funds of the Fund for the benefit of any country which has—

22 USC 290g-8.

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

SEC. 211. (a) The United States Governor of the Fund is authorized and directed to cause the Executive Director representing the United States to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, and including providing refuge to individuals committing acts of international terrorism such as the hijacking of an aircraft, unless such assistance will directly benefit the needy people in such country.

22 USC 290g-9.

(b) In determining whether this standard is being met with regard to activities of the African Development Fund, the Committee on Foreign Relations of the Senate or the House Committee on International Relations, or the House Committee on Banking, Currency and Housing may require the United States Governor of the Bank to submit in writing information demonstrating that such loan or assistance will directly benefit those persons in such country to which such loan or assistance is supposed to be directed, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit such persons in such country.

(c) In determining whether or not a country falls within the provisions of subsection (a), the Senate Committee on Foreign Relations and the House Committee on International Relations and the House Committee on Banking, Currency and Housing shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

TITLE III—SWINE INFLUENZA

International
cooperation and
coordination.
22 USC 2101
note.

SEC. 301. (a) The Congress finds and declares that—

(1) the problems posed by swine influenza transcend national and political boundaries;

(2) no one country, or even one portion of the world, can singularly undertake the search for a worldwide solution to the problems posed by swine influenza;

(3) the global nature of swine influenza demands international cooperation and coordination in the investigation and planning for effective control of swine influenza;

(4) the Public Health Service of the United States has invited the World Health Organization of the United Nations and its International Influenza Reference Centers to participate in the investigation and planning for the control of swine influenza;

(5) special collaboration has already been established among the United States, the United Kingdom, and Canada for mutual participation in the investigation and planning for the control of swine influenza;

(6) the United States Department of State and the Public Health Service of the United States have joint programs to provide information to foreign countries on the nature and extent of swine influenza and the methods necessary to control it; and

(7) the technology of the United States for the surveillance of virus disease and vaccine production should be made available to foreign countries.

(b) It is the sense of the Congress that the President should furnish assistance to foreign countries and international organizations for the investigation and planning for the control of swine influenza.

Approved May 31, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-541 (Comm. on Banking, Currency and Housing) and No. 94-1121 (Comm on Conference).

SENATE REPORTS: No. 94-673 (Comm. on Foreign Relations) and No. 94-815 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 8, 9, considered and passed House.

Vol. 122 (1976): Mar. 18, 30, considered and passed Senate, amended.

May 11, Senate agreed to conference report.

May 20, House agreed to conference report.

Public Law 94-303
94th Congress

An Act

Making supplemental appropriations for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

June 1, 1976
[H.R. 13172]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated to supply supplemental appropriations (this Act may be cited as the "Second Supplemental Appropriations Act, 1976") for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, namely:

Second
Supplemental
Appropriations
Act, 1976.

TITLE I

CHAPTER I

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", \$41,000.

For an additional amount for "Office of the Secretary", for the period July 1, 1976, through September 30, 1976, \$10,000.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", \$637,000, and in addition \$372,000 shall be derived by transfer from the appropriation, "food stamp program" and merged with this appropriation.

For an additional amount for "Office of the Inspector General", for the period July 1, 1976, through September 30, 1976, \$159,000, and in addition \$93,000 shall be derived by transfer from the appropriation, "food stamp program" and merged with this appropriation.

AGRICULTURAL RESEARCH SERVICE

For an additional amount for "Agricultural Research Service", \$19,535,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

For an additional amount for "Animal and Plant Health Inspection Service", \$7,644,000.

For an additional amount for "Animal and Plant Health Inspection Service", for the period July 1, 1976, through September 30, 1976, \$2,161,000.

STATISTICAL REPORTING SERVICE

For an additional amount for "Statistical Reporting Service", \$532,000.

For an additional amount for "Statistical Reporting Service", for the period July 1, 1976, through September 30, 1976, \$133,000.

FEDERAL CROP INSURANCE CORPORATION

LIMITATION ON ADMINISTRATIVE AND OPERATING EXPENSES

An additional amount not to exceed \$1,025,000 of administrative and operating expenses may be paid from premium income.

An additional amount not to exceed \$69,000 of administrative and operating expenses, for the period July 1, 1976, through September 30, 1976, may be paid from premium income.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For an additional amount for "Conservation operations", \$750,000.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for emergency measures for runoff retardation and soil-erosion prevention, as provided by section 216 of the Flood Control Act of 1950 (33 U.S.C. 701b-1) \$12,327,000, to remain available until expended.

GREAT PLAINS CONSERVATION PROGRAM

For an additional amount for "Great Plains Conservation Program", \$2,000,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

89 Stat. 660. For an additional amount for "Agricultural conservation program", pursuant to the amount made available in the second proviso under this heading in Public Law 94-122, \$15,000,000.

89 Stat. 641. For an additional amount for "Agricultural conservation program", for the period July 1, 1976, through September 30, 1976, \$85,000,000, to remain available until expended to liquidate obligations incurred under the program authorized in the Agriculture and Related Agencies Appropriation Act, 1976.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

For an additional amount for "Child nutrition programs", \$234,151,000, to remain available until expended.

42 USC 1755. For an additional amount for "Child nutrition programs", for the period July 1, 1976, through September 30, 1976, \$419,500,000, to remain available until expended, and in addition, \$20,000,000 shall be transferred to this appropriation from funds available under Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) for purchase and distribution of agricultural commodities and other foods pursuant to Section 6 of the National School Lunch Act, as amended.

SPECIAL MILK PROGRAM

For an additional amount for "Special milk program" for the period July 1, 1976, through September 30, 1976, \$24,000,000.

FOOD STAMP PROGRAM

For an additional amount for the "Food Stamp Program" for the period July 1, 1976, through September 30, 1976, \$200,000,000, to remain available until expended.

RELATED AGENCIES

DEPARTMENT OF HEALTH, EDUCATION, AND
WELFARE

FOOD AND DRUG ADMINISTRATION

For an additional amount for "Salaries and expenses", for the period July 1, 1976, through September 30, 1976, \$1,200,000.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

The limitation on administrative expenses is increased by \$410,000.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military personnel, Army", \$14,300,000.

For an additional amount for "Military personnel, Army" for the period July 1, 1976, through September 30, 1976, \$3,900,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military personnel, Navy", \$16,800,000.

For an additional amount for "Military personnel, Navy" for the period July 1, 1976, through September 30, 1976, \$4,000,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military personnel, Marine Corps", \$3,500,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military personnel, Air Force", \$6,200,000.

For an additional amount for "Military personnel, Air Force" for the period July 1, 1976, through September 30, 1976, \$1,540,000.

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

For an additional amount for "Retired pay, Defense", \$440,400,000.

For an additional amount for "Retired pay, Defense" for the period July 1, 1976, through September 30, 1976, \$167,600,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", \$6,000,000.

For an additional amount for "Operation and maintenance, Army" for the period July 1, 1976, through September 30, 1976, \$3,000,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", \$3,800,000.

For an additional amount for "Operation and maintenance, Navy" for the period July 1, 1976, through September 30, 1976, \$1,900,000: *Provided*, That appropriations available to the Navy for Operations and Maintenance during the period July 1, 1975, through September 30, 1976, for the alteration, overhaul and repair of naval vessels shall be available in an amount not to exceed \$1,872,438,000 for the performance of such work in Navy shipyards.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", \$500,000.

For an additional amount for "Operation and maintenance, Marine Corps" for the period July 1, 1976, through September 30, 1976, \$200,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", \$4,800,000.

For an additional amount for "Operation and maintenance, Air Force" for the period July 1, 1976, through September 30, 1976, \$2,400,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", as follows: for the Secretary of Defense activities, \$258,000, of which \$3,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services and \$202,000 shall be available only for Overseas Dependent Education; for the Organization of the Joint Chiefs of Staff, \$1,000; for the Office of Information for the Armed Forces, \$6,000; for the Defense Contract Audit Agency, \$133,000; for the Defense Investigative Service, \$35,000; for the Defense Mapping Agency, \$297,000; for the Defense Nuclear Agency, \$12,000; for the Defense Supply Agency, \$1,662,000; and for intelligence and communications activities, \$596,000; in all: \$3,000,000.

For an additional amount for "Operation and maintenance, Defense Agencies" for the period July 1, 1976, through September 30, 1976, as follows: for the Secretary of Defense activities, \$129,000, of which \$2,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services and \$101,000 shall be available only for Overseas Dependent Education; for the Office of Information for the Armed Forces, \$3,000; for the Defense Contract Audit Agency,

\$67,000; for the Defense Investigative Service, \$18,000; for the Defense Mapping Agency, \$154,000; for the Defense Nuclear Agency, \$6,000; for the Defense Supply Agency, \$815,000; and for intelligence and communications activities, \$308,000; in all: \$1,500,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", \$600,000.

For an additional amount for "Operation and maintenance, Army Reserve" for the period July 1, 1976, through September 30, 1976, \$300,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", \$100,000.

For an additional amount for "Operation and maintenance, Navy Reserve" for the period July 1, 1976, through September 30, 1976, \$100,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and maintenance, Air Force Reserve", \$500,000.

For an additional amount for "Operation and maintenance, Air Force Reserve" for the period July 1, 1976, through September 30, 1976, \$200,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", \$1,200,000.

For an additional amount for "Operation and maintenance, Army National Guard" for the period July 1, 1976, through September 30, 1976, \$600,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and maintenance, Air National Guard", \$1,100,000.

For an additional amount for "Operation and maintenance, Air National Guard" for the period July 1, 1976, through September 30, 1976, \$600,000.

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

Provided, That \$365,600,000 of the funds appropriated under this heading for fiscal year 1976 in the Department of Defense Appropriation Act, 1976, shall be available only for the production of M60-series tanks. *Ante*, p. 153.

Provided, That \$150,900,000 of the funds appropriated under this heading for the period July 1, 1976, through September 30, 1976, in the Department of Defense Appropriation Act, 1976, shall be available only for the production of M60-series tanks.

PROCUREMENT OF EQUIPMENT AND MISSILES, ARMY, 1971/1973

(LIQUIDATION OF DEFICIENCIES)

For an additional amount for "Procurement of equipment and missiles, Army, 1971/1973," for liquidation of obligations incurred and chargeable to that account, \$147,800,000, to be derived by transfer from "Procurement of ammunition, Army, 1975/1977," \$118,000,000, from "Procurement of aircraft, Army, 1976/1978," \$5,800,000, and from "Other procurement, Army, 1976/1978," \$24,000,000.

PROCUREMENT OF AMMUNITION, ARMY, 1973/1975

(LIQUIDATION OF DEFICIENCIES)

For an additional amount for "Procurement of ammunition, Army, 1973/1975," for liquidation of obligations incurred and chargeable to that account, to be derived by transfer from "Procurement of ammunition, Army, 1974/1976," \$50,000,000.

OTHER PROCUREMENT, ARMY, 1972/1974

(LIQUIDATION OF DEFICIENCIES)

For an additional amount for "Other procurement, Army, 1972/1974," for liquidation of obligations incurred and chargeable to that account, \$17,200,000, to be derived by transfer from "Procurement of missiles, Army, 1976/1978," \$9,800,000, and from "Procurement of weapons and tracked combat vehicles, Army, 1976/1978," \$7,400,000.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, development, test and evaluation, Navy," \$8,000,000, to remain available for obligation until September 30, 1977.

CHAPTER III—FOREIGN OPERATIONS

DEPARTMENT OF STATE

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For expenses necessary to carry out the purposes of the United States Emergency Refugee and Migration Assistance Fund, \$10,000,000, to remain available until expended.

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN ASSISTANCE

INTERNATIONAL DISASTER ASSISTANCE

22 USC 2412. For an additional amount for "International disaster assistance", \$25,000,000, notwithstanding section 10 of Public Law 91-672.

INTERNATIONAL DEVELOPMENT ASSISTANCE

MULTILATERAL ASSISTANCE

PAYMENT TO INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For payment to the International Fund for Agricultural Development, as authorized by section 103(e) of the Foreign Assistance Act of 1961, as amended, \$200,000,000, to remain available until expended: *Provided*, That the funds made available in this paragraph shall not be obligated or expended until proper justification of the obligation or expenditure of such funds is provided to the Committees on Appropriations of the Senate and the House of Representatives. 22 USC 2151a.

INTERNATIONAL FINANCIAL INSTITUTIONS

INVESTMENT IN AFRICAN DEVELOPMENT FUND

For payment by the Secretary of the Treasury of a United States contribution to the African Development Fund, \$5,000,000, to remain available until expended: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

CHAPTER IV—DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

HOUSING PROGRAMS

HOUSING FOR THE ELDERLY OR HANDICAPPED

The limitation on the aggregate loans that may be made through September 30, 1976, under section 202 of the Housing Act of 1959, as amended, is hereby increased by \$375,000,000. 12 USC 1701q.

MOBILE HOME STANDARDS PROGRAM

For necessary expenses, not otherwise provided for, to carry out the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5401-5426), to remain available until September 30, 1976, \$1,000,000.

FEDERAL HOUSING ADMINISTRATION FUND

For reimbursement to the Federal Housing Administration Fund for losses incurred under the urban homesteading demonstration, \$5,000,000, as authorized by Section 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e), to remain available until September 30, 1977.

INDEPENDENT AGENCIES

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SALARIES AND EXPENSES

For expenses necessary for the Office of Science and Technology Policy, including services as authorized by 5 U.S.C. 3109, \$500,000.

For "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$500,000.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", \$549,500,000, to remain available until expended.

For an additional amount for "Compensation and pensions" for the period July 1, 1976, through September 30, 1976, \$173,300,000, to remain available until expended.

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", \$600,000,000 to remain available until expended.

For an additional amount for "Readjustment benefits" for the period July 1, 1976, through September 30, 1976, \$120,000,000, to remain available until expended.

MEDICAL CARE

For an additional amount for "Medical care", \$108,390,000.

For an additional amount for "Medical care" for the period July 1, 1976, through September 30, 1976, \$31,235,000.

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", \$8,300,000.

For an additional amount for "General operating expenses" for the period July 1, 1976, through September 30, 1976, \$4,800,000.

VOCATIONAL REHABILITATION REVOLVING FUND

To increase the "Vocational Rehabilitation Revolving Fund" established by the Act of March 24, 1943, and continued by 38 U.S.C. 1507, \$100,000.

SUPPLY FUND

For necessary expenses of the "Supply Fund" pursuant to Public Law 85-857, as amended (38 U.S.C. 5011), \$110,000,000, of which \$80,999,000 is for liquidation of contract authority and \$29,001,000 is to remain available until expended.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES,
FEDERAL HOME LOAN BANK BOARD

The limitation on nonadministrative expenses of the Federal Home Loan Bank Board is increased by an amount not to exceed \$679,000.

The limitation on nonadministrative expenses of the Federal Home Loan Bank Board for the period July 1, 1976, through September 30, 1976, is increased by an amount not to exceed \$220,000.

CHAPTER V

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of lands and resources", \$23,010,000.

For an additional amount for "Management of lands and resources" for the period July 1, 1976, through September 30, 1976, \$530,000.

CONSTRUCTION AND MAINTENANCE

For an additional amount for "Construction and maintenance", \$400,000, to remain available until expended.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

SALARIES AND EXPENSES

Appropriations and funds available to the Office of Water Research and Technology shall be used to maintain a research and development program at the Wrightsville Beach, North Carolina and the Roswell, New Mexico test facilities during the period July 1, 1976, through September 30, 1976.

BUREAU OF OUTDOOR RECREATION

LAND AND WATER CONSERVATION FUND

For an additional amount from the "Land and Water Conservation Fund", \$8,900,000, which shall be available to the National Park Service for land acquisition, to remain available until expended.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource management", \$267,000.

CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and anadromous fish", \$1,605,000, to remain available until expended.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the national park system", \$3,875,000.

For an additional amount for "Operation of the national park system", for the period July 1, 1976, through September 30, 1976, \$875,000.

PLANNING AND CONSTRUCTION

For an additional amount for "Planning and construction", \$242,000, to remain available until expended.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", \$600,000.

For an additional amount for "Surveys, investigations, and research", for the period July 1, 1976, through September 30, 1976, \$175,000.

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$3,090,000, including the purchase of not to exceed 230 passenger motor vehicles.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", \$13,250,000: *Provided further*, That within funds available for the operation of Bureau schools in Alaska, such amounts as are necessary shall be used for repair and rehabilitation of the North Slope Borough School to bring the facility into conformance with life and safety code standards.

CONSTRUCTION

For an additional amount for "Construction", \$6,750,000, to remain available until expended.

ROAD CONSTRUCTION

(LIQUIDATION OF CONTRACT AUTHORITY)

For an additional amount for "Road construction (Liquidation of contract authority)", \$10,000,000, to remain available until expended.

MISCELLANEOUS APPROPRIATIONS

ALASKA NATIVE FUND

For an additional amount for transfer to "Alaska Native Fund", \$1,600,000, as authorized by Sec. 14. (d) of the Act of January 2, 1976 (P.L. 94-204).

OFFICE OF TERRITORIAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For an additional amount for "Administration of Territories", \$5,740,000, to remain available until expended, for grants to American Samoa.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For an additional amount for "Trust Territory of the Pacific Islands," \$9,134,000, to remain available until expended, of which not to exceed \$1,500,000 shall be used to aid in the transition of the Mariana Islands district to a new commonwealth status as a territory of the United States pursuant to Public Law 94-27.

48 USC 1681
note.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST PROTECTION AND UTILIZATION

For an additional amount for "Forest protection and utilization", for "Forest land management", \$115,997,000.

For an additional amount for "Forest protection and utilization", for "Forest land management", for the period July 1, 1976, through September 30, 1976, \$40,000,000.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

OPERATING EXPENSES, FOSSIL FUELS

For an additional amount for "Operating expenses, fossil fuels", \$16,000,000, to remain available until expended.

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$10,085,000.

For an additional amount for "Salaries and expenses", for the period July 1, 1976, through September 30, 1976, \$7,000,000: *Provided*, That this appropriation shall be available only upon enactment into law of authorizing legislation.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out sections 151 through 166 of the Energy Policy and Conservation Act of 1975, \$313,375,000, to remain available until expended.

42 USC
6231-6246.

For "Strategic petroleum reserve" for the period July 1, 1976, through September 30, 1976, \$600,000, to remain available until expended.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For an additional amount for "Indian health services", \$3,000,000.

INDIAN HEALTH FACILITIES

For an additional amount for "Indian health facilities", \$250,000, to remain available until expended.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$1,665,000.

For an additional amount for "Salaries and expenses", for the period July 1, 1976, through September 30, 1976, \$149,000.

FUNDS APPROPRIATED TO THE PRESIDENT

PETROLEUM RESERVES

Ante, p. 303.

For expenses necessary to carry out section 201 of the Naval Petroleum Reserves Production Act of 1976, \$24,152,000, to remain available until expended.

For "Petroleum reserves" for the period July 1, 1976, through September 30, 1976, \$15,350,000, to remain available until expended.

CHAPTER VI

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

89 Stat. 826.

26 USC 3304
note.

Funds appropriated under this heading in the Supplemental Appropriations Act, 1976 (Public Law 94-157) shall be available for repayable loans to the Virgin Islands, as authorized by title III of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$260,000.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$445,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$5,060,000: *Provided*, That \$5,000,000 shall remain available until September 30,

1977 to carry out activities of the Mountain-Plains Family Education and Employment Program authorized by title III of the Comprehensive Employment and Training Act of 1973: *Provided further*, That the funds for the Mountain-Plains Family Education and Employment Program shall be transferred through the Old West Regional Commission. 29 USC 871.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$589,000.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

For an additional amount for "Health services" for carrying out, to the extent not otherwise provided, title V of the Social Security Act, for the period July 1, 1976, through September 30, 1976, \$18,300,000. 42 USC 701.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For an additional amount for "National Institute of Environmental Health Sciences" for the period July 1, 1976, through September 30, 1976, \$1,000,000.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For an additional amount for "Alcohol, drug abuse, and mental health" for carrying out the Drug Abuse Office and Treatment Act Amendments of 1976, \$161,126,000.

Ante, p. 241.

For an additional amount for "Alcohol, drug abuse, and mental health" for carrying out, to the extent not otherwise provided, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1966, and the Drug Abuse Office and Treatment Act Amendments of 1976, for the period July 1, 1976, through September 30, 1976, \$32,690,000. 42 USC 4551 note.

SAINT ELIZABETHS HOSPITAL

For an additional amount for "Saint Elizabeths Hospital", \$125,000.

For an additional amount for "Saint Elizabeths Hospital" for the period July 1, 1976, through September 30, 1976, \$1,007,000.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities" for construction, alterations, extension, and equipment of buildings and facilities on the grounds of Saint Elizabeths Hospital, \$5,200,000, to remain available until expended.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

42 USC 242c. For an additional amount for "Health resources" \$4,000,000 to remain available until expended for the construction of a medical facility under section 305(b)(3) of the Public Health Service Act without regard to the requirements of section 308.

42 USC 299, 300k-1. For carrying out titles IX and XV of the Public Health Service Act, \$22,500,000, to be derived by transfer from funds appropriated under this head in Public Law 94-206 for carrying out title XVI of the Public Health Service Act: *Provided*, That \$10,000,000 for carrying out title IX shall remain available until expended, notwithstanding the limitations of section 5(a)(2) of Public Law 93-641: *Provided further*, That the appropriation under this head in Public Law 94-206 for fiscal year 1976 is hereby amended by repealing the second proviso and by striking out "\$100,000,000 for Title XVI" and inserting in lieu thereof "\$51,760,000 for Title XVI."

Ante, p. 13.
42 USC 300o.

42 USC 300l-4
note.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

The total principal amount of loans to be guaranteed or directly made, which may be allotted among the States pursuant to Titles VI and XVI of the Public Health Service Act shall not exceed a cumulative amount of \$1,500,000,000.

OFFICE OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

20 USC 1901. For an additional amount for "Elementary and secondary education", \$8,000,000, to remain available through September 30, 1976, for carrying out Title VII of the Education Amendments of 1974 (\$6,800,000) and section 721(b)(3) of the Elementary and Secondary Education Act (\$1,200,000).

20 USC 880b-7. For an additional amount for "Elementary and secondary education" to carry out section 842 of Public Law 93-380 for the period July 1, 1976, through September 30, 1976, \$3,000,000.

20 USC 246.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

29 USC 238. For an additional amount for "School assistance in Federally affected areas", \$24,000,000, to remain available until expended only for payments under subparagraphs (A), (B), (C), and (D) of section 305 of the Education Amendments of 1974.

89 Stat. 468. Funds appropriated under this heading in the Education Division and Related Agencies Appropriation Act, 1976.

20 USC 241. Funds appropriated under this heading in that Appropriation Act for the period July 1, 1976, through September 30, 1976, shall be available only for payments under section 6 of title I of the Act of September 30, 1950 (not to exceed \$15,000,000), for the period July 1, 1976, through September 30, 1976, and for payments under subparagraphs (A), (B), (C), and (D) of section 305 of the Education Amendments of 1974 for the fiscal year ending June 30, 1976.

EMERGENCY SCHOOL AID

20 USC 1607. For an additional amount to carry out the provisions of Section 708 (a) of the Emergency School Aid Act, to assist school districts which

have adopted desegregation plans described in Section 706(a)(1)(A) and (B) of the Act, \$30,000,000, to remain available through September 30, 1976. 20 USC 1605.

For an additional amount for "Emergency school aid" to carry out section 708(a) of the Emergency School Aid Act for the period July 1, 1976, through September 30, 1976, \$3,000,000. 20 USC 1607.

EDUCATION FOR THE HANDICAPPED

For an additional amount for "Education for the handicapped" to carry out part B of the Education of the Handicapped Act, \$90,000,000. 20 USC 1401 note.

HIGHER EDUCATION

For an additional amount for "Higher education", \$791,750,000, of which \$791,000,000 shall be for basic educational opportunity grants authorized by title IV, part A, subpart 1 of the Higher Education Act, to remain available until September 30, 1977, and \$750,000 shall be for section 966 of the Higher Education Act. 20 USC 1061.
20 USC 1134r-1.

For an additional amount for "Higher education" for the period July 1, 1976 through September 30, 1976, \$1,000,000.

LIBRARY RESOURCES

For an additional amount for "Library resources" to carry out titles I and III of the Library Services and Construction Act for the period July 1, 1976, through September 30, 1976, \$12,937,000. 20 USC 352, 355e.

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$1,575,000.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$635,000.

SOCIAL AND REHABILITATION SERVICE

PUBLIC ASSISTANCE

For an additional amount for "Public assistance", \$2,237,000,000.

For an additional amount for "Public assistance" for the period July 1, 1976, through September 30, 1976, \$440,500,000.

SPECIAL INSTITUTIONS

GALLAUDET COLLEGE

For an additional amount for "Gallaudet College", \$396,000.

For an additional amount for "Gallaudet College" for the period July 1, 1976, through September 30, 1976, \$135,000.

HOWARD UNIVERSITY

For an additional amount for "Howard University", \$2,400,000.

For an additional amount for "Howard University" for the period July 1, 1976, through September 30, 1976, \$900,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT

HUMAN DEVELOPMENT

42 USC 3001
note.
29 USC 774. To carry out, except as otherwise provided, the Older Americans Act, and the Rehabilitation Act of 1973, \$146,975,000 of which \$2,465,000 under section 304(b)(3) of the Rehabilitation Act shall remain available until expended.

42 USC 3041. For an additional amount for "Human development" for the period July 1, 1976, through September 30, 1976, \$50,150,000, of which \$5,000,000 shall be available for carrying out title V of the Older Americans Act.

RELATED AGENCIES

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

47 USC 396 note. For payment to the Corporation for Public Broadcasting, as authorized by the Public Broadcasting Financing Act of 1975, an amount which shall be available within limitations specified by said Act, for the fiscal year 1976, \$78,500,000.

For payment to the Corporation for Public Broadcasting for the period July 1, 1976, through September 30, 1976, \$17,500,000.

CHAPTER VII

LEGISLATIVE BRANCH

SENATE

SALARIES, OFFICERS AND EMPLOYEES

LEGISLATIVE ASSISTANCE TO SENATORS

For an additional amount for "Legislative Assistance to Senators" for the period July 1, 1976, through September 30, 1976, \$225,000.

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of Sergeant at Arms and Doorkeeper", \$127,805: *Provided*, That, effective May 1, 1976, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of an Executive Secretary at not to exceed \$22,260 per annum; a Special Assistant at not to exceed \$22,260 per annum; a Floor Assistant at not to exceed \$17,172 per annum in lieu of an Assistant Doorkeeper at not to exceed \$17,172 per annum; two Floor Assistants at not to exceed \$16,059 per annum each; an Assistant Operations Manager at not to exceed \$23,214 per annum; four Systems Analysts at not to exceed \$23,214 per annum each in lieu of three Systems Analysts at not to exceed \$23,214 per annum each; seven Office Systems Specialists at not to exceed \$15,582 per annum each; two Training Specialists at not to exceed \$23,214 per annum each; five Senior Computer Specialists at not to exceed \$27,030 per annum each in lieu of four Senior Computer Specialists at not to exceed \$27,030 per annum each; eight Senior Programmer Analysts at not to exceed \$25,122 per annum each in lieu of seven Senior Programmer Analysts at not to exceed \$25,122

per annum each; thirteen Programmer Analysts at not to exceed \$23,214 per annum each in lieu of eight Programmer Analysts at not to exceed \$23,214 per annum each; six Systems Programmers at not to exceed \$23,214 per annum each in lieu of five Systems Programmers at not to exceed \$23,214 per annum each; a Network Technician at not to exceed \$20,352 per annum; two Secretaries at not to exceed \$13,992 per annum each in lieu of a Secretary at not to exceed \$13,992 per annum; a Network Supervisor at not to exceed \$29,892 per annum; three Senior Job Controllers at not to exceed \$20,034 per annum each in lieu of a Job Controller at not to exceed \$15,582 per annum and an Applications Programmer at not to exceed \$20,034 per annum; four Operations Clerks at not to exceed \$11,766 per annum each; two Key-punch Operators at not to exceed \$10,971 per annum each in lieu of a Key-punch Operator at not to exceed \$8,586 per annum; an Operations Scheduler at not to exceed \$20,034 per annum; two Data Standards Specialists at not to exceed \$20,034 per annum each; three Computer Shift Supervisors at not to exceed \$16,059 per annum each; a Data Conversion Operator at not to exceed \$10,017 per annum; a Tape Librarian at not to exceed \$13,038 per annum; six Lead Operators at not to exceed \$14,628 per annum each in lieu of three Support Operators at not to exceed \$14,628 per annum each, a Programmer-Operator at not to exceed \$14,310 per annum, an Operator at not to exceed \$14,628 per annum, and an Operator at not to exceed \$13,674 per annum; an Operations Clerk at not to exceed \$11,766 per annum in lieu of a Systems Clerk at not to exceed \$11,766 per annum; five Junior Operators at not to exceed \$13,038 per annum each in lieu of four Operators at not to exceed \$13,038 per annum each; an Operations Manager at not to exceed \$27,666 per annum in lieu of a Manager Programmer at not to exceed \$27,666 per annum; a Hardware Services Supervisor at not to exceed \$17,808 per annum in lieu of a Supervisor Operator at not to exceed \$17,808 per annum; and a Garage Foreman at not to exceed \$14,628 per annum in lieu of a Stockroom Clerk at not to exceed \$12,720 per annum.

For an additional amount for "Office of Sergeant at Arms and Doorkeeper" for the period July 1, 1976, through September 30, 1976, \$191,705.

AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

For an additional amount for "Agency Contributions and Longevity Compensation" for the period July 1, 1976, through September 30, 1976, \$86,250.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For an additional amount for "Senate Policy Committees" for the period July 1, 1976, through September 30, 1976, \$625.

AUTOMOBILES AND MAINTENANCE

For an additional amount for "Automobiles and Maintenance", \$5,000.

For an additional amount for "Automobiles and Maintenance" for the period July 1, 1976, through September 30, 1976, \$1,250.

INQUIRIES AND INVESTIGATIONS

For an additional amount for "Inquiries and Investigations", \$1,350,000.

For an additional amount for "Inquiries and Investigations" for the period July 1, 1976, through September 30, 1976, \$577,730.

MISCELLANEOUS ITEMS

2 USC 61d-2.

For an additional amount for "Miscellaneous Items", \$1,260,200.

For an additional amount for "Miscellaneous Items" for the period July 1, 1976, through September 30, 1976, \$2,012,915.

POSTAGE STAMPS

For an additional amount for "Postage Stamps", \$100: *Provided*, That, effective with fiscal year 1976 and each fiscal year thereafter, the postage allowance for the Office of the Chaplain is increased to \$200 per year.

For an additional amount for "Postage Stamps" for the period July 1, 1976, through September 30, 1976, \$35.

ADMINISTRATIVE PROVISIONS

SEC. 115. The unexpended balances of any of the appropriations granted under the heading "Salaries, Officers and Employees" for the current fiscal year shall be available to the Secretary of the Senate to pay the increases in the compensation of officers and employees notwithstanding the limitations contained therein.

Senate Computer
Center Revolving
Fund.
Establishment.
2 USC 123d.

SEC. 116. (a) (1) There is hereby established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Computer Center Revolving Fund (hereafter in this section referred to as the "revolving fund").

(2) The revolving fund shall be available only for paying the salaries of personnel employed under subsection (c), and agency contributions attributable thereto, and for paying refunds under contracts entered into under subsection (b).

(3) Within 90 days after the end of each fiscal year, the Secretary of the Senate shall withdraw all amounts in the revolving fund in excess of \$100,000, other than amounts required to make refunds under subsection (b) (2) (B), and shall deposit the amounts withdrawn in the Treasury of the United States as miscellaneous receipts.

Contracts.

(b) (1) Subject to the provisions of paragraph (2), the Sergeant at Arms and Doorkeeper of the Senate is authorized to enter into contracts with any agency or instrumentality of the legislative branch for the use of any available time on the Senate computer.

(2) No contract may be entered into under paragraph (1) unless it has been approved by the Committee on Rules and Administration of the Senate, and no such contract may extend beyond the end of the fiscal year in which it is entered into. Each contract entered into under paragraph (1) shall contain—

(A) a provision requiring full advance payment for the amount of time contracted for, and

(B) a provision requiring refund of a proportionate amount of such advance payment if the total amount of time contracted for is not used.

Notwithstanding any other provision of law, any agency or instrumentality of the legislative branch is authorized to make advance payments under a contract entered into under paragraph (1).

(c) To the extent that the personnel of the Senate Computer Center are unable to carry out the contracts entered into under subsection (b) according to their terms and conditions, the Sergeant at Arms and Doorkeeper of the Senate is authorized to employ such additional personnel for the Senate Computer Center as may be necessary to carry out such contracts, and to pay the salaries of such additional personnel, and agency contributions attributable thereto, from the revolving fund. Such additional personnel may temporarily be assigned to perform the regular functions of the Senate Computer Center when their services are not needed to carry out such contracts.

Additional
personnel.

(d) Disbursements from the revolving fund under subsections (b) and (c) shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 117. For the purpose of carrying out his duties, the Sergeant at Arms and Doorkeeper of the Senate is authorized to incur official travel expenses not exceeding \$10,000 during any fiscal year. With the approval of the Sergeant at Arms and Doorkeeper, the Secretary of the Senate is authorized to advance to any designated employee under the jurisdiction of the Sergeant at Arms and Doorkeeper such sums as may be necessary, not exceeding \$1,000, to defray official travel expenses in assisting the Sergeant at Arms and Doorkeeper in carrying out his duties. Any such employee shall, as soon as practicable, furnish to the Sergeant at Arms and Doorkeeper a detailed voucher for such expenses incurred and make settlement with respect to any amount so advanced. For purposes of this section, official travel expenses includes travel expenses incurred in connection with training of employees only if the training has been approved by the Committee on Rules and Administration of the Senate. Payments under this section shall be made from funds included in the appropriation "Miscellaneous Items" under the heading "Contingent Expenses of the Senate" upon vouchers approved by the Sergeant at Arms and Doorkeeper.

Travel expenses.
2 USC 61f-1a.

SEC. 118. (a) The first sentence of the paragraph under the heading "GENERAL PROVISION" of chapter XI of the Third Supplemental Appropriations Act, 1957 (2 U.S.C. 102a) is amended by inserting before the period at the end thereof the following: "; except that the unexpended balances of such appropriations for the period commencing on July 1, 1976, and ending on September 30, 1976, and for each fiscal year beginning on or after October 1, 1976, shall be withdrawn as of September 30 of the second fiscal year following the period or year for which provided".

(b)(1) The first paragraph of section 105(a) of the Legislative Branch Appropriation Act, 1965 (2 U.S.C. 104(a)) is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following:

2 USC 104a.

"(2) The report by the Secretary of the Senate under paragraph (1) for the semiannual period beginning on January 1, 1976, shall include the period beginning on July 1, 1976, and ending on September 30, 1976, and such semiannual period shall be treated as closing on September 30, 1976. Thereafter, the report by the Secretary of the Senate under paragraph (1) shall be for the semiannual periods beginning on

31 USC 1020-1.

October 1 and ending on March 31 and beginning on April 1 and ending on September 30 of each year.”

(2) Effective October 1, 1976, any provision of law relating to the Senate which contains a July 1 or June 30 date which is related to the beginning or end of a fiscal year shall be treated as referring to October 1 and September 30, respectively.

(c) Section 105(b) of the Legislative Branch Appropriation Act, 1965 (40 U.S.C. 162b) is amended by inserting “(1)” after “(b)” and by adding at the end thereof the following:

“(2) The report by the Architect of the Capitol under paragraph (1) for the semiannual period beginning on January 1, 1976, shall include the period beginning on July 1, 1976, and ending on September 30, 1976, and such semiannual period shall be treated as closing on September 30, 1976. Thereafter, the report by the Architect of the Capitol under paragraph (1) shall be for the semiannual periods beginning on October 1 and ending on March 31 and beginning on April 1 and ending on September 30 of each year.”

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Pauline Patman, widow of Wright Patman, late a Representative from the State of Texas, \$44,600.

For payment to the estate of William A. Barrett, late a Representative from the State of Pennsylvania, \$44,600.

CONTINGENT EXPENSES OF THE HOUSE

SPECIAL AND SELECT COMMITTEES

For an additional amount for “Special and select committees”, \$1,000,000.

REPORTING HEARINGS

For an additional amount for “Reporting hearings”, \$400,000.

For an additional amount for “Reporting hearings” for the period July 1, 1976, through September 30, 1976, \$250,000.

JOINT ITEMS

CONTINGENT EXPENSES OF THE SENATE

JOINT COMMITTEE ON PRINTING

44 USC 103 note.

For an additional amount for “Joint Committee on Printing”, \$300,000, to remain available until December 31, 1976: *Provided*, That, effective May 1, 1976, the Joint Committee is authorized (1) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under subsection (i) of section 202 of the Legislative Reorganization Act of 1946, as amended, and (2) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency: *Provided further*, That, prior to the employment of any consultants or the procurement of services by contract relative to any review and analysis

2 USC 72a.

of the operation of the Government Printing Office, the Joint Committee shall consult with the Legislative Branch Appropriations Subcommittees of the House and Senate; and that periodic reports on the progress of any such review and analysis be submitted to the Joint Committee on Printing and the Legislative Branch Appropriations Subcommittees of the House and Senate.

Reports to congressional committees.

JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1977

For construction of platform and seating stands and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1977, in accordance with such program as may be adopted by the joint committee authorized by concurrent resolution of the Senate and House of Representatives, \$825,000, to remain available through September 30, 1977.

AMERICAN INDIAN POLICY REVIEW COMMISSION

Not to exceed \$100,000 of the funds heretofore appropriated under this heading for the fiscal year 1976 shall remain available until June 30, 1977.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

For an additional amount for "Joint Committee on Internal Revenue Taxation", \$75,000.

For an additional amount for "Joint Committee on Internal Revenue Taxation" for the period July 1, 1976, through September 30, 1976, \$18,800.

CAPITOL GUIDE SERVICE

For an additional amount for "Capitol Guide Service", \$37,100, to be disbursed by the Secretary of the Senate: *Provided*, That notwithstanding the provisions of Public Law 94-59, the Sergeant at Arms and Doorkeeper of the Senate and the Sergeant at Arms of the House each, subject to approval of the Capitol Guide Board, may appoint not to exceed ten additional temporary guides at an annual rate of compensation not to exceed \$11,130 during the period May 1, 1976, through September 30, 1976.

89 Stat. 269.

For an additional amount for "Capitol Guide Service" for the period July 1, 1976, through September 30, 1976, \$55,650, to be disbursed by the Secretary of the Senate.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

Any funds remaining unobligated as of September 30, 1976, shall remain available until September 30, 1977.

ARCHITECT OF THE CAPITOL

CONTINGENT EXPENSES

For an additional amount for "Contingent expenses", \$201,000, to remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For an additional amount for "Capitol buildings", \$330,000.

CONSTRUCTION OF AN EXTENSION TO THE NEW SENATE OFFICE
BUILDING

Repeal.

The paragraph under the heading "Construction of an Extension to the New Senate Office Building" in title V of the Legislative Branch Appropriation Act, 1976 (89 Stat. 289), is repealed.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", for the establishment of the American Folklife Center in the Library of Congress, for the period July 1, 1976, through September 30, 1976, \$72,000.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", for studies for copyright revision planning for the period July 1, 1976, through September 30, 1976, \$130,000.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", Office of Superintendent of Documents, \$6,000,000.

For an additional amount for "Salaries and expenses", Office of Superintendent of Documents, for the period July 1, 1976, through September 30, 1976, \$1,500,000.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$967,000.

For an additional amount for "Salaries and expenses", for the period July 1, 1976, through September 30, 1976, \$242,000.

CHAPTER VIII

ENERGY RESEARCH AND DEVELOPMENT
ADMINISTRATION

OPERATING EXPENSES

For an additional amount for "Operating expenses" for the period July 1, 1976, through September 30, 1976, \$17,000,000, to remain available until expended.

PLANT AND CAPITAL EQUIPMENT

For an additional amount for "Plant and capital equipment" for architect-engineering services only, Project 76-8-g, additional facilities, enriched uranium production, authorized by Public Law 94-187, \$12,630,000, to be derived by transfer from "Operating expenses", to remain available until expended. 89 Stat. 1063.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

For an additional amount for "Construction, general" for the period July 1, 1976, through September 30, 1976, \$4,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood control and coastal emergencies", to remain available until expended, \$50,000,000.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

COLORADO RIVER BASIN PROJECT

For an additional amount for advances to the "Lower Colorado River Basin Development Fund", to remain available until expended, \$5,000,000, of which \$5,000,000 is for liquidation of contract authority.

INDEPENDENT OFFICES

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

The appropriations made available under this head for the fiscal year 1976 and the period July 1, 1976, through September 30, 1976, in the Public Works for Water and Power Development and Energy Research Appropriation Act, 1976 (Public Law 94-180) are hereby made available until expended. 89 Stat. 1047.

Moneys received by the Commission for the cooperative nuclear safety research program may be retained and used for salaries and expenses associated with that program and shall remain available until expended.

CHAPTER IX

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to the Foreign Service retirement and disability fund", \$1,700,000.

PAYMENT TO CONDITIONAL GIFT FUND, GENERAL

22 USC 2687
note.

For payment to the Conditional Gift Fund, General, as authorized by Public Law 94-141, for the purpose of furnishing or refurbishing the diplomatic reception rooms of the Department of State, not to exceed \$125,000, to remain available until expended: *Provided*, That payment shall be made upon the deposit of an equivalent amount in the general fund of the Treasury pursuant to the bequest made by the late Ambassador Walter Thurston to the United States.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to international organizations" for the period July 1, 1976, through September 30, 1976, \$29,090,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For an additional amount for "International conferences and contingencies", \$1,300,000, to remain available until December 31, 1976, of which not to exceed \$10,000 may be expended for representation allowances as authorized by section 901 of the act of August 13, 1946, as amended (22 U.S.C. 1131) and for official entertainment.

INTERNATIONAL COMMISSIONS

INTERNATIONAL FISHERIES COMMISSIONS

For an additional amount for "International fisheries commissions" for the period July 1, 1976, through September 30, 1976, \$442,000.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$20,000.

For an additional amount for "Salaries and expenses", for the period July 1, 1976, through September 30, 1976, \$20,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", \$150,000.

For an additional amount for "Salaries and expenses, general legal activities", for the period July 1, 1976, through September 30, 1976, \$90,000.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For an additional amount for "Salaries and expenses, Antitrust Division", \$40,000.

For an additional amount for "Salaries and expenses, Antitrust Division", for the period July 1, 1976, through September 30, 1976, \$20,000.

SALARIES AND EXPENSES, U.S. ATTORNEYS AND MARSHALS

For an additional amount for "Salaries and expenses, U.S. Attorneys and Marshals", \$564,000.

For an additional amount for "Salaries and expenses, U.S. Attorneys and Marshals", for the period July 1, 1976, through September 30, 1976, \$1,000,000.

FEES AND EXPENSES OF WITNESSES

For an additional amount for "Fees and expenses of witnesses", \$350,000. The \$1,750,000 limitation on compensation and expenses of expert witnesses contained in the Department of Justice Appropriation Act, 1976, is deleted.

89 Stat. 618.

For an additional amount for "Fees and expenses of witnesses", for the period July 1, 1976, through September 30, 1976, \$90,000. The \$437,500 limitation on compensation and expenses of expert witnesses contained in the Department of Justice Appropriation Act, 1976, is deleted.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$4,158,000.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$1,000,000.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES, BUREAU OF PRISONS

For an additional amount for "Salaries and expenses, Bureau of Prisons", \$3,500,000.

For an additional amount for "Salaries and expenses, Bureau of Prisons", for the period July 1, 1976, through September 30, 1976, \$642,000.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$2,000,000.

For an additional amount for "Salaries and expenses", for the period July 1, 1976, through September 30, 1976, \$400,000.

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic censuses and programs", \$1,280,000, to remain available until expended.

For an additional amount for "Periodic censuses and programs" for the period July 1, 1976, through September 30, 1976, \$1,520,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", for the period July 1, 1976, through September 30, 1976, \$2,000,000, to remain available until expended.

OFFSHORE SHRIMP FISHERIES FUND

16 USC 1100b
note.

For expenses necessary to carry out the provisions of the Offshore Shrimp Fisheries Act of 1973 as amended (Public Law 94-58), \$270,000, to remain available until expended.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

FEES OF JURORS

For an additional amount for "Fees of jurors", \$2,000,000.

For an additional amount for "Fees of jurors" \$500,000, for the period July 1, 1976, through September 30, 1976.

SALARIES AND EXPENSES OF REFEREES

For an additional amount for "Salaries and expenses of referees", \$313,000.

For an additional amount for "Salaries and expenses of referees", \$235,000, for the period July 1, 1976, through September 30, 1976.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For an additional amount for "Arms control and disarmament activities", \$950,000, including not to exceed \$5,000 for official reception and representation expenses.

For an additional amount for "Arms control and disarmament activities" for the period July 1, 1976, through September 30, 1976, \$250,000.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$154,000.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$178,000.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$108,000.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$122,000.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For an additional amount for payment to the "Legal Services Corporation", \$4,330,000.

PRIVACY PROTECTION STUDY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$250,000, to remain available until expended: *Provided*, That this appropriation shall be available only upon enactment of authorizing legislation.

CHAPTER X

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Notwithstanding the limitation of funds available in the appropriation under this head in the Department of Transportation and Related Agencies Appropriation Act, 1975, to lease and maintain automobile parking facilities in the Nassif Building, payments of not to exceed \$53,000 may be made out of any unobligated Departmental funds provided for fiscal year 1975 to pay the full court judgment awarded in June 1975 relating to such facilities.

88 Stat. 769.

TRANSPORTATION, PLANNING, RESEARCH, AND DEVELOPMENT

87 Stat. 272. From amounts made available in the fiscal year 1976 appropriation under this head, not to exceed \$244,673 shall be used to pay the cost of a study by the Georgia Institute of Technology to devise analytical procedures for intercity transportation and development planning using the route identified in section 143(1) of Public Law 93-87 as the focus of the study.

COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Ante, p. 331. For an additional amount for "Acquisition, construction, and improvements", \$10,000,000 for carrying out the provisions of Public Law 94-265, Fishery Conservation and Management Act of 1976, to remain available until expended.

RETIRED PAY

For an additional amount for "Retired pay", \$8,000,000.
For an additional amount for "Retired pay" for the period July 1, 1976, through September 30, 1976, \$3,250,000.

STATE BOATING SAFETY ASSISTANCE

For "State boating safety assistance" for the period July 1, 1976, through September 30, 1976, \$1,450,000 to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATION AND MAINTENANCE, NATIONAL CAPITAL AIRPORTS

For an additional amount for "Operation and maintenance, National Capital Airports", \$475,000.

FACILITIES, ENGINEERING AND DEVELOPMENT

For an additional amount for "Facilities, engineering and development", \$2,500,000, to remain available until expended.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

For "Highway safety research and development" for the period July 1, 1976, through September 30, 1976, to be derived from the Highway Trust Fund, \$2,250,000, to remain available until expended.

LIMITATION ON GENERAL OPERATING EXPENSES

For an additional amount for "Limitation on general operating expenses" for the period July 1, 1976, through September 30, 1976, \$2,250,000, to remain available until expended.

HIGHWAY BEAUTIFICATION

For an additional amount for "Highway beautification (liquidation of contract authorization)" for the period July 1, 1976, through

September 30, 1976, \$250,000 for necessary administrative expenses for carrying out such provisions of title 23, United States Code, as authorized by section 104(a) of the Federal-Aid Highway Act of 1973.

87 Stat. 251.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(TRUST FUND)

For an additional amount for carrying out the provisions of title 23, United States Code, which are attributable to Federal-aid highways, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of section 308, title 23, United States Code, \$1,100,000,000, or so much as may be available in and derived from the Highway Trust Fund, to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

TRAFFIC AND HIGHWAY SAFETY

For an additional amount for "Traffic and highway safety," \$950,000.

For "Traffic and highway safety" for the period July 1, 1976, through September 30, 1976, \$16,950,000 of which \$6,300,000 shall be derived from the Highway Trust Fund: *Provided*, That not to exceed \$6,700,000 shall remain available until expended, of which \$1,870,000 shall be derived from the Highway Trust Fund, for contractual requirements of Research and Analysis activities.

FEDERAL RAILROAD ADMINISTRATION

RAILROAD RESEARCH AND DEVELOPMENT

For an additional amount for "Railroad research and development", \$3,000,000, to remain available until expended.

For an additional amount for "Railroad research and development" for the period July 1, 1976, through September 30, 1976, \$2,000,000 to remain available until expended.

RAIL SERVICE ASSISTANCE

For necessary expenses to carry out the provisions of section 210(f) of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, \$250,000,000; together with \$13,880,000 for rail service assistance programs authorized by section 803 of Public Law 94-210 and section 402 of Public Law 93-236, as amended, and for necessary administrative expenses in connection with Federal assistance not otherwise provided for; together with \$1,250,000 for the necessary expenses of the minority resource center as authorized by section 906 of Public Law 94-210, to remain available until expended.

45 USC 720.

Ante, p. 130.

45 USC 762.

Ante, p. 149.

For an additional amount for rail service continuation subsidies under section 402(i) of the Regional Rail Reorganization Act of 1973, as amended, \$6,400,000; and for necessary expenses in connection with Federal assistance not authorized or provided for, \$300,000; for the period July 1, 1976, through September 30, 1976, to remain available until expended.

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN MASS TRANSPORTATION FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

49 USC 1601a
note, 1601b note.

For an additional payment to the urban mass transportation fund, for liquidation of contractual obligations incurred under authority of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1961 et seq., as amended by Public Laws 91-453 and 93-503) and section 103(e)(4) of title 23, United States Code, \$86,000,000, to remain available until expended: *Provided*, That none of the funds provided in Public Law 94-134 shall be available for administrative expenses in connection with obligations against contract authority for interstate substitutions under 23 U.S.C. 103(e)(4) aggregating more than \$444,000,000 in fiscal year 1976 and the period ending September 30, 1976, of which not more than \$287,000,000 shall be for obligations for the Washington Metropolitan Area Transit Authority: *Provided further*, That such amounts as are necessary for highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.

PROJECTS SUBSTITUTED FOR INTERSTATE SYSTEM PROJECTS

For necessary expenses to carry out the provisions of title 23, U.S.C. 103(e)(4), \$188,000,000, to remain available until expended: *Provided*, That such amounts as are necessary to carry out highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.

RELATED AGENCIES

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

45 USC 701 note,
801 note.

For an additional amount for "Salaries and expenses," \$1,700,000, of which \$600,000 shall be available for necessary expenses of the Rail Services Planning Office to carry out the powers and duties authorized by the Regional Rail Reorganization Act of 1973, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976; of which \$186,000 shall be available for the Office of Rail Public Counsel to carry out the powers and duties authorized by the Railroad Revitalization and Regulatory Reform Act of 1976; and of which \$500,000 shall be available for the Uniform Cost and Revenue Accounting System for railroads.

For an additional amount for "Salaries and expenses," for the period July 1, 1976, through September 30, 1976, \$1,295,000, of which \$350,000 shall be available for necessary expenses of the Rail Services Planning Office to carry out the powers and duties authorized by the Railroad Revitalization and Regulatory Reform Act of 1976; of which \$225,000 shall be available for the Office of Rail Public Counsel to carry out the powers and duties authorized by the Railroad Revitalization and Regulatory Reform Act of 1976; and of which \$500,000 shall be available for the Uniform Cost and Revenue Accounting System for railroads.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For an additional amount for "Administrative expenses," \$6,500,000.

CHAPTER XI

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Of the amount provided under this head in the "Treasury, Postal Service, and General Government Appropriation Act, 1976", \$712,000 shall be available for expenses of travel, notwithstanding the provisions of section 501 of the Act.

89 Stat. 457.

Of the amount provided under this head for the period from July 1, 1976, through September 30, 1976, in the "Treasury, Postal Service, and General Government Appropriation Act, 1976", \$193,000 shall be available for expenses of travel, notwithstanding the provisions of section 501 of the Act.

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$10,573,000.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$4,944,000.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$9,600,000.

For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$3,800,000.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For an additional amount for "Administering the public debt", \$3,869,000.

For an additional amount for "Administering the public debt" for the period July 1, 1976, through September 30, 1976, \$1,410,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", including purchase of ten motor vehicles for police-type use, \$6,000,000, and in addition, \$1,000,000, to remain available until expended, for payments to State and local governments for protection of permanent and observer foreign diplomatic missions, under extraordinary circum-

- 89 Stat. 1109. stances, pursuant to Public Law 94-196, approved December 31, 1975.
For an additional amount for "Salaries and expenses" for the period July 1, 1976, through September 30, 1976, \$1,700,000.

UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for "Payment to the Postal Service Fund", \$121,231,000.

For an additional amount for "Payment to the Postal Service Fund" for the period July 1, 1976, through September 30, 1976, \$17,649,000.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON WAGE AND PRICE STABILITY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", for the period July 1, 1976, through September 30, 1976, \$403,000.

OFFICE OF DRUG ABUSE POLICY

SALARIES AND EXPENSES

- Ante*, p. 241. For necessary expenses of the Office of Drug Abuse Policy, as authorized by Public Law 94-237, \$250,000.

INDEPENDENT AGENCIES

CIVIL SERVICE COMMISSION

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For an additional amount for "Government payment for annuitants, employees health benefits", \$9,319,000.

For an additional amount for "Government payment for annuitants, employees health benefits" for the period July 1, 1976, through September 30, 1976, \$4,407,000.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to Civil Service retirement and disability fund", \$236,895,000.

NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL
WOMEN'S YEAR, 1975

SALARIES AND EXPENSES

- 89 Stat. 1003. For necessary expenses of the National Commission on the Observance of International Women's Year, 1975, as authorized by Public Law 94-167, \$5,000,000, to remain available until expended: *Provided*, That none of the funds appropriated under this paragraph shall be used for lobbying activities.

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF
FEDERAL OFFICIALS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of title II of the Public Documents Act of December 19, 1974 (Public Law 93-526), \$350,000.

44 USC 3315
note.

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

SALARIES AND EXPENSES

For an additional amount for the National Commission on Supplies and Shortages, for the necessary expenses of the Advisory Committee, established under section 720(i) (2) of the Defense Production Act of 1950, \$125,000, to remain available until March 31, 1977.

50 USC app.
2169.

CHAPTER XII

CLAIMS AND JUDGMENTS

CLAIMS AND JUDGMENTS

For payment of claims settled and determined by departments and agencies in accord with law and judgments rendered against the United States by the United States Court of Claims and United States district courts, as set forth in Senate Documents Numbered 94-163 and 94-180 and House Document Numbered 395, Ninety-fourth Congress, \$53,971,745, together with such amounts as may be necessary to pay interest (as and when specified in such judgments or provided by law) and such additional sums due to increases in rates of exchange as may be necessary to pay claims in foreign currency: *Provided*, That no judgment herein appropriated for shall be paid until it shall become final and conclusive against the United States by failure of the parties to appeal or otherwise: *Provided further*, That unless otherwise specifically required by law or by judgment, payment of interest wherever appropriated for herein shall not continue for more than thirty days after the date of approval of the Act.

TITLE II—INCREASED PAY COSTS FOR THE FISCAL
YEAR 1976

For additional amounts for appropriations for the fiscal year 1976, for increased pay costs authorized by or pursuant to law, as follows:

LEGISLATIVE BRANCH

SENATE

“Office of the Legislative Counsel of the Senate”, \$22,870;
“Senate policy committees”, \$29,410;
“Inquiries and investigations”, \$587,685;
“Folding documents”, \$3,250;
“Miscellaneous items”, \$4,450;

HOUSE OF REPRESENTATIVES

"Compensation of Members", \$787,200;
"House leadership offices", \$55,400;
"Salaries, officers and employees", \$294,500;
"Committee on Appropriations (studies and investigations)",
\$7,500;
"Office of the Law Revision Counsel", \$2,800;
"Office of the Legislative Counsel", \$32,300;
"Members' clerk hire", \$2,620,000;
"Government contributions", \$640,000;
"Special and select committees", \$551,000;
"Leadership automobiles", \$2,100;

JOINT ITEMS

"Joint Economic Committee", \$39,215;
"Joint Committee on Printing", \$17,090;
"Joint Committee on Internal Revenue Taxation", \$44,800;
"Joint Committee on Defense Production", \$5,600;
"Joint Committee on Congressional Operations", \$19,500;
"Capitol Guide Service", \$11,050;

OFFICE OF TECHNOLOGY ASSESSMENT

"Salaries and expenses", \$93,000;

CONGRESSIONAL BUDGET OFFICE

"Salaries and expenses", \$132,100;

ARCHITECT OF THE CAPITOL

Office of the Architect of the Capitol: "Salaries", \$51,000;
Capitol buildings and grounds:
 "Capitol buildings", \$156,800;
 "Capitol grounds", \$58,700;
 "Senate office buildings", \$322,000;
 "Senate garage", \$7,000;
 "House office buildings", \$438,000;
 "Capitol power plant", \$25,000;
"Library buildings and grounds: Structural and mechanical care",
\$69,000;

BOTANIC GARDENS

"Salaries and expenses", \$47,500;

LIBRARY OF CONGRESS

"Salaries and expenses", \$1,522,000;
Copyright Office: "Salaries and expenses", \$224,000;
Congressional Research Service: "Salaries and expenses", \$559,000;
Distribution of catalog cards: "Salaries and expenses", \$244,000;
Books for the blind and physically handicapped: "Salaries and
expenses", \$33,000;

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents: "Salaries and expenses", \$799,000;

GENERAL ACCOUNTING OFFICE

"Salaries and expenses", \$3,352,000;

UNITED STATES TAX COURT

"Salaries and expenses", \$115,000;

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

"Automobile for the Chief Justice", \$500;

"Care of the building and grounds", \$25,000;

CUSTOMS COURT

"Salaries and expenses", \$42,500;

COURT OF CLAIMS

"Salaries and expenses", \$25,000;

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

"Salaries of supporting personnel", \$2,400,000;

"Representation by court-appointed counsel and operation of defender organizations", \$156,000;

"Salaries and expenses of referees", \$796,000, to be derived from the Referees' salary and expense fund established pursuant to the Act of June 28, 1946, as amended (11 U.S.C. 68, 102), and, to the extent of any deficiency in said fund, from any moneys in the Treasury not otherwise appropriated;

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

"Salaries and expenses", \$198,000;

EXECUTIVE OFFICE OF THE PRESIDENT

EXECUTIVE RESIDENCE

"Operating expenses", \$76,000;

SPECIAL ASSISTANCE TO THE PRESIDENT

"Special assistance to the President", \$23,000;

COUNCIL OF ECONOMIC ADVISERS

"Salaries and expenses", \$21,000;

COUNCIL ON WAGE AND PRICE STABILITY

"Salaries and expenses", \$39,000;

DOMESTIC COUNCIL

"Salaries and expenses", \$36,000;

NATIONAL SECURITY COUNCIL

"Salaries and expenses", \$72,000;

OFFICE OF MANAGEMENT AND BUDGET

"Office of Federal Procurement Policy: Salaries and expenses", \$24,000;

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

"Salaries and expenses", \$40,000;

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFER OF FUNDS)

"Office of the Secretary", \$48,000;

"Departmental administration", \$421,000, of which \$73,000 shall be available for the Office of Communication;

"Office of the Inspector General", \$460,000, and, in addition, \$169,000 shall be derived by transfer from the appropriation "Food stamp program" and merged with this appropriation;

"Office of the General Counsel", \$270,000;

"Agricultural Research Service", \$6,629,000;

"Animal and Plant Health Inspection Service", \$9,010,000;

"National Agricultural Library", \$118,000;

"Statistical Reporting Service", \$787,000;

"Economic Research Service", \$745,000;

"Packers and Stockyards Administration", \$143,000;

"Farmer Cooperative Service", \$77,000;

FEDERAL CROP INSURANCE CORPORATION

"Administrative and operating expenses", \$60,000;

"Federal Crop Insurance Corporation fund", an additional \$395,000 of administrative and operating expenses may be paid from premium income;

"Rural Development Service", \$36,000;

RURAL ELECTRIFICATION ADMINISTRATION

"Salaries and expenses", \$601,000;

AGRICULTURAL MARKETING SERVICE

"Funds for strengthening markets, income, and supply (section 32)" (increase of \$116,000 in the limitation "marketing agreements and orders");

FOREST SERVICE

"Forest protection and utilization", for "Forest land management", \$7,840,000, of which \$23,000 for cooperative law enforcement and

\$221,000 for insect and disease control shall remain available until expended; "Forest research", \$1,925,000; and "State and private forestry cooperation", \$164,000;

"Construction and land acquisition", \$389,000, to remain available until expended;

"Youth Conservation Corps", \$98,000, to remain available until the end of the fiscal year following the fiscal year for which appropriated: *Provided*, That \$49,000 shall be available to the Secretary of the Interior and \$49,000 shall be available to the Secretary of Agriculture;

"Assistance to States for tree planting", \$9,000, to remain available until expended;

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

"Salaries and expenses", \$394,000;

OFFICE OF ENERGY PROGRAMS

"Salaries and expenses", \$46,000;

BUREAU OF THE CENSUS

"Salaries and expenses", \$1,000,000;

"Periodic censuses and programs", \$700,000, to remain available until expended;

BUREAU OF ECONOMIC ANALYSIS

"Salaries and expenses", \$300,000;

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

"Operations and administration", \$1,350,000, to remain available until expended;

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"Operations, research, and facilities", \$10,400,000, to remain available until expended;

"Coastal zone management", \$32,000, to remain available until expended;

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

"Operations, research, and administration", \$100,000, to remain available until expended;

PATENT AND TRADEMARK OFFICE

"Salaries and expenses", \$2,050,000;

SCIENCE AND TECHNICAL RESEARCH

"Scientific and technical research and services", \$1,700,000, to remain available until expended;

MARITIME ADMINISTRATION

"Operations and training", \$900,000, to remain available until expended;

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

"Military personnel, Army", \$240,238,000;
"Military personnel, Navy", \$161,500,000;
"Military personnel, Marine Corps", \$51,400,000;
"Military personnel, Air Force", \$155,227,000;
"Reserve personnel, Army", \$9,921,000;
"Reserve personnel, Navy", \$5,890,000;
"Reserve personnel, Marine Corps", \$1,000,000;
"Reserve personnel, Air Force", \$2,097,000;
"National Guard personnel, Air Force", \$6,154,000;

OPERATION AND MAINTENANCE

"Operation and maintenance, Army", \$218,850,000;
"Operation and maintenance, Navy", \$226,600,000;
"Operation and maintenance, Marine Corps", \$21,400,000;
"Operation and maintenance, Air Force", \$166,000,000;
"Operation and maintenance, Defense Agencies", as follows: for the Secretary of Defense activities, \$21,916,000, of which \$75,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services, and \$20,281,000 shall be available only for Overseas Dependents Education; for the Organization of the Joint Chiefs of Staff, \$249,000; for the Office of Information for the Armed Forces, \$131,000; for the Defense Contract Audit Agency, \$2,368,000; for the Defense Investigative Service, \$705,000; for the Defense Mapping Agency, \$5,412,000; for the Defense Nuclear Agency, \$231,000; for the Uniformed Services University of the Health Sciences, \$18,000; for the Defense Supply Agency, \$27,556,000; and for intelligence and communications activities, \$13,914,000; in all: \$72,500,000;
"Operation and maintenance, Army Reserve", \$8,400,000;
"Operation and maintenance, Navy Reserve", \$3,200,000;
"Operation and maintenance, Marine Corps Reserve", \$31,000;
"Operation and maintenance, Air Force Reserve", \$8,700,000;
"Operation and maintenance, Army National Guard", \$19,600,000;
"Operation and maintenance, Air National Guard", \$15,300,000;
"National Board for the Promotion of Rifle Practice, Army", \$6,000;
"Court of Military Appeals, Defense", \$33,000;

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

"Research, development, test, and evaluation, Army", \$9,185,000, to remain available for obligation until September 30, 1977;
"Research, development, test, and evaluation, Navy", \$10,900,000, to remain available for obligation until September 30, 1977;
"Research, development, test, and evaluation, Air Force", \$7,645,000, to remain available for obligation until September 30, 1977;

DEFENSE CIVIL PREPAREDNESS AGENCY

“Operation and maintenance”, \$578,000;

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

“Salaries and expenses”, \$170,000, to remain available until expended;

CORPS OF ENGINEERS—CIVIL

“General expenses”, \$1,200,000;

THE PANAMA CANAL

CANAL ZONE GOVERNMENT

“Operating expenses”, \$350,000;

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

“Salaries and expenses”, \$6,000,000;

HEALTH SERVICES ADMINISTRATION

“Indian health services”, \$5,475,000;

NATIONAL INSTITUTES OF HEALTH

“Office of the Director”, \$474,000;

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

“Saint Elizabeths Hospital”, \$2,000,000;

ASSISTANT SECRETARY FOR HEALTH

“Assistant Secretary for Health”, \$666,000;

OFFICE OF EDUCATION

“Salaries and expenses”, \$2,083,000;

SOCIAL SECURITY ADMINISTRATION

“Limitation on salaries and expenses” (increase of \$22,597,000 in the limitation on salaries and expenses paid from trust funds);

DEPARTMENTAL MANAGEMENT

“Office for Civil Rights”, \$653,000;

“Office of Consumer Affairs”, \$46,000;

“General departmental management”, \$2,610,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

HOUSING PROGRAMS

"Salaries and expenses, Housing programs", \$5,819,000, of which \$4,853,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

"Limitation on administrative expenses, Government National Mortgage Association" (increase of \$33,000 in the limitation on administrative expenses);

COMMUNITY PLANNING AND DEVELOPMENT

"Salaries and expenses, Community planning and development programs", \$1,280,000;

OFFICE OF INTERSTATE LAND SALES REGISTRATION

"Interstate land sales", \$71,000;

POLICY DEVELOPMENT AND RESEARCH

"Salaries and expenses, Policy development and research", \$190,000;

FAIR HOUSING AND EQUAL OPPORTUNITY

"Fair housing and equal opportunity", \$372,000;

DEPARTMENTAL MANAGEMENT

"General departmental management", \$133,000;

"Salaries and expenses, Office of general counsel", \$152,000, of which \$50,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

"Salaries and expenses, Office of inspector general", \$314,000, of which \$97,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

"Administration and staff services", \$944,000, of which \$633,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

"Regional management and services", \$594,000, of which \$62,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

"Management of lands and resources", \$2,871,000.

"Construction and maintenance", \$93,000, to remain available until expended;

BUREAU OF RECLAMATION

"General administrative expenses", \$550,000, which shall be derived from the reclamation fund;

BUREAU OF OUTDOOR RECREATION

“Salaries and expenses”, \$152,000;

“Land and water conservation fund”: In addition to the amount heretofore made available for administrative expenses of the Bureau of Outdoor Recreation, \$152,000 is hereby made available until expended:

UNITED STATES FISH AND WILDLIFE SERVICE

“Resource management”, \$2,737,000;

NATIONAL PARK SERVICE

“Operation of the National Park System”, \$7,740,000;

“John F. Kennedy Center for the Performing Arts”, \$70,000;

GEOLOGICAL SURVEY

“Surveys, investigations, and research”, \$4,989,000;

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

“Salaries and expenses”, \$1,902,000;

BUREAU OF MINES

“Mines and minerals”, \$1,431,000;

ALASKA POWER ADMINISTRATION

“Operations and maintenance”, \$170,000;

SOUTHWESTERN POWER ADMINISTRATION

“Operations and maintenance”, \$80,000;

BUREAU OF INDIAN AFFAIRS

“Operation of Indian programs”, \$9,950,000;

OFFICE OF TERRITORIAL AFFAIRS

“Administration of territories”, \$13,000, to remain available until expended;

“Trust Territory of the Pacific Islands”, \$108,000, to remain available until expended;

OFFICE OF THE SOLICITOR

“Salaries and expenses”, \$335,000;

OFFICE OF THE SECRETARY

“Salaries and expenses”, \$522,000;

“Departmental operations”, \$213,000;

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

"Salaries and expenses", \$544,000;

LEGAL ACTIVITIES

"Salaries and expenses, general legal activities", \$1,689,000;

"Salaries and expenses, Antitrust Division", \$604,000;

"Salaries and expenses, United States attorneys and marshals", \$3,668,000;

"Salaries and expenses, Community Relations Service", \$94,000;

FEDERAL BUREAU OF INVESTIGATION

"Salaries and expenses", \$13,092,000;

IMMIGRATION AND NATURALIZATION SERVICE

"Salaries and expenses", \$5,609,000;

FEDERAL PRISON SYSTEM

"Salaries and expenses, Bureau of Prisons", \$6,238,000;

"Limitation on administrative and vocational training expenses, Federal Prison Industries Incorporated" (increase of \$31,000 in the limitation on administrative expenses and of \$128,000 in the limitation on vocational training expenses);

DRUG ENFORCEMENT ADMINISTRATION

"Salaries and expenses", \$3,142,000;

DEPARTMENT OF LABOR

MANPOWER ADMINISTRATION

"Program administration", \$1,629,000, together with not to exceed \$840,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which \$186,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-2003;

LABOR-MANAGEMENT SERVICES ADMINISTRATION

"Salaries and expenses", \$743,000;

EMPLOYMENT STANDARDS ADMINISTRATION

"Salaries and expenses", \$1,811,000;

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", \$960,000;

BUREAU OF LABOR STATISTICS

"Salaries and expenses", \$1,000,000, of which \$173,000 shall be available, in addition to the amount heretofore made available, for expenses of revising the Consumer Price Index, including salaries of temporary personnel assigned to this project without regard to competitive civil service requirements;

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", including \$33,000 for the President's Committee on Employment of the Handicapped, \$680,000, together with \$26,000, to be derived from the Employment Security Administration account, Unemployment Trust Fund;

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

"Salaries and expenses", \$7,000,000;

"Acquisition, operation, and maintenance of buildings abroad", \$102,000, to remain available until expended;

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

"Missions to international organizations", \$139,000;

INTERNATIONAL COMMISSIONS

International Boundary and Water Commission, United States and Mexico: "Salaries and expenses", \$225,000;

"American sections, international commissions", \$33,000;

"International fisheries commissions", \$30,000;

EDUCATIONAL EXCHANGE

"Mutual educational and cultural exchange activities", \$325,000;

OTHER

"Migration and refugee assistance", \$23,000;

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

"Salaries and expenses", \$400,000;

COAST GUARD

"Operating expenses", \$19,900,000;

"Reserve training", \$900,000;

FEDERAL AVIATION ADMINISTRATION

"Operations", \$42,250,000;

"Operation and maintenance, National Capital Airports", \$600,000;

FEDERAL HIGHWAY ADMINISTRATION

“Limitation on general operating expenses” (increase of \$2,000,000 in the limitation on general operating expenses) ;
“Motor carrier safety”, \$167,000;

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

“Traffic and highway safety”, \$200,000, of which \$80,000 shall be derived from the Highway Trust Fund;

FEDERAL RAILROAD ADMINISTRATION

“Office of the Administrator, salaries and expenses”, \$175,000;
“Railroad Safety”, \$250,000;

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

“Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation” (increase of \$20,000 in the limitation on administrative expenses) ;

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

“Salaries and expenses”, \$683,000;

OFFICE OF REVENUE SHARING

“Salaries and expenses”, \$79,000;

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

“Salaries and expenses”, \$1,152,000;

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

“Salaries and expenses”, \$2,858,000;

UNITED STATES CUSTOMS SERVICE

“Salaries and expenses”, \$9,077,000;

BUREAU OF THE PUBLIC DEBT

“Administering the public debt”, \$1,131,000;

INTERNAL REVENUE SERVICE

“Salaries and expenses”, \$1,325,000;
“Accounts, collection and taxpayer service”, \$20,240,000;
“Compliance”, \$23,955,000;

UNITED STATES SECRET SERVICE

“Salaries and expenses”, \$2,200,000;

ENERGY RESEARCH AND DEVELOPMENT
ADMINISTRATION

“Operating expenses”, \$6,522,000, to remain available until expended;

GENERAL SERVICES ADMINISTRATION

“Disposal of surplus real and related personal property, operating expenses”, \$180,000;

FEDERAL BUILDINGS FUND

“Limitations on availability of revenue”: In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1976, \$9,600,000 shall be available for such purposes and the limitation on the amount available for real property operations is increased to \$397,500,000 and the limitation on the amount available for program direction and centralized services is increased to \$65,600,000;

FEDERAL SUPPLY SERVICE

“Operating expenses”, \$667,000;

NATIONAL ARCHIVES AND RECORDS SERVICE

“Records declassification”, \$44,000;

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

“Operating expenses”, \$210,000;

OFFICE OF PREPAREDNESS

“Salaries and expenses”, \$510,000;

GENERAL MANAGEMENT AND AGENCY OPERATIONS

“Salaries and expenses”, \$183,000;
“Indian trust accounting”, \$75,000;

ADMINISTRATIVE AND STAFF SUPPORT SERVICES

“Salaries and expenses”, \$1,397,000;

NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION

“Research and program management”, \$16,800,000;

VETERANS ADMINISTRATION

“Medical care”, \$79,355,000;
“Medical and prosthetic research”, \$2,309,000, to remain available until expended;
“General operating expenses”, \$12,550,000;

OTHER INDEPENDENT AGENCIES

ACTION

“Operating expenses, international programs (Peace Corps)”, \$440,000;

“Operating expenses, domestic programs”, \$329,000;

AMERICAN BATTLE MONUMENTS COMMISSION

“Salaries and expenses”, \$362,000;

ARMS CONTROL AND DISARMAMENT AGENCY

“Arms control and disarmament activities”, \$230,000;

CIVIL AERONAUTICS BOARD

“Salaries and expenses”, \$560,000;

CIVIL SERVICE COMMISSION

(INCLUDING TRANSFER OF FUNDS)

“Salaries and expenses”, \$2,333,000; together with an additional amount of \$545,000 for current fiscal year administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Commission in amounts determined by the Commission without regard to other statutes;

FEDERAL LABOR RELATIONS COUNCIL

“Salaries and expenses”, \$43,000;

COMMISSION OF FINE ARTS

“Salaries and expenses”, \$4,000;

COMMISSION ON CIVIL RIGHTS

“Salaries and expenses”, \$193,000;

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER
SEVERELY HANDICAPPED

“Salaries and expenses”, \$6,000;

COMMODITY FUTURES TRADING COMMISSION

“Commodity futures trading commission”, \$290,000;

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

“Salaries and expenses”, \$619,000;

FARM CREDIT ADMINISTRATION

“Limitation on administrative expenses” (increase of \$172,000 in the limitation on administrative expenses);

FEDERAL COMMUNICATIONS COMMISSION

"Salaries and expenses", \$1,125,000;

FEDERAL HOME LOAN BANK BOARD

"Limitation on administrative and nonadministrative expenses, Federal Home Loan Bank Board" (increase of \$596,000 in the limitation on nonadministrative expenses);

FEDERAL MARITIME COMMISSION

"Salaries and expenses", \$200,000;

FEDERAL MEDIATION AND CONCILIATION SERVICE

"Salaries and expenses", \$428,000;

FEDERAL POWER COMMISSION

"Salaries and expenses", \$950,000;

FEDERAL TRADE COMMISSION

"Salaries and expenses", \$1,164,000;

APPALACHIAN REGIONAL COMMISSION

"Salaries and expenses", \$40,000;

DELAWARE RIVER BASIN COMMISSION

"Salaries and expenses", \$2,000;

SUSQUEHANNA RIVER BASIN COMMISSION

"Salaries and expenses", \$2,000;

INTERSTATE COMMERCE COMMISSION

"Salaries and expenses", \$1,425,000;

NATIONAL LABOR RELATIONS BOARD

"Salaries and expenses", \$1,831,000;

NATIONAL SCIENCE FOUNDATION

"Salaries and expenses", \$1,250,000, (and an increase of \$1,020,000 in the limitation on program development and management);

NUCLEAR REGULATORY COMMISSION

"Salaries and expenses", \$2,000,000 to remain available until expended;

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

"Salaries and expenses", \$131,000;

RAILROAD RETIREMENT BOARD

"Limitation on salaries and expenses" (increase in the limitation on salaries and expenses of \$789,000, to be derived from the railroad retirement accounts);

RENEGOTIATION BOARD

"Salaries and expenses", \$166,000;

SECURITIES AND EXCHANGE COMMISSION

"Salaries and expenses", \$1,406,000;

SMALL BUSINESS ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", \$650,000, and, in addition to the amounts heretofore authorized for transfer from the "Disaster loan fund", the "Business loan and investment fund", the "Lease guarantees revolving fund", and the "Surety Bond guarantees revolving fund", \$2,350,000 may be transferred to this appropriation;

SMITHSONIAN INSTITUTION

"Salaries and expenses", \$2,067,000;

"Science information exchange", \$65,000;

"Salaries and expenses, National Gallery of Art", \$228,000;

"Salaries and expenses, Woodrow Wilson International Center for Scholars", \$13,000;

TEMPORARY STUDY COMMISSION

Privacy Protection Study Commission: "Salaries and Expenses", \$2,000;

UNITED STATES INFORMATION AGENCY

(TRANSFER OF FUNDS)

"Salaries and expenses", \$1,100,000, of which \$713,000 shall be derived by transfer from the appropriation for "Salaries and expenses (Special Foreign Currency Program)", fiscal year 1976, and \$387,000 shall be derived by transfer from the appropriation for "Salaries and expenses", for the period July 1, 1976, through September 30, 1976;

ANNEXED BUDGETS

EXPORT-IMPORT BANK OF THE UNITED STATES

"Limitation on administrative expenses" (Increase of \$270,000 in the limitation on administrative expenses).

TITLE III—INCREASED PAY COSTS FOR THE PERIOD
JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

For additional amounts for appropriations for the period July 1, 1976, through September 30, 1976, for increased pay costs authorized by or pursuant to law, as follows:

LEGISLATIVE BRANCH

SENATE

"Salaries, officers and employees", \$1,342,925;
"Office of the Legislative Counsel of the Senate", \$7,625;
"Senate policy committees", \$9,805;
"Inquiries and investigations", \$195,895;
"Folding documents", \$1,085;
"Miscellaneous items", \$1,485;

HOUSE OF REPRESENTATIVES

"Compensation of Members", \$262,400;
"House leadership offices", \$18,445;
"Salaries, officers and employees", \$81,365;
"Committee on Appropriations (studies and investigations)",
\$2,500;
"Office of the Law Revision Counsel", \$925;
"Office of the Legislative Counsel", \$10,800;
"Members' clerk hire", \$1,433,000;
"Government contributions", \$140,000;
"Special and select committees", \$184,000;
"Leadership automobiles", \$700;

JOINT ITEMS

"Joint Economic Committee", \$13,075;
"Joint Committee on Atomic Energy", \$6,805;
"Joint Committee on Printing", \$5,700;
"Joint Committee on Internal Revenue Taxation", \$14,900;
"Joint Committee on Defense Production", \$1,900;
"Joint Committee on Congressional Operations", \$6,500;
"Capitol Guide Service", \$3,685;

LIBRARY OF CONGRESS

"Salaries and expenses", \$629,000;
Copyright Office: "Salaries and expenses", \$86,000;
National Commission on New Technological Uses of Copyrighted
Works: "Salaries and expenses", \$4,000;
Congressional Research Service: "Salaries and expenses", \$220,000;
Distribution of catalog cards: "Salaries and expenses", \$98,000;
Books for the blind and physically handicapped: "Salaries and
expenses", \$25,000;

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents: "Salaries and expenses",
\$298,000;

GENERAL ACCOUNTING OFFICE

"Salaries and expenses", \$1,106,000;

UNITED STATES TAX COURT

"Salaries and expenses", \$19,000;

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

“Salaries”, \$63,000;

“Automobile for the Chief Justice”, \$200;

COURT OF CUSTOMS AND PATENT APPEALS

“Salaries and expenses”, \$11,000;

CUSTOMS COURT

“Salaries and expenses”, \$32,500;

COURT OF CLAIMS

“Salaries and expenses”, \$26,000;

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

“Salaries of supporting personnel”, \$1,498,000;

“Representation by court-appointed counsel and operation of defender organizations”, \$52,000;

“Salaries and expenses of United States Magistrates”, \$112,000;

“Salaries and expenses of referees”, \$275,000, to be derived from the Referees' salary and expense fund established pursuant to the Act of June 28, 1946, as amended (11 U.S.C. 68, 102), and, to the extent of any deficiency in said fund, from any moneys in the Treasury not otherwise appropriated;

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

“Salaries and expenses”, \$82,000;

FEDERAL JUDICIAL CENTER

“Salaries and expenses”, \$18,000;

EXECUTIVE OFFICE OF THE PRESIDENT

EXECUTIVE RESIDENCE

“Operating expenses”, \$28,000;

SPECIAL ASSISTANCE TO THE PRESIDENT

“Special assistance to the President”, \$9,000;

COUNCIL ON WAGE AND PRICE STABILITY

“Salaries and expenses”, \$15,000;

DOMESTIC COUNCIL

“Salaries and expenses”, \$11,000;

NATIONAL SECURITY COUNCIL

“Salaries and expenses”, \$24,000;

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy: "Salaries and expenses", \$9,000;

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

"Salaries and expenses", \$14,000;

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFER OF FUNDS)

"Office of the Secretary", \$16,000;

"Departmental administration", \$147,000, of which \$26,000 shall be available for the Office of Communication;

"Office of the Inspector General", \$162,000, and, in addition, \$59,000 shall be derived by transfer from the appropriation "Food stamp program" and merged with this appropriation;

"Office of the General Counsel", \$94,000;

"Agricultural Research Service", \$2,411,000;

"Animal and Plant Health Inspection Service", \$3,164,000;

"National Agricultural Library", \$41,000;

"Statistical Reporting Service", \$280,000;

"Economic Research Service", \$255,000;

"Packers and Stockyards Administration", \$50,000;

"Farmer Cooperative Service", \$27,000;

FEDERAL CROP INSURANCE CORPORATION

"Administrative and operating expenses", \$125,000;

"Federal Crop Insurance Corporation Fund", an additional \$33,000 of administrative and operating expenses may be paid from premium income;

"Rural Development Service", \$12,000;

Rural Electrification Administration: "Salaries and expenses", \$212,000;

AGRICULTURAL MARKETING SERVICE

"Funds for strengthening markets, income, and supply (section 32)" (increase of \$39,000 in the limitation on "marketing agreements and orders");

FOREST SERVICE

"Forest protection and utilization", for "Forest land management", \$3,770,000, of which \$12,000 for cooperative law enforcement shall remain available until expended; "Forest research", \$589,000; and "State and private forestry cooperation", \$60,000;

"Construction and land acquisition", \$195,000, to remain available until expended;

"Youth Conservation Corps", \$56,000, to remain available until the end of the fiscal year following the fiscal year for which appropriated: *Provided*, That \$28,000 shall be available to the Secretary of the Interior and \$28,000 shall be available to the Secretary of Agriculture;

"Assistance to States for tree planting", \$5,000, to remain available until expended;

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

“Salaries and expenses”, \$138,000;

OFFICE OF ENERGY PROGRAMS

“Salaries and expenses”, \$16,000;

BUREAU OF THE CENSUS

“Salaries and expenses”, \$392,000;

“Periodic censuses and programs”, \$242,000, to remain available until expended;

BUREAU OF ECONOMIC ANALYSIS

“Salaries and expenses”, \$115,000;

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

“Operations and administration”, \$546,000, to remain available until expended;

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

“Operations, research, and facilities”, \$3,644,000, to remain available until expended;

“Coastal zone management”, \$11,000, to remain available until expended;

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

“Operations, research, and administration”, \$44,000, to remain available until expended;

PATENT AND TRADEMARK OFFICE

“Salaries and expenses”, \$704,000;

SCIENCE AND TECHNICAL RESEARCH

“Scientific and technical research and services”, \$625,000, to remain available until expended;

MARITIME ADMINISTRATION

“Operations and training”, \$376,000, to remain available until expended;

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

“Military personnel, Army”, \$84,355,000;

“Military personnel, Navy”, \$61,000,000;

“Military personnel, Marine Corps”, \$16,700,000;

“Military personnel, Air Force”, \$76,095,000;

"Reserve personnel, Army", \$3,201,000;
 "Reserve personnel, Navy", \$2,340,000;
 "Reserve personnel, Marine Corps", \$800,000;
 "Reserve personnel, Air Force", \$2,079,000;
 "National Guard personnel, Army", \$6,950,000;
 "National Guard personnel, Air Force", \$2,727,000;

OPERATION AND MAINTENANCE

"Operation and maintenance, Army", \$89,400,000;
 "Operation and maintenance, Navy", \$72,100,000;
 "Operation and maintenance, Marine Corps", \$5,300,000;
 "Operation and maintenance, Air Force", \$57,400,000;
 "Operation and maintenance, Defense Agencies", as follows: for the Secretary of Defense activities, \$1,458,000, of which \$30,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services, and \$921,000 shall be available only for Overseas Dependents Education; for the Organization of the Joint Chiefs of Staff, \$49,000; for the Office of Information for the Armed Forces, \$45,000; for the Defense Contract Audit Agency, \$804,000; for the Defense Investigative Service, \$229,000; for the Defense Mapping Agency, \$2,139,000; for the Defense Nuclear Agency, \$81,000; for the Uniformed Services University of the Health Sciences, \$8,000; for the Defense Supply Agency, \$11,072,000; and for intelligence and communications activities, \$5,215,000; in all: \$21,100,000;
 "Operation and maintenance, Army Reserve", \$3,700,000;
 "Operation and maintenance, Navy Reserve", \$1,000,000;
 "Operation and maintenance, Marine Corps Reserve", \$9,000;
 "Operation and maintenance, Air Force Reserve", \$3,800,000;
 "Operation and maintenance, Army National Guard", \$8,800,000;
 "Operation and maintenance, Air National Guard", \$7,000,000.
 "National Board for the Promotion of Rifle Practice, Army", \$2,000;
 "Court of Military Appeals, Defense", \$11,000;

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

"Research, development, test, and evaluation, Army", \$3,206,000, to remain available for obligation until September 30, 1977;
 "Research, development, test, and evaluation, Navy", \$3,700,000, to remain available for obligation until September 30, 1977;
 "Research, development, test, and evaluation, Air Force", \$2,926,000, to remain available for obligation until September 30, 1977;

DEFENSE CIVIL PREPAREDNESS AGENCY

"Operation and maintenance", \$191,000;

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

"Salaries and expenses", \$56,000, to remain available until expended;

CORPS OF ENGINEERS—CIVIL

"General expenses", \$400,000;

THE PANAMA CANAL

CANAL ZONE GOVERNMENT

“Operating expenses”, \$300,000;

DEPARTMENT OF HEALTH, EDUCATION, AND
WELFARE

FOOD AND DRUG ADMINISTRATION

“Salaries and expenses”, \$1,900,000;

HEALTH SERVICES ADMINISTRATION

“Indian health services”, \$1,748,000;

NATIONAL INSTITUTES OF HEALTH

“Office of the Director”, \$168,000;

ASSISTANT SECRETARY FOR HEALTH

“Assistant Secretary for Health”, \$247,000;

SOCIAL SECURITY ADMINISTRATION

“Limitation on salaries and expenses” (increase of \$15,300,000 in the limitation on salaries and expenses paid from trust funds);

DEPARTMENTAL MANAGEMENT

“Office for Civil Rights”, \$228,000;

“Office of Consumer Affairs”, \$16,000;

“General departmental management”, \$953,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

HOUSING PROGRAMS

“Salaries and expenses, Housing programs”, \$2,188,000, of which \$1,771,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

“Limitation on administrative expenses, Government National Mortgage Association” (increase of \$12,000 in the limitation on administrative expenses);

COMMUNITY PLANNING AND DEVELOPMENT

“Salaries and expenses, Community planning and development programs”, \$449,000;

OFFICE OF INTERSTATE LAND SALES REGISTRATION

“Interstate land sales”, \$23,000;

POLICY DEVELOPMENT AND RESEARCH

"Salaries and expenses, Policy development and research", \$68,000;

FAIR HOUSING AND EQUAL OPPORTUNITY

"Fair housing and equal opportunity", \$134,000;

DEPARTMENTAL MANAGEMENT

"General departmental management", \$47,000;

"Salaries and expenses, Office of general counsel", \$55,000, of which \$19,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

"Salaries and expenses, Office of inspector general", \$112,000, of which \$36,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

"Administration and staff services", \$335,000, of which \$225,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

"Regional management and services", \$200,000, of which \$21,000 shall be provided by transfer from the various funds of the Federal Housing Administration;

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

"Management of lands and resources", \$1,012,000;

"Construction and maintenance", \$37,000, to remain available until expended;

BUREAU OF RECLAMATION

"General administrative expenses", \$200,000, which shall be derived from the reclamation fund;

BUREAU OF OUTDOOR RECREATION

"Salaries and expenses", \$52,000;

"Land and water conservation fund": In addition to the amount heretofore made available for administrative expenses of the Bureau of Outdoor Recreation, \$52,000 is hereby made available until expended;

UNITED STATES FISH AND WILDLIFE SERVICE

"Resource management", \$843,000;

NATIONAL PARK SERVICE

"Operation of the National Park System", \$3,851,000;

GEOLOGICAL SURVEY

"Surveys, investigations, and research", \$1,749,000;

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

"Salaries and expenses", \$729,000;

BUREAU OF MINES

"Mines and minerals", \$505,000;

ALASKA POWER ADMINISTRATION

"Operations and maintenance", \$50,000;

SOUTHWESTERN POWER ADMINISTRATION

"Operations and maintenance", \$24,000;

BUREAU OF INDIAN AFFAIRS

"Operation of Indian Programs", \$3,040,000;

OFFICE OF TERRITORIAL AFFAIRS

"Administration of territories", \$4,000, to remain available until expended;

"Trust Territory of the Pacific Islands", \$38,000, to remain available until expended;

OFFICE OF THE SOLICITOR

"Salaries and expenses", \$117,000;

OFFICE OF THE SECRETARY

"Salaries and expenses", \$173,000;

"Departmental operations", \$90,000;

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

"Salaries and expenses", \$204,000;

LEGAL ACTIVITIES

"Salaries and expenses, general legal activities", \$583,000;

"Salaries and expenses, Antitrust Division", \$214,000;

"Salaries and expenses, United States attorneys and marshals", \$1,298,000;

"Salaries and expenses, Community Relations Service", \$35,000;

FEDERAL BUREAU OF INVESTIGATION

"Salaries and expenses", \$4,741,000;

IMMIGRATION AND NATURALIZATION SERVICE

"Salaries and expenses", \$1,990,000;

FEDERAL PRISON SYSTEM

"Salaries and expenses, Bureau of Prisons", \$1,928,000;

DRUG ENFORCEMENT ADMINISTRATION

“Salaries and expenses”, \$1,230,000;

DEPARTMENT OF LABOR

MANPOWER ADMINISTRATION

“Program administration”, \$543,000, together with not to exceed \$280,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which \$62,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-2003;

LABOR-MANAGEMENT SERVICES ADMINISTRATION

“Salaries and expenses”, \$340,000;

EMPLOYMENT STANDARDS ADMINISTRATION

“Salaries and expenses”, \$740,000;

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

“Salaries and expenses”, \$400,000;

BUREAU OF LABOR STATISTICS

“Salaries and expenses”, \$380,000, of which \$46,000 shall be available, in addition to the amount heretofore made available, for expenses of revising the Consumer Price Index, including salaries of temporary personnel assigned to this project without regard to competitive civil service requirements;

DEPARTMENTAL MANAGEMENT

“Salaries and expenses”, including \$12,000 for the President’s Committee on Employment of the Handicapped, \$150,000, together with \$6,000, to be derived from the Employment Security Administration account, Unemployment Trust Fund;

DEPARTMENT OF STATE

ADMINISTRATION ON FOREIGN AFFAIRS

“Salaries and expenses”, \$2,500,000;

“Acquisition, operation, and maintenance of buildings abroad”, \$36,000, to remain available until expended;

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“Missions to international organizations”, \$50,000;

INTERNATIONAL COMMISSIONS

International Boundary and Water Commission, United States and Mexico: “Salaries and expenses”, \$69,000;

“American sections, international commissions”, \$14,000;

“International fisheries commission”, \$17,000;

EDUCATIONAL EXCHANGE

“Mutual educational and cultural exchange activities”, \$97,000;

OTHER

“Migration and refugee assistance”, \$8,000;

DEPARTMENT OF TRANSPORTATION

COAST GUARD

“Operating expenses”, \$6,675,000;

“Reserve training”, \$400,000;

FEDERAL AVIATION ADMINISTRATION

“Operations”, \$14,600,000;

“Operation and maintenance, National Capital Airports”, \$240,000;

FEDERAL HIGHWAY ADMINISTRATION

“Limitation on general operating expenses” (increase of \$1,075,000 in the limitation on general operating expenses);

“Motor carrier safety”; \$59,000;

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

“Traffic and highway safety”, \$50,000, of which \$20,000 shall be derived from the Highway Trust Fund;

FEDERAL RAILROAD ADMINISTRATION

“Office of the Administrator, salaries and expenses”, \$56,000;

“Railroad Safety”, \$50,000;

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

“Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation” (increase of \$8,000 in the limitation on administrative expenses);

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

“Salaries and expenses”, \$244,000;

OFFICE OF REVENUE SHARING

“Salaries and expenses”, \$29,000;

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

“Salaries and expenses”, \$406,000;

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

“Salaries and expenses”, \$991,000;

UNITED STATES CUSTOMS SERVICE

“Salaries and expenses”, \$3,388,000;

BUREAU OF THE PUBLIC DEBT

“Administering the public debt”, \$390,000;

INTERNAL REVENUE SERVICE

“Salaries and expenses”, \$460,000;

“Accounts, collection and taxpayer service”, \$6,815,000;

“Compliance”, \$8,340,000;

UNITED STATES SECRET SERVICE

“Salaries and expenses”, \$800,000;

ENERGY RESEARCH AND DEVELOPMENT
ADMINISTRATION

“Operating expenses”, \$2,283,000, to remain available until expended;

GENERAL SERVICES ADMINISTRATION

“Disposal of surplus real and related personal property, operating expenses”, \$60,000;

FEDERAL BUILDINGS FUND

“Limitations on availability of revenue”: In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1976, \$4,440,000 shall be available for such purposes and the limitation on the amount available for real property operations is increased to \$101,200,000 and the limitation on the amount available for program direction and centralized services is increased to \$16,615,000.

FEDERAL SUPPLY SERVICE

“Operating expenses”, \$196,000;

NATIONAL ARCHIVES AND RECORDS SERVICE

“Operating expenses”, \$374,000;

“Records declassification”, \$15,000;

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

“Operating expenses”, \$73,000;

OFFICE OF PREPAREDNESS

“Salaries and expenses”, \$170,000;

GENERAL MANAGEMENT AND AGENCY OPERATIONS

"Salaries and expenses", \$114,000;
"Indian trust accounting", \$25,000;

ADMINISTRATIVE AND STAFF SUPPORT SERVICES

"Salaries and expenses", \$473,000;

NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION

"Research and program management", \$7,117,000;

VETERANS ADMINISTRATION

"Medical care", \$34,422,000;
"Medical and prosthetic research", \$813,000, to remain available
until expended;
"General operating expenses", \$4,266,000;

OTHER INDEPENDENT AGENCIES

ACTION

"Operating expenses, international programs (Peace Corps)",
\$190,000;
"Operating expenses, domestic programs", \$152,000;

ARMS CONTROL AND DISARMAMENT AGENCY

"Arms control and disarmament activities", \$80,000;

CIVIL AERONAUTICS BOARD

"Salaries and expenses", \$190,000;

CIVIL SERVICE COMMISSION

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", \$930,000, together with an additional
amount of \$200,000 for the period July 1, 1976, through September 30,
1976, administrative expenses for the retirement and insurance pro-
grams to be transferred from the appropriate trust funds of the Com-
mission in amounts determined by the Commission without regard to
other statutes;

FEDERAL LABOR RELATIONS COUNCIL

"Salaries and expenses", \$13,000;

COMMISSION OF FINE ARTS

"Salaries and expenses", \$2,000;

COMMISSION ON CIVIL RIGHTS

"Salaries and expenses", \$68,000;

COMMODITY FUTURES TRADING COMMISSION

“Commodity Futures Trading Commission”, \$104,000;

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

“Salaries and expenses”, \$400,000;

FARM CREDIT ADMINISTRATION

“Limitation on administrative expenses” (increase of \$64,000 in the limitation on administrative expenses);

FEDERAL COMMUNICATIONS COMMISSION

“Salaries and expenses”, \$310,000;

FEDERAL HOME LOAN BANK BOARD

“Limitation on administrative and nonadministrative expenses, Federal Home Loan Bank Board” (increase of \$183,000 in the limitation on nonadministrative expenses);

“Limitation on administrative expenses, Federal Savings and Loan Insurance Corporation” (increase of \$6,000 in the limitation on administrative expenses);

FEDERAL MARITIME COMMISSION

“Salaries and expenses”, \$75,000;

FEDERAL MEDIATION AND CONCILIATION SERVICE

“Salaries and expenses”, \$150,000;

FEDERAL POWER COMMISSION

“Salaries and expenses”, \$330,000;

FEDERAL TRADE COMMISSION

“Salaries and expenses”, \$421,000;

INDIAN CLAIMS COMMISSION

“Salaries and expenses”, \$14,000;

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

“Salaries and expenses”, \$6,000;

APPALACHIAN REGIONAL COMMISSION

“Salaries and expenses”, \$15,000;

DELAWARE RIVER BASIN COMMISSION

“Salaries and expenses”, \$1,000;

SUSQUEHANNA RIVER BASIN COMMISSION

“Salaries and expenses”, \$1,000;

INTERSTATE COMMERCE COMMISSION

“Salaries and expenses”, \$475,000;

NATIONAL LABOR RELATIONS BOARD

“Salaries and expenses”, \$652,000;

NATIONAL SCIENCE FOUNDATION

“Salaries and expenses”, \$421,000;

NUCLEAR REGULATORY COMMISSION

“Salaries and expenses”, \$700,000 to remain available until expended;

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

“Salaries and expenses”, \$46,000;

RAILROAD RETIREMENT BOARD

“Limitation on salaries and expenses” (increase in the limitation on salaries and expenses of \$280,000, to be derived from the railroad retirement accounts) ;

RENEGOTIATION BOARD

“Salaries and expenses”, \$53,000;

SECURITIES AND EXCHANGE COMMISSION

“Salaries and expenses”, \$502,000;

SMALL BUSINESS ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

“Salaries and expenses”, \$225,000, and, in addition to the amounts heretofore authorized for transfer from the “Disaster loan fund”, the “Business loan and investment fund”, the “Lease guarantees revolving fund”, and the “Surety Bond guarantees revolving fund”, \$835,000 may be transferred to this appropriation;

SMITHSONIAN INSTITUTION

“Salaries and expenses”, \$740,000;

“Science information exchange”, \$21,000;

“Salaries and expenses, National Gallery of Art”, \$84,000;

“Salaries and expenses, Woodrow Wilson International Center for Scholars”, \$4,000;

ANNEXED BUDGETS

EXPORT-IMPORT BANK OF THE UNITED STATES

“Limitation on administrative expenses” (Increase of \$105,000 in the limitation on administrative expenses).

TITLE IV

GENERAL PROVISIONS

SEC. 401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein, except as provided in section 204 of the Supplemental Appropriation Act, 1975 (P.L. 93-554).

Fiscal year
limitation.

88 Stat. 1784.

SEC. 402. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1976 and the period July 1, 1976, through September 30, 1976, limiting the amounts which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 403. No part of any appropriation, funds, or other authority contained in this Act shall be available for paying to the Administrator of the General Services Administration in excess of 90 per centum of the standard level user charge established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, for space and services.

40 USC 490.

Repeal.
89 Stat. 473.

SEC. 404. None of the funds appropriated by this Act or previous Acts shall be used to further fund the Study of Effect of Marihuana on Human Sexual Response at Southern Illinois University.

SEC. 405. Section 307 of the Education Division and Related Agencies Appropriation Act, 1976 (Public Law 94-94) is hereby repealed.

SEC. 406. None of the funds appropriated by this Act or any other Act shall be paid to the Peoples Bicentennial Commission or used to support such Commission either directly or indirectly.

Approved June 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1027 (Comm. on Appropriations) and No. 94-1133 (Comm. of Conference).

SENATE REPORT No. 94-802 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 13, considered and passed House.

May 10-12, considered and passed Senate, amended.

May 18, House agreed to conference report; receded and concurred in certain Senate amendments; receded and concurred in certain Senate amendments with amendments.

May 19, Senate agreed to conference report, concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 23:

June 1, Presidential statement.

Public Law 94-304
94th Congress

An Act

To establish a Commission on Security and Cooperation in Europe.

June 3, 1976

[S. 2679]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established the Commission on Security and Cooperation in Europe (hereafter in this Act referred to as the "Commission").

SEC. 2. The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

SEC. 3. The Commission shall be composed of fifteen members as follows:

(1) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the House, from the minority party. The Speaker shall designate one of the House Members as chairman.

(2) Six Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Defense Department appointed by the President of the United States.

(5) One member of the Commerce Department appointed by the President of the United States.

SEC. 4. In carrying out this Act, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

SEC. 5. In order to assist the Commission in carrying out its duties, the President shall submit to the Commission a semiannual report, the first one to be submitted six months after the date of enactment of this Act, which shall include (1) a detailed survey of actions by the signatories of the Final Act reflecting compliance with or violation of the provisions of the Final Act, and (2) a listing and description of

Commission on
Security and
Cooperation in
Europe.
Establishment.
22 USC 3001.
Functions.
22 USC 3002.

Membership.
22 USC 3003.

Powers.
22 USC 3004.

Report to Com-
mission.
22 USC 3005.

present or planned programs and activities of the appropriate agencies of the executive branch and private organizations aimed at taking advantage of the provisions of the Final Act to expand East-West economic cooperation and to promote a greater interchange of people and ideas between East and West.

Report to
Congress.
22 USC 3006.

SEC. 6. The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this Act on a periodic basis and to provide information to Members of the House and Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to Congress a report on its expenditures under such appropriation.

Appropriation.
22 USC 3007.

SEC. 7. There is authorized to be appropriated to the Commission for each fiscal year and to remain available until expended \$350,000 to assist in meeting the expenses of the Commission for the purpose of carrying out the provisions of this Act, such appropriation to be disbursed on voucher to be approved by the Chairman of the Commission.

22 USC 3008.

SEC. 8. The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

5 USC 5101
et seq., 5331.

Approved June 3, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1149 (Comm. on International Relations).

SENATE REPORT No. 94-756 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 5, considered and passed Senate.

May 17, considered and passed House, amended.

May 21, Senate concurred in House amendment.

Public Law 94-305
94th Congress

An Act

To amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes.

June 4, 1976

[S. 2498]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SMALL BUSINESS DEVELOPMENT

TRANSFER OF DISASTER RELIEF AUTHORITY

SEC. 101. The President shall undertake a comprehensive review of all Federal disaster loan authorities and shall make a report to the Congress, not later than December 1, 1976, containing such recommendations and legislative proposals, including possible consolidation of Federal disaster loan authorities, as may be demonstrated to be necessary and appropriate to assure the most effective and efficient delivery of disaster relief. Such study shall give particular emphasis to alleviating any extraordinary burden the management of Federal disaster loan programs may impose on an agency.

Small Business
Act and Small
Business
Investment Act of
1958,
amendments.

Report to
Congress.
15 USC 636
note.

POLLUTION CONTROL

SEC. 102. Part A of title IV of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new sections:

“SEC. 404. (a) For purposes of this section, the term—

“(1) ‘pollution control facilities’ means such property (both real and personal) as the Administration in its discretion determines is likely to help prevent, reduce, abate, or control noise, air or water pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste.

“(2) ‘person’ includes corporations, companies, associations, firms, partnerships, societies, joint stock companies, States, territories, and possessions of the United States, or subdivisions of any of the foregoing, and the District of Columbia, as well as individuals.

“(3) ‘qualified contract’ means a lease, sublease, loan agreement, installment sales contract, or similar instrument, entered into between a small business concern and any person.

“(b) The Administration may, whenever it determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of financing therefor (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies), guarantee the payment of rentals or other amounts due under qualified

Definitions.
15 USC 694-1.

Guarantees.

contracts. Any such guarantee may be made or effected either directly or in cooperation with any qualified surety company or other qualified company through a participation agreement with such company. The foregoing powers shall be subject, however, to the following restrictions and limitations:

“(1) Notwithstanding any other law, rule, or regulation or fiscal policy to the contrary, the guarantee authorized in the case of pollution control facilities or property may be issued when such property is acquired by the use of proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax.

“(2) Any such guarantee shall be for the full amount of the payments due under such qualified contract and shall be a full faith and credit obligation of the United States.

“(3) No guarantee shall be issued by the Administration unless the Administration determines that there exists a reasonable expectation that the small business concern in behalf of which the guarantee is issued will perform the covenants and conditions of the qualified contract.

Fees.

“(c) The Administration shall fix a uniform annual fee for any guarantee issued under this section which shall be payable at such time and under such conditions as may be prescribed by the Administrator. The fee shall be set at an amount which the Administration deems reasonable and necessary and shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. In no case shall such amount exceed $3\frac{1}{2}$ per centum per annum of the minimum annual guaranteed rental payable under any qualified contract guaranteed under this section. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as the Administrator determines are reasonable and necessary to pay the administrative expenses that are incurred in connection therewith.

Periodic review.

“(d) In connection with the guarantee of rentals under any qualified contract pursuant to authority conferred by this section, the Administrator may require, in order to minimize the financial risk assumed under such guarantee—

“(1) that the lessee pay an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued under this section, which shall be held in escrow and shall be available (A) to meet rental charges accruing in any month for which the lessee is in default, or (B) if no default occurs during the term of the qualified contract, for application (with accrued interest) toward final payments of rental charges under the qualified contract;

“(2) that upon occurrence of a default under the qualified contract, the lessor shall, as a condition precedent to enforcing any claim under the qualified contract guarantee, utilize the entire period, for which there are funds available in escrow for payment of rentals, in reasonable diligent efforts to eliminate or minimize losses, by releasing the property covered by the qualified contract to another qualified lessee, and no claim shall be made or paid under the guarantee until such effort has been made and such escrow funds have been exhausted;

“(3) that any guarantor of the qualified contract will become a successor of the lessor for the purpose of collecting from a lessee in default rentals which are in arrears and with respect to which the lessor has received payment under a guarantee made pursuant to this section; and

"(4) such other provisions, not inconsistent with the purposes of this section as the Administrator may in his discretion require.

"(e) Any guarantee issued under this section may be assigned with the permission of the Administration by the person to whom the payments under qualified contracts are due.

"(f) Section 402 shall apply to the administration of this section.

"SEC. 405. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitations as a revolving fund for the purposes of section 404. There are authorized to be appropriated to the fund from time to time such amounts not to exceed \$15,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with section 404 shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under section 404 shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into the Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under section 404 may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested."

SEC. 103. Section 403 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is amended by striking out "this part" wherever it appears therein and by inserting in lieu thereof "section 401".

SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

SEC. 104. (a) Section 303(b)(1) of the Small Business Investment Act of 1958 is amended—

(1) by striking out "200" and inserting in lieu thereof "300"; and

(2) by striking out "\$15,000,000" and inserting in lieu thereof "\$35,000,000".

(b) Section 303(b)(2) of such Act is amended—

(1) by striking out "300" and inserting in lieu thereof "400"; and

(2) by striking out "\$20,000,000" and inserting in lieu thereof "\$35,000,000".

(c) Section 303(c) of such Act is amended—

(1) by striking out "300" in clause (2)(iii) and inserting in lieu thereof "400"; and

(2) by striking out "200" where it appears in clauses (2)(iii) and (4) and inserting in lieu thereof "300".

15 USC 693.

Fund.

Establishment.

15 USC 694-2.

Ante, p. 663.

Appropriation

authorization.

Interest.

15 USC 683.

SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

Repeal. SEC. 105. The last sentence of section 305(b) of the Small Business
15 USC 685. Investment Act of 1958 is repealed.

LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

SEC. 106. (a) Section 103 of the Small Business Investment Act of
15 USC 662. 1958 is amended by striking out "and" at the end of clause (6) and
inserting in lieu thereof a semicolon, by striking out the period at the
end of clause (7) and inserting in lieu thereof a semicolon and "and",
and by adding at the end the following:

"Articles." "(8) the term 'articles' means articles of incorporation for an
incorporated body and means the functional equivalent or other
similar documents specified by the Administrator for other busi-
ness entities."

15 USC 681. (b) Section 301(a) of such Act is amended—
(1) by striking the comma and inserting "or a limited part-
nership" after "incorporated body";
(2) by inserting "or otherwise existing" after "chartered";
(3) by inserting "or partners" after "shareholders"; and
(4) by striking the words "of incorporation".

(c) Section 301(b) of such Act is amended by striking the words
"of incorporation".

(d) Section 301(c) of such Act is amended by striking the words
"of incorporation" wherever they appear therein.

15 USC 682. (e) Section 302(a) of such Act is amended by striking the words
"of incorporation".

15 USC 687d. (f) Section 312 of such Act is amended—
(1) by inserting "or partners" after "shareholders"; and
(2) by striking "or shareholders" wherever it appears therein
and by inserting "shareholder, or partner".

REPEAL OF 50 PERCENT LIMITATION ON BANK INVESTMENT

SEC. 107. Section 302(b) of the Small Business Investment Act of
15 USC 682. 1958 is amended by striking out all that follows "upon the making of
that acquisition", and inserting in lieu thereof the following: "the
aggregate amount of shares in small business investment companies
then held by the bank would exceed 5 percent of its capital surplus."

LOANS FOR PLANT ACQUISITION

SEC. 108. (a) Section 502 of the Small Business Investment Act of
15 USC 696. 1958 is amended by inserting "acquisition," after "plant".

15 USC 636. (b) Section 7(a)(4)(C) of the Small Business Act is amended to
read as follows: "(C) no such loans including renewals and extensions
thereof may be made for a period or periods exceeding ten years,
except that such portion of a loan made for the purpose of acquiring
real property or constructing facilities may have a maturity of twenty
years plus such additional period as is estimated may be required to
complete such construction."

ECONOMIC OPPORTUNITY LOAN LIMIT

SEC. 109. Section 7(i) of the Small Business Act is amended by
15 USC 636. striking from paragraphs (1) and (3) thereof the figure "\$50,000" and
inserting in lieu thereof the figure "\$100,000".

DEVELOPMENT COMPANY LOAN LIMIT

SEC. 110. Section 502(3) of the Small Business Investment Act of 1958 is amended by striking out "\$350,000" and inserting in lieu thereof "\$500,000". 15 USC 696

REGULAR BUSINESS LOAN LIMIT

SEC. 111. Section 7(a)(4)(A) of the Small Business Act is amended by striking out "\$350,000" and by inserting in lieu thereof "\$500,000: *Provided*, That no such loan made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed \$350,000". 15 USC 636.

FARMING AND AGRICULTURE RELATED INDUSTRIES

SEC. 112. (a) Section 2 of the Small Business Act (15 U.S.C. 631) is amended by redesignating subsections (b) and (c) as (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) It is the declared policy of the Congress that the Government, through the Small Business Administration, should aid and assist small business concerns which are engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and the financial assistance programs authorized by this Act are also to be used to assist such concerns."

(b) The first sentence of section 3 of the Small Business Act (15 U.S.C. 632) is amended by inserting after "concern" the following: ", including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries,".

(c) Section 7(a)(1) of the Small Business Act (15 U.S.C. 636(a)(1)) is amended by inserting "from non-Federal sources" immediately before the period at the end thereof.

(d) Section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)(4)) is amended by striking out the proviso.

(e) Section 18 of the Small Business Act (15 U.S.C. 647) is amended by inserting after "Federal Government" the following: ", except to those enterprises engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries,".

INCREASE AUTHORIZED CAPITAL OF SURETY BOND GUARANTEES

SEC. 113. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "\$35,000,000" and inserting in lieu thereof "\$56,500,000". 15 USC 694c.

INTEREST RATE

SEC. 114. Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by striking from the first paragraph following paragraph (8) of such section 7(b) the following: "Notwithstanding the provisions of any other law, and except as otherwise provided in this subsection, the interest rate on the Administration's share of any loan

made under this subsection shall not exceed 3 per centum per annum, except that in the case of a loan made pursuant to paragraph (3), (5), (6), (7), or (8), the rate of interest on the Administration's share of such loan shall not be more than the higher of (A) 2¾ per centum per annum; or (B) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum per annum.", and inserting in lieu thereof the following: "Notwithstanding the provisions of any other law, the interest rate on the Administration's share of any loan made under subsection (b) shall not exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum: *Provided, however,* That the interest rate for loans made under paragraphs (1) and (2) hereof shall not exceed the rate of interest which is in effect at the time of the occurrence of the disaster."

TITLE II—STUDY OF SMALL BUSINESS

ESTABLISHMENT

Office of
Advocacy.
15 USC 634a.

SEC. 201. There is established within the Small Business Administration an Office of Advocacy. The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

STUDY

15 USC 634b.

SEC. 202. The primary functions of the Office of Advocacy shall be to—

(1) examine the role of small business in the American economy and the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(2) assess the effectiveness of existing Federal subsidy and assistance programs for small business and the desirability of reducing the emphasis on such existing programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

(3) measure the direct costs and other effects of government regulation on small businesses; and make legislative and non-legislative proposals for eliminating excessive or unnecessary regulations of small businesses;

(4) determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

(5) study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands for credit on small businesses;

(6) determine financial resource availability and to recommend methods for delivery of financial assistance to minority enterprises, including methods for securing equity capital, for generating markets for goods and services, for providing effective business education, more effective management and technical assistance, and training, and for assistance in complying with Federal, State, and local law;

(7) evaluate the efforts of Federal agencies, business and industry to assist minority enterprises;

(8) make such other recommendations as may be appropriate to assist the development and strengthening of minority and other small business enterprises;

(9) recommend specific measures for creating an environment in which all businesses will have the opportunity to compete effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failures; and

(10) determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

DUTIES

Sec. 203. The Office of Advocacy shall also perform the following duties on a continuing basis: 15 USC 634c.

(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

(2) counsel small businesses on how to resolve questions and problems concerning the relationship of the small business to the Federal Government;

(3) develop proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such proposals to the appropriate Federal agencies;

(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business; and

(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services.

STAFF AND POWERS

Sec. 204. In carrying out the provisions of section 202, after consultation with and subject to the approval of the Administrator, the Chief Counsel for Advocacy may— 15 USC 634d.

5 USC 5101
et seq., 5331.

(1) employ and fix the compensation of such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the lowest rate for GS-15 of the General Schedule;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;

(3) consult with experts and authorities in the fields of small business investment, venture capital, investment and commercial banking and other comparable financial institutions involved in the financing of business, and with individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest;

15 USC 637.

(4) utilize the services of the National Advisory Council established pursuant to the provisions of section 8(b) (13) of the Small Business Act and in accordance with the provisions of such statute, also appoint such other advisory boards or committees as is reasonably appropriate and necessary to carry out the provisions of this title; and

(5) hold hearings and sit and act at such times and places as he may deem advisable.

ASSISTANCE OF GOVERNMENT AGENCIES

15 USC 634e.

SEC. 205. Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Chief Counsel for Advocacy such reports and other information as he deems necessary to carry out his functions under this title.

REPORTS

Publication.
15 USC 634f.

SEC. 206. The Chief Counsel may from time to time prepare and publish such reports as he deems appropriate. Not later than one year after the date of enactment of this title, he shall transmit to the Congress, the President and the Administration, a full report containing his findings and specific recommendations with respect to each of the functions referred to in section 202, including specific legislative proposals and recommendations for administration or other action. Not later than 6 months after the date of enactment of this title, he shall prepare and transmit a preliminary report on his activities. The reports shall not be submitted to the Office of Management and Budget or to any other Federal agency or executive department for any purpose prior to transmittal to the Congress and the President.

Prohibition.

AUTHORIZATION

SEC. 207. There are authorized to be appropriated not to exceed \$1,000,000 to carry out the provisions of this title. Any sums so appropriated shall remain available until expended. 15 USC 634g.

TECHNICAL AMENDMENT

SEC. 208. Section 5(e) of the Small Business Act is hereby repealed. Repeal.
15 USC 634.

Approved June 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-519 accompanying H.R. 9056 (Comm. on Small Business) and No. 94-1115 (Comm. of Conference).

SENATE REPORTS: No. 94-420 (Comm. on Banking, Housing and Urban Affairs) and No. 94-501 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 6, H.R. 9056 considered and passed House.

Dec. 12, considered and passed Senate.

Dec. 17, considered and passed House, amended, in lieu of H.R. 9056.

Vol. 122 (1976): May 13, House agreed to conference report.

May 20, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 23 (1976): June 4, Presidential statement.

Public Law 94-306
94th Congress

An Act

June 4, 1976

[H.R. 8719]

To provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority.

D.C.
Washington
Metropolitan
Area Transit
Regulation
Compact,
amendments.
D.C. Code
1-1431c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby consents to, and adopts and enacts for the District of Columbia, amendments to articles I and XVI of title III of the Washington Metropolitan Area Transit Regulation Compact (D.C. Code, sec. 1-1431 note) as follows, which amendments have been adopted substantially by the Commonwealth of Virginia and the State of Maryland:

(1) Section 1(g) of article I is amended by striking "and" at the end thereof.

"Transit Zone",
or "Zone."

(2) Section 1(h) of article I is amended to read as follows:

"(h) 'Transit Zone' or 'Zone' means the Washington Metropolitan Area Transit Zone created by and described in section 3, as well as any additional area that may be added pursuant to section 83(a); and".

"WMATC."

(3) Section 1 of article I is amended by adding at the end thereof the following:

"(i) 'WMATC' means Washington Metropolitan Area Transit Commission."

Metro Transit
Police.
Establishment.

(4) Section 76 of article XVI is amended to read as follows:

"76. (a) The Authority is authorized to establish and maintain a regular police force, to be known as the Metro Transit Police, to provide protection for its patrons, personnel, and transit facilities. The Metro Transit Police shall have the powers and duties and shall be subject to the limitations set forth in this section. It shall be composed of both uniformed and plainclothes personnel and shall be charged with the duty of enforcing the laws of the signatories, the laws, ordinances, and regulations of the political subdivisions thereof in the Transit Zone, and the rules and regulations of the Authority. The jurisdiction of the Metro Transit Police shall be limited to all the transit facilities owned, controlled, or operated by the Authority, but this shall not limit the power of the Metro Transit Police to make arrests in the Transit Zone for violations committed upon, to, or against such transit facilities committed from within or outside such transit facilities while in hot or close pursuit, or to execute traffic citations and criminal process in accordance with subsection (c). The members of the Metro Transit Police shall have concurrent jurisdiction in the performance of their duties with the duly constituted law enforcement agencies of the signatories and of the political subdivisions thereof in which any transit facility of the Authority is located or in which the Authority operates any transit service. Nothing contained in this section shall either relieve any signatory or political subdivision or agency thereof from its duty to provide police, fire, and other public safety service and protection, or limit, restrict, or interfere with the jurisdiction of or the performance of duties by the existing police, fire, and other public safety agencies.

Jurisdiction.

“(b) Except as otherwise provided in this section, a member of the Metro Transit Police shall have the same powers, including the power of arrest, and shall be subject to the same limitations, including regulatory limitations, in the performance of his duties as a member of the duly constituted police force of the political subdivision in which the Metro Transit Police member is engaged in the performance of his duties. However, a member of the Metro Transit Police is authorized to carry and use only such weapons, including handguns, as are issued by the Authority, and only in the performance of his duties or while on the transit facilities owned, controlled, or operated by the Authority in direct transit to and from a duty assignment. A member of the Metro Transit Police is authorized to carry such weapons only while in direct transit to and from a duty assignment and is subject to such additional limitations in the use of weapons as are imposed on the duly constituted police force for the political subdivision in which he is engaged in the performance of his duties.

“(c) Members of the Metro Transit Police shall have power to execute on the transit facilities owned, controlled, or operated by the Authority any traffic citation or any criminal process issued by any court of any signatory or of any political subdivision of a signatory, for any felony, misdemeanor, or other offense against the laws, ordinances, rules, or regulations specified in subsection (a). However, with respect to offenses committed upon, to, or against the transit facilities owned, controlled, or operated by the Authority, the Metro Transit Police shall have power, except in the State of Maryland, to execute criminal process within the Transit Zone.

Traffic citation or
criminal process.

“(d) Upon the apprehension or arrest of any person by a member of the Metro Transit Police pursuant to the provisions of subsection (b), the officer, as required by the law of the place of apprehension or arrest, shall either issue a summons or a citation against the person, book the person, or deliver the person to the duly constituted police or judicial officer of the signatory or political subdivision where the apprehension or arrest is made, for disposition as required by law.

Summons.

“(e) The Authority shall have the power to adopt rules and regulations for the safe, convenient, and orderly use of the transit facilities owned, controlled, or operated by the Authority, including the payment and the manner of the payment of fares or charges therefor, the protection of the transit facilities, the control of traffic and parking upon the transit facilities, and the safety and protection of the riding public. In the event that any such rules and regulations contravene the laws, ordinances, rules, or regulations of a signatory or any political subdivision thereof which are existing or subsequently enacted, these laws, ordinances, rules, or regulations of the signatory or the political subdivision shall apply and the conflicting rule or regulation, or portion thereof, of the Authority shall be void within the jurisdiction of that signatory or political subdivision. In all other respects the rules and regulations of the Authority shall be uniform throughout the Transit Zone. The rules and regulations established under this subsection shall be adopted and published in accordance with all standards of due process, including, but not limited to, the publishing or otherwise circulating of a notice of the intended action of the Authority and the affording to interested persons the opportunity to submit data or views orally or in writing, and the holding of a public hearing. Any person violating any rule or regulation of the Authority shall, upon conviction by a court of competent jurisdiction, pay a fine of not more than \$250 and costs.

Rules and
regulations.

Notice and
hearing.

Violation,
penalty.

“(f) With respect to members of the Metro Transit Police, the Authority shall—

“(1) establish classifications based on the nature and scope of duties, and fix and provide for their qualifications, appointment, removal, tenure, term, compensation, pension, and retirement benefits;

“(2) provide for their training and for this purpose, the Authority may enter into contracts or agreements with any public or private organization engaged in police training, and this training and the qualifications of the uniformed and plainclothes personnel shall at least equal the requirements of each signatory and of the political subdivisions therein in the Transit Zone for their personnel performing comparable duties; and

“(3) prescribe distinctive uniforms to be worn.

Agreements.

“(g) The Authority shall have the power to enter into agreements with the signatories, the political subdivisions thereof in the Transit Zone, and public safety agencies located therein, including those of the Federal Government, for the delineation of the functions and responsibilities of the Metro Transit Police and the duly constituted police, fire, and other public safety agencies, and for mutual assistance.

Oaths.

“(h) Before entering upon the duties of office, each member of the Metro Transit Police shall take or subscribe to an oath or affirmation, before a person authorized to administer oaths, faithfully to perform the duties of that office.”

D.C. Code
1-1431c.

SEC. 2. The Mayor of the District of Columbia is authorized and directed to enter into and execute on behalf of the District of Columbia amendments, substantially as set forth in the first section of this Act, to title III of the Washington Metropolitan Area Transit Regulation Compact with the State of Maryland and the Commonwealth of Virginia, which amendments shall become effective immediately upon execution of same.

SEC. 3. (a) Subchapter II of chapter 9 of title 11 of the District of Columbia Code is amended by adding at the end thereof the following new section:

D.C. Code
11-924.

“§ 11-924. Jurisdiction with respect to violations of the Rules and Regulations of the Washington Metropolitan Area Transit Authority

“The Superior Court has jurisdiction with respect to any violation, committed in the District of Columbia, of the rules and regulations adopted by the Washington Metropolitan Area Transit Authority under section 76(e) of title III of the Washington Metropolitan Area Transit Regulation Compact.”

Ante, p. 672.

(b) The chapter analysis for such chapter 9 is amended by inserting immediately after the item relating to section 11-923 the following new item:

“11-924. Jurisdiction with Respect to Violations of the Rules and Regulations of the Washington Metropolitan Area Transit Authority.”

SEC. 4. The Council of the District of Columbia shall have authority to enact any act adopting on behalf of the District of Columbia amendments to the Washington Metropolitan Area Transit Regulation Compact, but in no case shall any such amendment become effective until after it has been approved by Congress.

D.C. Code
1-1431-1.

SEC. 5. The right of Congress to alter, amend, or repeal this Act is hereby expressly reserved.

D.C. Code
1-1431c note.

Approved June 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-379 (*Comm. on the District of Columbia*).

SENATE REPORT No. 94-832 (*Comm. on the District of Columbia*).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 28, considered and passed House.

Vol. 122 (1976): May 18, considered and passed Senate, amended.

May 24, House concurred in Senate amendment.

Public Law 94-307
94th Congress

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

June 4, 1976

[H.R. 12453]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration:

National
Aeronautics and
Space
Administration
Authorization
Act, 1977.
Research and
development.

(a) For "Research and development," for the following programs:

- (1) Space Shuttle, \$1,288,100,000;
- (2) Space flight operations, \$202,700,000;
- (3) Expendable launch vehicles, \$151,400,000;
- (4) Physics and astronomy, \$166,300,000;
- (5) Lunar and planetary exploration, \$192,100,000;
- (6) Life sciences, \$22,125,000;
- (7) Space applications, \$198,000,000;
- (8) Earth resources operational systems, \$200,000;
- (9) Aeronautical research and technology, \$191,100,000;
- (10) Space research and technology, \$86,300,000;
- (11) Tracking and data acquisition, \$255,000,000;
- (12) Technology utilization, \$8,100,000.

Construction of
facilities.

(b) For "Construction of facilities," including land acquisition, as follows:

- (1) Modification for high enthalpy entry facility, Ames Research Center, \$1,220,000;
- (2) Modification of flight simulator for advanced aircraft, Ames Research Center, \$1,730,000;
- (3) Construction of supply support facility, Ames Research Center, \$1,540,000;
- (4) Construction of addition to flight control facility, Hugh L. Dryden Flight Research Center, \$750,000;
- (5) Construction of addition to lunar sample curatorial facility, Lyndon B. Johnson Space Center, \$2,200,000;
- (6) Construction of airlock to spin test facility, John F. Kennedy Space Center, \$360,000;
- (7) Modifications for utility control system, John F. Kennedy Space Center, \$2,445,000;
- (8) Construction of addition for aeroelastic model laboratory, Langley Research Center, \$730,000;
- (9) Construction of data reduction center annex, Langley Research Center, \$2,970,000;
- (10) Construction of refuse-fired steam generating facility, Langley Research Center, \$2,485,000;
- (11) Modification of refrigeration system, electric propulsion laboratory, Lewis Research Center, \$680,000;
- (12) Rehabilitation of combustion air drying system, engine research building, Lewis Research Center, \$1,490,000;
- (13) Large aeronautical facility: construction of national transonic facility, Langley Research Center, \$25,000,000;

(14) Space Shuttle facilities at various locations as follows:

(A) Construction of Orbiter processing facility, John F. Kennedy Space Center, \$3,750,000;

(B) Modifications to launch complex 39, John F. Kennedy Space Center, \$18,855,000;

(C) Modification for solid rocket booster processing facilities, John F. Kennedy Space Center, \$8,700,000;

(D) Construction of Shuttle/Carrier aircraft mating facility, John F. Kennedy Space Center, \$1,700,000;

(E) Rehabilitation and modification of Shuttle facilities, at various locations, \$1,760,000;

(F) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, \$1,930,000;

(15) Space Shuttle payload facilities at various locations as follows:

(A) Modifications to operations and checkout building for Spacelab, John F. Kennedy Space Center, \$3,570,000;

(B) Modifications and addition for Shuttle payload development, Goddard Space Flight Center, \$770,000;

(16) Rehabilitation and modification of facilities at various locations, not in excess of \$500,000 per project, \$17,875,000;

(17) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of \$250,000 per project, \$5,125,000;

(18) Facility planning and design not otherwise provided for, \$12,655,000.

Research and
program
management.

(c) For "Research and program management," \$813,455,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Program
specifications.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds \$250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Aeronautical and Space Sciences of the Senate of the nature, location, and estimated cost of such facility.

Notice to Speaker
of the House,
President of the
Senate and
congressional
committees.

(e) When so specified in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction

of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed \$35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

Scientific consultations or extraordinary expenses.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of \$25,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and not in excess of \$50,000 for each project, including collateral equipment, may be used for rehabilitation or modification of facilities: *Provided*, That of the funds appropriated pursuant to subsection 1(a), not in excess of \$250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

Limitations.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (17), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 per centum, or

Cost variations.

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Aeronautical and Space Sciences of the Senate on the circumstances of such action, may be varied upward 25 per centum,

Report to congressional committees.

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with \$10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (18) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof

Unforeseen program changes, transfer of research funds to construction.

Report to Speaker of the House, President of the Senate and congressional committees.

including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Use of funds,
restriction.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Aeronautical and Space Sciences,

(2) no amounts appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

Notice to the
Speaker of the
House, President
of the Senate and
congressional
committees.

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Research funds,
geographical
distribution.
42 USC 2459
note.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Satellite services,
contract
authorization.
42 USC 2463.

SEC. 6. The National Aeronautics and Space Administration is authorized, when so provided in an appropriation Act, to enter into a contract for tracking and data relay satellite services. Such services shall be furnished to the National Aeronautics and Space Administration in accordance with applicable authorization and appropriations Acts. The Government shall incur no costs under such contract prior to the furnishing of such services except that the contract may provide for the payment for contingent liability of the Government which may accrue in the event the Government should decide for its convenience to terminate the contract before the end of the period of the contract. Facilities which may be required in the performance of the contract may be constructed on Government-owned lands if there is included in the contract a provision under which the Government may acquire a title to the facilities, under terms and conditions agreed upon in the contract, upon termination of the contract.

Report to
congressional
committees.

The Administrator shall in January of each year report to the Committee on Science and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Aeronautical and Space Sciences and the Committee on Appropriations of the Senate the projected aggregate contingent liability of the Government under termination provisions of any contract authorized in this section through the next fiscal year. The authority of the National Aeronautics and Space Administration to enter into and to maintain the contract authorized hereunder shall remain in effect as long as provision therefor is included in Acts authorizing appropriations to the National Aeronautics and Space Administration for subsequent fiscal years.

SEC. 7. Paragraph (15) of section 5316, title 5, United States Code, is amended by striking out “(6)” and inserting in lieu thereof “(7)”.

SEC. 8. Section 6 of the National Aeronautics and Space Administration Authorization Act, 1968 (81 Stat. 170), is amended by striking out the words “the rate of \$100” and inserting in lieu thereof the words “a rate not to exceed the per diem rate equivalent to the rate for GS-18”.

42 USC 2477.

5 USC 5332 note.
Short title.

SEC. 9. This Act may be cited as the “National Aeronautics and Space Administration Authorization Act, 1977”.

Approved June 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-897 (Comm. on Science and Technology) and No. 94-1176 (Comm. of Conference).

SENATE REPORTS: No. 94-718 (Comm. on Aeronautics and Space Sciences) and No. 94-901 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 22, considered and passed House.

Apr. 1, considered and passed Senate, amended.

May 17, Senate agreed to conference report.

May 21, House agreed to conference report.

Public Law 94-308
94th Congress

An Act

June 4, 1976
[H.R. 12132]

To extend as an emergency measure for one year the District of Columbia Medical and Dental Manpower Act of 1970.

Appropriation
authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303 (c) of the District of Columbia Medical and Dental Manpower Act of 1970 (D.C. Code, sec. 31-922(c)) is amended by striking out "years ending June 30, 1975, and June 30, 1976." and inserting in lieu thereof "year ending September 30, 1977,".

Approved June 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-899 (Comm. on the District of Columbia).
SENATE REPORT No. 94-831 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Apr. 12, considered and passed House.
May 21, considered and passed Senate.

Public Law 94-309
94th Congress

An Act

To extend the Educational Broadcasting Facilities Program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and public or social service information, and for other purposes.

June 5, 1976

[H.R. 9630]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Educational Broadcasting Facilities and Telecommunications Demonstration Act of 1976".

Educational
Broadcasting
Facilities and
Telecommuni-
cations
Demonstration
Act of 1976.
47 USC 390 note.
47 USC 390.

PURPOSE

SEC. 2. (a) Part IV of title III of the Communications Act of 1934 is amended by striking out the heading of such part and inserting in lieu thereof "ASSISTANCE FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES; TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING".

(b) Subpart A of such part is amended by striking out the heading of such subpart and inserting in lieu thereof "ASSISTANCE FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES AND TELECOMMUNICATIONS DEMONSTRATIONS".

(c) Section 390 of such Act is amended to read as follows:

47 USC 390.

"DECLARATION OF PURPOSE

"SEC. 390. The purposes of this subpart are (1) to assist (through matching grants) in the construction of noncommercial educational television or radio broadcasting facilities, and (2) to demonstrate (through grants or contracts) the use of telecommunications technologies for the distribution and dissemination of health, education, and other public or social service information."

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Section 391 of the Communications Act of 1934 is amended to read as follows:

47 USC 391.

"SEC. 391. There are authorized to be appropriated \$7,500,000 for the period July 1, 1976, through September 30, 1976, and \$30,000,000 for the fiscal year ending September 30, 1977, to assist (through matching grants) in the construction of noncommercial educational television or radio broadcasting facilities as provided in this subpart. Sums appropriated under this section for any fiscal year or period shall remain available for payment of grants for projects for which applications approved under section 392 have been submitted under such section within one year after the last day of such fiscal year or period."

CRITERIA FOR BROADCAST FACILITIES CONSTRUCTION

SEC. 4. (a) Section 392(a) (1) of the Communications Act of 1934 is amended by striking out clause (C) and inserting in lieu thereof "(C) a public or private nonprofit college or university or other educational

47 USC 392.

or cultural institution which is affiliated with an eligible college or university.”.

47 USC 392.

(b) Section 392(d) of such Act is amended to read as follows:

“(d) (1) The Secretary shall base his determinations of whether to approve applications for television grants under this section and the amount of such grants on criteria set forth in regulations and designed to achieve (A) a strengthening of the capability of existing noncommercial educational television stations to provide local services; (B) the adaptation of existing noncommercial educational television facilities to broaden educational uses; and (C) extension of noncommercial educational television services, with due consideration to equitable geographic coverage throughout the United States.

“(2) The Secretary shall base his determination of whether to approve applications for radio grants under this section and the amount of such grants on criteria set forth in regulations and designed to achieve (A) extension of noncommercial educational radio services with due consideration to equitable geographic coverage throughout the United States; (B) a strengthening of the capability of existing noncommercial educational radio stations to provide local service; and (C) the provision of multiple radio stations in major population centers to broaden services for special interest, minority, and educational uses.”.

COORDINATION

47 USC 395.

SEC. 5. Section 395 of the Communications Act of 1934 is amended to read as follows:

“COORDINATION WITH THE COMMISSION AND THE CORPORATION

“SEC. 395. The Federal Communications Commission is authorized to provide such assistance in carrying out the provisions of this subpart as may be requested by the Secretary. The Secretary shall provide for close coordination with the Federal Communications Commission in the administration of his functions under this subpart which are of interest to or affect the functions of the Commission. The Secretary shall provide for close coordination with the Corporation for Public Broadcasting in the administration of his functions under this subpart which are of interest to or affect the functions of the Corporation.”.

CONSTRUCTION

47 USC 397.

SEC. 6. Section 397(2) of the Communications Act of 1934 is amended to read as follows:

Definition.

“(2) The term ‘construction’, as applied to educational television broadcasting facilities or educational radio broadcasting facilities, means the acquisition and installation of transmission and reception apparatus (including towers, microwave equipment, boosters, translators, repeaters, mobile equipment, video recording equipment, non-video recording equipment, radio subcarrier receivers, and satellite transceivers) necessary for television broadcasting or radio broadcasting, as the case may be, including apparatus which may incidentally be used for transmitting closed circuit television or radio programs, but such term does not include the construction or repair of structures to house such apparatus. In the case of apparatus, the acquisition and installation of which is so included, such term also includes planning therefor.”.

AUDIO RECORDING EQUIPMENT

SEC. 7. Section 399(b) of the Communications Act of 1934 is amended by adding at the end thereof the following new paragraph:

“(5) From amounts appropriated pursuant to section 391 after the date of enactment of this paragraph, the Secretary may make a grant to any licensee of a noncommercial educational broadcast station who received assistance under this part of the full amount necessary to acquire equipment to permit such licensee to comply with paragraph (1) of this subsection.”.

47 USC 399.

Grant.
47 USC 391.

TELECOMMUNICATIONS DEMONSTRATIONS

SEC. 8. The Communications Act of 1934 is amended by adding after section 392 the following new section:

“TELECOMMUNICATIONS DEMONSTRATIONS

“SEC. 392A. (a) It is the purpose of this section to promote the development of nonbroadcast telecommunications facilities and services for the transmission, distribution and delivery of health, education, and public or social service information. The Secretary is authorized, upon receipt of an application in such form and containing such information as he may by regulation require, to make grants to, and enter into contracts with public and private nonprofit agencies, organizations, and institutions for the purpose of carrying out telecommunications demonstrations.

47 USC 392a.

Grants and
contracts.

“(b) The Secretary may approve an application submitted under subsection (a) if he determines—

Application
approval.

“(1) that the project for which application is made will demonstrate innovative methods or techniques of utilizing nonbroadcast telecommunications equipment or facilities to satisfy the purpose of this section;

“(2) that demonstrations and related activities assisted under this section will remain under the administration and control of the applicant;

“(3) that the applicant has the managerial and technical capability to carry out the project for which the application is made; and

“(4) that the facilities and equipment acquired or developed pursuant to the application will be used substantially for the transmission, distribution, and delivery of health, education, or public or social service information.

“(c) Upon approving any application under this section with respect to any project, the Secretary shall make a grant to or enter into a contract with the applicant in an amount determined by the Secretary not to exceed the reasonable and necessary cost of such project. The Secretary shall pay such amount from the sum available therefor, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

“(d) Funds made available pursuant to this section shall not be available for the construction, remodeling, or repair of structures to house the facilities or equipment acquired or developed with such funds, except that such funds may be used for minor remodeling which is necessary for and incident to the installation of such facilities or equipment.

"Nonbroadcast telecommunications facilities."

"(e) For purposes of this section, the term 'nonbroadcast telecommunications facilities' includes, but is not limited to, cable television systems, communications satellite systems and related terminal equipment, and other methods of transmitting, emitting, or receiving images and sounds or intelligence by means of wire, radio, optical, electromagnetic or other means.

"(f) The funding of any demonstration pursuant to this section shall continue for not more than three years from the date of the original grant or contract.

Summary and evaluation.

"(g) The Secretary shall require that the recipient of a grant or contract under this section submit a summary and evaluation of the results of the demonstration at least annually for each year in which funds are received pursuant to this section.

Appropriation authorization.

"(h) There are authorized to be appropriated \$1,000,000 for the fiscal year ending September 30, 1977, and \$250,000 for the period July 1, 1976, through September 30, 1976, to carry out the provisions of this section. Sums appropriated under this subsection for any fiscal year or period shall remain available for payment of grants or contracts for projects for which applications approved under this section have been submitted within one year after the last day of such fiscal year or period."

Approved June 5, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-772 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-813 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Jan. 20, considered and passed House.

May 13, considered and passed Senate, amended.

May 25, House concurred in Senate amendments.

Public Law 94-310
94th Congress

An Act

To amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes.

June 15, 1976

[H.R. 11438]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6322 (a) (2) of title 5, United States Code, relating to leave for witness service, is amended to read as follows:

Federal
employees.
Court leave.

“(2) other than as provided in subsection (b) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party;”.

SEC. 2. Section 6(b) (2) of the Act entitled “An Act to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia”, approved December 19, 1970 (2 U.S.C. 130b (b) (2)), is amended to read as follows:

“(2) other than as provided in subsection (c) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party;”.

SEC. 3. (a) Subsection (g) of section 8906 of title 5, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “and which may be made available until expended.”.

(b) Section 10 of the Retired Federal Employees Health Benefits Act of 1960 (74 Stat. 849) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “and which may be made available until expended.”.

SEC. 4. The amendments made by this Act shall take effect on October 1, 1976, or on the date of the enactment of this Act, whichever date is later.

Effective date.
2 USC 130b note.

Approved June 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-814 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 94-830 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Feb. 17, considered and passed House.
May 19, considered and passed Senate, amended.
June 3, House concurred in Senate amendment.

Public Law 94-311
94th Congress

Joint Resolution

June 16, 1976
[H.J. Res. 92]

Relating to the publication of economic and social statistics for Americans of Spanish origin or descent.

Whereas more than twelve million Americans identify themselves as being of Spanish-speaking background and trace their origin or descent from Mexico, Puerto Rico, Cuba, Central and South America, and other Spanish-speaking countries; and

Whereas these Americans of Spanish origin or descent have made significant contributions to enrich American society and have served their Nation well in time of war and peace; and

Whereas a large number of Americans of Spanish origin or descent suffer from racial, social, economic, and political discrimination and are denied the basic opportunities they deserve as American citizens and which would enable them to begin to lift themselves out of the poverty they now endure; and

Whereas improved evaluation of the economic and social status of Americans of Spanish origin or descent will assist State and Federal Governments and private organizations in the accurate determination of the urgent and special needs of Americans of Spanish origin or descent; and

Whereas the provision and commitment of State, Federal, and private resources can only occur when there is an accurate and precise assessment of need: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Department of Labor, in cooperation with the Department of Commerce, shall develop methods for improving and expanding the collection, analysis, and publication of unemployment data relating to Americans of Spanish origin or descent.

SEC. 2. The Department of Commerce, the Department of Labor, the Department of Health, Education, and Welfare, and the Department of Agriculture shall each collect, and publish regularly, statistics which indicate the social, health, and economic condition of Americans of Spanish origin or descent.

SEC. 3. The Director of the Office of Management and Budget, in cooperation with the Secretary of Commerce and with the heads of other data-gathering Federal agencies, shall develop a Government-wide program for the collection, analysis, and publication of data with respect to Americans of Spanish origin or descent.

SEC. 4. The Department of Commerce, in cooperation with appropriate Federal, State and local agencies and various population study groups and experts, shall immediately undertake a study to determine what steps would be necessary for developing creditable estimates of undercounts of Americans of Spanish origin or descent in future censuses.

Americans of
Spanish origin or
descent.
Economic and
social statistics,
publication.
29 USC 8.
15 USC 1516a.

15 USC 1516a
note.

13 USC 141 note.

SEC. 5. The Secretary of Commerce shall ensure that, in the Bureau of the Census data-collection activities, the needs and concerns of the Spanish-origin population are given full recognition through the use of Spanish language questionnaires, bilingual enumerators, and other such methods as deemed appropriate by the Secretary.

13 USC 141 note.

SEC. 6. The Department of Commerce shall implement an affirmative action program within the Bureau of the Census for the employment of personnel of Spanish origin or descent and shall submit a report to Congress within one year of the enactment of this Act on the progress of such program.

Affirmative
action program.
Report to
Congress.
13 USC 22 note.

Approved June 16, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-190 (Comm. on Post Office and Civil Service).

SENATE REPORT No. 94-896 (Comm. on Post Office and Civil Service).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 29, considered and passed House.

Vol. 122 (1976): May 21, considered and passed Senate, amended.

June 7, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 25 (1976): June 16, Presidential statement.

Public Law 94-312
94th Congress

An Act

June 21, 1976

[S. 532]

To authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers.

Wool price
supports.
Regulations.
7 USC 1785 note.
7 USC 1781 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order that the amount of such payments may, in the case of any rancher or farmer, be computed on the basis of (1) the net sales proceeds received, or (2) in the case of any rancher or farmer who failed to realize the amount provided for in the sales document, the lesser of the following: (A) the net sales proceeds based on the price the rancher or farmer would have received had there been no default of payment under such document, or (B) the fair market value of the commodity concerned at the time of sale.

7 USC 1785 note.

SEC. 2. The Secretary of Agriculture is further authorized to reconsider any application filed for the payment of price support under the National Wool Act of 1954 with respect to any commodity marketed during the four marketing years 1969 through 1972 and to make such payment adjustments as he determines fair and equitable on the basis of any amendment to regulations made under authority of the first section of this Act.

Approved June 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1161 (Comm. on Agriculture).
SENATE REPORT No. 94-716 (Comm. on Agriculture and Forestry).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Apr. 13, considered and passed Senate.
June 7, considered and passed House.

Public Law 94-313
94th Congress

An Act

To amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos.

June 21, 1976
[S. 2760]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94-23; 22 U.S.C. 2601), is amended as follows:

(1) In section 2, strike out "Cambodia or Vietnam" and insert in lieu thereof "Cambodia, Vietnam, or Laos".

(2) In section 3, strike out "Cambodia or Vietnam" and insert in lieu thereof "Cambodia, Vietnam, or Laos".

(3) In section 4(b), strike out "Cambodia and South Vietnam" and insert in lieu thereof "Cambodia, South Vietnam, and Laos".

(4) In section 4(b) (3), strike out "South Vietnam and Cambodia" and insert in lieu thereof "South Vietnam, Cambodia, and Laos".

Indochina
Migration and
Refugee
Assistance Act of
1975,
amendment.
Laos refugees,
inclusion.
22 USC 2601
note.

Approved June 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1191 (Comm. on the Judiciary).

SENATE REPORT No. 94-629 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 16, considered and passed Senate.

June 7, considered and passed House.

Public Law 94-314
94th Congress

An Act

June 21, 1976

[S. 3187]

To extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of such Commission.

National
Commission on
New Technical
Uses of
Copyrighted
Works.
Appropriation
authorization.
17 USC 201
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Act entitled "An Act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes", is amended by striking out "June 30, 1976" and inserting in lieu thereof the following: "and including the day on which the Commission terminates".

Approved June 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1137 accompanying H.R. 11877 (Comm. on the Judiciary).

SENATE REPORT No. 94-798 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 11, considered and passed Senate.

June 7, considered and passed House, in lieu of H.R. 11877.

Public Law 94-315
94th Congress

Joint Resolution

To provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution.

June 21, 1976
[S.J. Res. 168]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of James E. Webb, of Washington, District of Columbia, on May 18, 1976, be filled by the reappointment of the present incumbent for the statutory term of six years.

Smithsonian
Institution.

Approved June 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1126 accompanying H.J. Res. 863 (Comm. on House Administration).

SENATE REPORT No. 94-720 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 31, considered and passed Senate.

June 7, considered and passed House, in lieu of H.J. Res. 863.

Public Law 94-316
94th Congress

An Act

June 22, 1976
[H.R. 11559]

To authorize appropriations for the saline water conversion program for fiscal year 1977.

Saline water
conversion
program, 1977.
Appropriation
authorization.
42 USC 1959
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated, to carry out the provisions of the Saline Water Conversion Act of 1971 (85 Stat. 159) during fiscal year 1977 the sum of \$7,540,000, to remain available until expended as follows:

- (a) Water Resources Research:
 - (1) Saline Water Conversion Process Research, \$800,000; and
 - (2) Water Reuse Research and Planning, \$1,200,000.
- (b) Technology Development:
 - (1) Seawater Membrane Development, \$1,600,000;
 - (2) Water Reuse Technology Development and Testing, \$500,000;
 - (3) Technology Transfer, \$300,000;
 - (4) Brackish Water Membrane Development and Testing, \$750,000; and
 - (5) Freezing Technology Development and Testing, \$850,000.
- (c) Test Facility Operation and Maintenance:
 - (1) Brackish Water Test Facility, \$400,000; and
 - (2) Seawater Test Facility, \$300,000.
- (d) Administration and Coordination, \$840,000.

SEC. 2. Expenditures and obligations under any item authorized by subsections (a) and (b) of section 1 may be increased by not more than 10 per centum if any such increase is accompanied by a corresponding decrease in expenditures and obligations in one or more items authorized to be appropriated by said subsections (a) and (b) of section 1.

SEC. 3. Relative to the definition of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to the Water Resources Research Act of 1964 (42 U.S.C. 1961) or the Saline Water Conversion Act of 1971 (42 U.S.C. 1959), and notwithstanding any other provision of law, the Secretary shall be governed by the provisions of sections 9 and 10 of the Federal Non-nuclear Energy, Research, and Development Act of 1974 (42 U.S.C. 5908): *Provided, however,* That subsections (l) and (n) of said section 9 of said Act shall not apply to this Act.

Approved June 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-985 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-807 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 5, considered and passed House.
June 3, considered and passed Senate, amended.
June 7, House concurred in Senate amendments.

42 USC 1959d
note.

42 USC 5909.

Public Law 94-317
94th Congress

An Act

To amend the Public Health Service Act to provide authority for health information and health promotion programs, to revise and extend the authority for disease prevention and control programs, and to revise and extend the authority for venereal disease programs, and to amend the Lead-Based Paint Poisoning Prevention Act to revise and extend that Act.

June 23, 1976

[S. 1466]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HEALTH INFORMATION AND HEALTH
PROMOTION

SHORT TITLE

SEC. 101. This title may be cited as the “National Consumer Health Information and Health Promotion Act of 1976”.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 102. The Public Health Service Act is amended by adding at the end thereof the following new title:

“TITLE XVII—HEALTH INFORMATION AND HEALTH
PROMOTION

“GENERAL AUTHORITY

“SEC. 1701. (a) The Secretary shall—

“(1) formulate national goals, and a strategy to achieve such goals, with respect to health information and health promotion, preventive health services, and education in the appropriate use of health care;

“(2) analyze the necessary and available resources for implementing the goals and strategy formulated pursuant to paragraph (1), and recommend appropriate educational and quality assurance policies for the needed manpower resources identified by such analysis;

“(3) undertake and support necessary activities and programs to—

“(A) incorporate appropriate health education components into our society, especially into all aspects of education and health care,

“(B) increase the application and use of health knowledge, skills, and practices by the general population in its patterns of daily living, and

“(C) establish systematic processes for the exploration, development, demonstration, and evaluation of innovative health promotion concepts;

“(4) undertake and support research and demonstrations respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

Public Health
Service Act,
amendments;
Lead-Based Paint
Poisoning Act,
extension.
National
Consumer Health
Information and
Health Promotion
Act of 1976.
42 USC 201
note.

42 USC 300u.

“(5) undertake and support appropriate training in, and undertake and support appropriate training in the operation of programs concerned with, health information and health promotion, preventive health services, and education in the appropriate use of health care;

“(6) undertake and support, through improved planning and implementation of tested models and evaluation of results, effective and efficient programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

“(7) foster the exchange of information respecting, and foster cooperation in the conduct of, research, demonstration, and training programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

“(8) provide technical assistance in the programs referred to in paragraph (7); and

“(9) use such other authorities for programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care as are available and coordinate such use with programs conducted under this title.

Administration.
42 USC 300k-2.

42 USC 300k-1,
300c.

Appropriation
authorization.

Grant or contract.

The Secretary shall administer this title in a manner consistent with the national health priorities set forth in section 1502 and with health planning and resource development activities undertaken under titles XV and XVI.

“(b) For payments under grants and contracts under this title there are authorized to be appropriated \$7,000,000 for the fiscal year ending September 30, 1977, \$10,000,000 for the fiscal year ending September 30, 1978, and \$14,000,000 for the fiscal year ending September 30, 1979.

“(c) No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may prescribe. Contracts may be entered into under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

“RESEARCH PROGRAMS

42 USC 300u-1.

“SEC. 1702. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) research in health information and health promotion, preventive health services, and education in the appropriate use of health care. Applications for grants and contracts under this section shall be subject to appropriate peer review. The Secretary shall also—

“(1) provide consultation and technical assistance to persons who need help in preparing research proposals or in actually conducting research;

“(2) determine the best methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce its risk, or modify its course or severity;

“(3) determine and study environmental, occupational, social, and behavioral factors which affect and determine health and ascertain those programs and areas for which educational and preventive measures could be implemented to improve health as it is affected by such factors;

"(4) develop (A) methods by which the cost and effectiveness of activities respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, can be measured, including methods for evaluating the effectiveness of various settings for such activities and the various types of persons engaged in such activities, (B) methods for reimbursement or payment for such activities, and (C) models and standards for the conduct of such activities, including models and standards for the education, by providers of institutional health services, of individuals receiving such services respecting the nature of the institutional health services provided the individuals and the symptoms, signs, or diagnoses which led to provision of such services;

"(5) develop a method for assessing the cost and effectiveness of specific medical services and procedures under various conditions of use, including the assessment of the sensitivity and specificity of screening and diagnostic procedures; and

"(6) enumerate and assess, using methods developed under paragraph (5), preventive health measures and services with respect to their cost and effectiveness under various conditions of use.

"(b) The Secretary shall make a periodic survey of the needs, interest, attitudes, knowledge, and behavior of the American public regarding health and health care. The Secretary shall take into consideration the findings of such surveys and the findings of similar surveys conducted by national and community health education organizations, and other organizations and agencies for formulating policy respecting health information and health promotion, preventive health services, and education in the appropriate use of health care.

Survey.

"COMMUNITY PROGRAMS

"SEC. 1703. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) new and innovative programs in health information and health promotion, preventive health services, and education in the appropriate use of health care, and may specifically—

42 USC 300u-2.

"(1) support demonstration and training programs in such matters which programs (A) are in hospitals, ambulatory care settings, home care settings, schools, day care programs for children, and other appropriate settings representative of broad cross sections of the population, and include public education activities of voluntary health agencies, professional medical societies, and other private nonprofit health organizations, (B) focus on objectives that are measurable, and (C) emphasize the prevention or moderation of illness or accidents that appear controllable through individual knowledge and behavior;

"(2) provide consultation and technical assistance to organizations that request help in planning, operating, or evaluating programs in such matters;

"(3) develop health information and health promotion materials and teaching programs including (A) model curriculums for the training of educational and health professionals and paraprofessionals in health education by medical, dental, and nursing schools, schools of public health, and other institutions engaged in training of educational or health professionals, (B) model curriculums to be used in elementary and secondary schools and institutions of higher learning, (C) materials and programs

for the continuing education of health professionals and paraprofessionals in the health education of their patients, (D) materials for public service use by the printed and broadcast media, and (E) materials and programs to assist providers of health care in providing health education to their patients; and

“(4) support demonstration and evaluation programs for individual and group self-help programs designed to assist the participant in using his individual capacities to deal with health problems, including programs concerned with obesity, hypertension, and diabetes.

Grants.

“(b) The Secretary is authorized to make grants to States and other public and nonprofit private entities to assist them in meeting the costs of demonstrating and evaluating programs which provide information respecting the costs and quality of health care or information respecting health insurance policies and prepaid health plans, or information respecting both. After the development of models pursuant to sections 1704(4) and 1704(5) for such information, no grant may be made under this subsection for a program unless the information to be provided under the program is provided in accordance with one of such models applicable to the information.

“(c) The Secretary is authorized to support by grant or contract (and to encourage others to support) private nonprofit entities working in health information and health promotion, preventive health services, and education in the appropriate use of health care. The amount of any grant or contract for a fiscal year beginning after September 30, 1978, for an entity may not exceed 25 per centum of the expenses of the entity for such fiscal year for health information and health promotion, preventive health services, and education in the appropriate use of health care.

“INFORMATION PROGRAMS

42 USC 300u-3.

“SEC. 1704. The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) such activities as may be required to make information respecting health information and health promotion, preventive health services, and education in the appropriate use of health care available to the consumers of medical care, providers of such care, schools, and others who are or should be informed respecting such matters. Such activities may include at least the following:

“(1) The publication of information, pamphlets, and other reports which are specially suited to interest and instruct the health consumer, which information, pamphlets, and other reports shall be updated annually, shall pertain to the individual's ability to improve and safeguard his own health; shall include material, accompanied by suitable illustrations, on child care, family life and human development, disease prevention (particularly prevention of pulmonary disease, cardiovascular disease, and cancer), physical fitness, dental health, environmental health, nutrition, safety and accident prevention, drug abuse and alcoholism, mental health, management of chronic diseases (including diabetes and arthritis), and venereal diseases; and shall be designed to reach populations of different languages and of different social and economic backgrounds.

“(2) Securing the cooperation of the communications media, providers of health care, schools, and others in activities designed to promote and encourage the use of health maintaining information and behavior.

“(3) The study of health information and promotion in advertising and the making to concerned Federal agencies and others such recommendations respecting such advertising as are appropriate.

“(4) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others (except individual health practitioners) of information for use by the public respecting the cost and quality of health care, including information to enable the public to make comparisons of the cost and quality of health care.

“(5) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others of information for use by the public respecting health insurance policies and prepaid health plans, including information on the benefits provided by the various types of such policies and plans, the premium charges for such policies and plans, exclusions from coverage or eligibility for coverage, cost sharing requirements, and the ratio of the amounts paid as benefits to the amounts received as premiums and information to enable the public to make relevant comparisons of the costs and benefits of such policies and plans.

“(6) Assess, with respect to the effectiveness, safety, cost, and required training for and conditions of use, of new aspects of health care, and new activities, programs, and services designed to improve human health and publish in readily understandable language for public and professional use such assessments and, in the case of controversial aspects of health care, activities, programs, or services, publish differing views or opinions respecting the effectiveness, safety, cost, and required training for and conditions of use, of such aspects of health care, activities, programs, or services.

“REPORT AND STUDY

“SEC. 1705. (a) The Secretary shall, not later than two years after the date of the enactment of this title and annually thereafter, submit to the President for transmittal to Congress a report on the status of health information and health promotion, preventive health services, and education in the appropriate use of health care. Each such report shall include— 42 USC 300u-4.

“(1) a statement of the activities carried out under this title since the last report and the extent to which each such activity achieves the purposes of this title;

“(2) an assessment of the manpower resources needed to carry out programs relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, and a statement describing the activities currently being carried out under this title designed to prepare teachers and other manpower for such programs;

“(3) the goals and strategy formulated pursuant to section 1701(a)(1), the models and standards developed under this title, and the results of the study required by subsection (b) of this section; and

“(4) such recommendations as the Secretary considers appropriate for legislation respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, including recommendations for revisions to and extension of this title.

Study.

“(b) The Secretary shall conduct a study of health education services and preventive health services to determine the coverage of such services under public and private health insurance programs, including the extent and nature of such coverage and the cost sharing requirements required by such programs for coverage of such services.

“OFFICE OF HEALTH INFORMATION AND HEALTH PROMOTION

Establishment.
42 USC 300u-5.

“SEC. 1706. The Secretary shall establish within the Office of the Assistant Secretary for Health an Office of Health Information and Health Promotion which shall—

“(1) coordinate all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care;

“(2) coordinate its activities with similar activities of organizations in the private sector; and

“(3) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters.”.

**Disease Control
Amendments of
1976.**

TITLE II—DISEASE CONTROL

SHORT TITLE

42 USC 201 note.

SEC. 201. This title may be cited as the “Disease Control Amendments of 1976”.

AMENDMENTS TO SECTIONS 311 AND 317

42 USC 247b
note.

SEC. 202. (a) Effective with respect to grants under section 317 of the Public Health Service Act made from appropriations under such section for fiscal years beginning after June 30, 1975, section 317 of such Act is amended to read as follows:

“DISEASE CONTROL PROGRAMS

Grants.
42 USC 247b.

“SEC. 317. (a) The Secretary may make grants to States and, in consultation with State health authorities, to public entities to assist them in meeting the costs of disease control programs.

“(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information as the Secretary shall by regulation prescribe and shall meet the requirements of paragraph (2).

**Application
requirements.**

“(2) An application for a grant under subsection (a) shall—

“(A) set forth with particularity the objectives (and their priorities, as determined in accordance with such regulations as the Secretary may prescribe) of the applicant for each of the disease control programs it proposes to conduct with assistance from a grant under subsection (a);

“(B) contain assurances satisfactory to the Secretary that, in the year during which the grant applied for would be available, the applicant will conduct such programs as may be necessary (i) to develop an awareness in those persons in the area served by

the applicant who are most susceptible to the diseases or conditions referred to in subsection (f) of appropriate preventive behavior and measures (including immunizations) and diagnostic procedures for such diseases, and (ii) to facilitate their access to such measures and procedures; and

“(C) provide for the reporting to the Secretary of such information as he may require concerning (i) the problems, in the area served by the applicant, which relate to any disease or condition referred to in subsection (f), and (ii) the disease control programs of the applicant for which a grant is applied for.

Report to
Secretary.

In considering such an application the Secretary shall take into account the relative extent, in the area served by the applicant, of the problems which relate to one or more of the diseases or conditions referred to in subsection (f) and the extent to which the applicant's programs are designed to eliminate or reduce such problems. The Secretary shall give special consideration to applications for programs which (A) will increase to at least 80 per centum the immunization rates of any population identified as not having received, or as having failed to secure, the generally recognized disease immunizations, and (B) to the fullest extent practicable, will cooperate and use public and nonprofit private entities and volunteers. The Secretary shall give priority to applications submitted for disease control programs for communicable diseases.

“(c)(1) Each grant under subsection (a) shall be made for disease control program costs in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made.

“(2) Payments under grants under subsection (a) may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

“(3) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

“(A) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the grant recipient, and

“(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out a program with respect to which the recipient's grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the recipient.

“(d)(1) The Secretary may conduct, and may make grants to and enter into contracts with public and nonprofit private entities for the conduct of—

Grants and
contracts.

“(A) training for the administration and operation of disease prevention and control programs, and

“(B) demonstrations and evaluations of such programs.

Application.	“(2) No grant may be made or contract entered into under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.
Coordination.	“(e) The Secretary shall coordinate activities under this section respecting disease control programs with activities under other sections of this Act respecting such programs.
“Disease control program.”	“(f) For purposes of this section, the term ‘disease control program’ means a program which is designed and conducted so as to contribute to national protection against diseases or conditions of national significance which are amenable to reduction, including tuberculosis, rubella, measles, poliomyelitis, diphtheria, tetanus, pertussis, mumps, and other communicable diseases (other than venereal diseases), and arthritis, diabetes, diseases borne by rodents, hypertension, pulmonary diseases, cardiovascular diseases, and Rh disease. Such term also includes vaccination programs, laboratory services, studies to determine the disease control needs of the States and the means of best meeting such needs, the provision of information and education services respecting disease control, and programs to encourage behavior which will prevent disease and encourage the use of preventive measures and diagnostic procedures. Such term also includes any program or project for rodent control for which a grant was made under section 314(e) for the fiscal year ending June 30, 1975.
42 USC 246.	“(g) (1) (A) For the purpose of grants under subsection (a) for disease control programs to immunize children against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps), there are authorized to be appropriated \$9,000,000 for fiscal year 1976, \$17,500,000 for fiscal year 1977, and \$23,000,000 for fiscal year 1978.
Appropriation authorization.	“(B) For the purpose of grants under subsection (a) for disease control programs for diseases borne by rodents there are authorized to be appropriated \$13,500,000 for fiscal year 1976, \$14,000,000 for fiscal year 1977, and \$14,500,000 for fiscal year 1978.
Appropriation authorization.	“(C) For the purpose of grants under subsection (a) for disease control programs, other than programs for which appropriations are authorized under subparagraph (A) or (B), and for the purpose of grants and contracts under subsection (d), there are authorized to be appropriated \$4,000,000 for fiscal year 1976, \$4,500,000 for fiscal year 1977, and \$5,000,000 for fiscal year 1978.
42 USC 247c.	“(D) Not to exceed 15 per centum of the amount appropriated for any fiscal year under any of the preceding subparagraphs of this paragraph may be used by the Secretary for grants and contracts for such fiscal year for programs for which appropriations are authorized under any one or more of the other subparagraphs of this paragraph if the Secretary determines that such use will better carry out the purpose of this section, and reports to the appropriate committees of Congress at least thirty days before making such use of such amount his determination and the reasons therefor.
Report to Congress.	“(2) Except as provided in section 318, no funds appropriated under any provision of this Act other than paragraph (1) of this subsection may be used to make grants in any fiscal year for disease control programs if (A) grants for such programs are authorized by subsection (a), and (B) all the funds authorized to be appropriated under this subsection for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.
	“(h) The Secretary shall submit to the President for submission to the Congress on January 1 of each year (1) a report (A) on the

effectiveness of all Federal and other public and private activities in controlling the diseases and conditions referred to in subsection (f), (B) on the extent of the problems presented by such diseases, (C) on the effectiveness of the activities, assisted under grants and contracts under this section, in controlling such diseases, and (D) setting forth a plan for the coming year for the control of such diseases; and (2) a report (A) on the immune status of the population of the United States, and (B) identifying, by area, population group, and other categories, deficiencies in the immune status of such population.

“(i) (1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this Act) and which are available for the conduct of disease control programs from being used in connection with programs assisted through grants under subsection (a).

“(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a disease control program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such a program.”

(b) Section 311(c) of the Public Health Service Act is amended to read as follows: 42 USC 243.

“(c) (1) The Secretary is authorized to develop (and may take such action as may be necessary to implement) a plan under which personnel, equipment, medical supplies, and other resources of the Service and other agencies under the jurisdiction of the Secretary may be effectively used to control epidemics of any disease or condition referred to in section 317(f) and to meet other health emergencies or problems involving or resulting from disasters or any such disease. The Secretary may enter into agreements providing for the cooperative planning between the Service and public and private community health programs and agencies to cope with health problems (including epidemics and health emergencies) resulting from disasters or any disease or condition referred to in section 317(f). 42 USC 247b.

“(2) The Secretary may, at the request of the appropriate State or local authority, extend temporary (not in excess of forty-five days) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for assistance provided under this paragraph as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation for the Service for the year in which such reimbursement is received.” Federal assistance.

(c) Section 311(b) of such Act is amended by inserting at the end thereof the following new sentence: “The Secretary may charge only private entities reasonable fees for the training of their personnel under the preceding sentence.”

AMENDMENTS RESPECTING VENEREAL DISEASES

SEC. 203. (a) The Congress finds and declares that—

(1) the number of reported cases of venereal disease continues in epidemic proportions in the United States;

(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those actually infected;

(3) the incidence of venereal disease is particularly high in the 15-29-year age group, and in metropolitan areas;

42 USC 247c
note.

(4) venereal disease accounts for needless deaths and leads to such severe disabilities as sterility, insanity, blindness, and crippling conditions;

(5) the number of cases of congenital syphilis, a preventable disease, tends to parallel the incidence of syphilis in adults;

(6) it is conservatively estimated that the public cost of care for persons suffering the complications of venereal disease exceed \$80,000,000 annually;

(7) medical researchers have no successful vaccine for syphilis or gonorrhea, and have no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females;

(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup activities have all been found to be effective disease intervention methodologies;

(9) knowledgeable health providers and concerned individuals and groups are fundamental to venereal disease prevention and control;

(10) biomedical research leading to the development of vaccines for syphilis and gonorrhea is of singular importance for the eventual eradication of these dreaded diseases; and

(11) a variety of other sexually transmitted diseases, in addition to syphilis and gonorrhea, have become of public health significance.

42 USC 247c.

(b)(1) Section 318(b)(2) of the Public Health Service Act is amended to read as follows:

Appropriation
authorization.

“(2) For the purpose of carrying out this subsection, there are authorized to be appropriated \$5,000,000 for fiscal year 1976, \$6,600,000 for fiscal year 1977, and \$7,600,000 for fiscal year 1978.”.

(2) Subsection (d) (2) of such section is amended to read as follows:

“(2) For the purpose of carrying out this section there is authorized to be appropriated \$32,000,000 for fiscal year 1976, \$41,500,000 for fiscal year 1977, and \$43,500,000 for fiscal year 1978.”.

(c) Subsection (a) of such section is amended by striking out “public authorities and” and inserting in lieu thereof “public and non-profit private entities and to”.

(d) Subsection (d) (1) (B) of such section is amended by inserting before the semicolon at the end the following: “and routine testing, including laboratory tests and followup systems”.

(e) Subsection (d) (1) (E) of such section is amended by striking out “control” and inserting in lieu thereof “prevention and control strategies and activities”.

Repeal.

(f) (1) Subsection (c) is repealed.

(2) Subsection (e) (1) of such section is amended by striking out “or (d)” and inserting in lieu thereof “or (c)”.

(3) Subsection (e) (2) (C) of such section is amended by striking out “(including dark-field microscope techniques for the diagnosis of both gonorrhea and syphilis)”.

(4) The last sentence of subsection (e) (4) of such section is amended by striking out the semicolon and all that follows through “paid to such recipient”.

(5) The first sentence of subsection (e) (5) of such section is amended by inserting before the period the following: “or as may be required by a law of a State or political subdivision of a State”.

(6) Subsection (g) of such section is amended by striking out “, (c), and (d)” and inserting in lieu thereof “and (c)”.

(7) Subsection (h) of such section is amended by striking out “treated or to have any child or ward of his”.

(8) Subsections (d), (e), (f), (g), and (h) of such section are redesignated as subsections (c), (d), (e), (f), and (g), respectively.

(g) Subsection (e) of such section (as so redesignated) is amended by striking out “317(d) (4)” and inserting in lieu thereof “317(g) (2)”.

(h) Such section is amended by adding at the end thereof the following new subsection:

“(h) For purposes of this section and section 317, the term ‘venereal disease’ means gonorrhea, syphilis, or any other disease which can be sexually transmitted and which the Secretary determines is or may be amenable to control with assistance provided under this section and is of national significance.”.

“Venereal
disease.”
42 USC 247b.

(i) Section 318(b) (1) is amended by inserting “education,” before “and training”.

42 USC 247c.

EXTENSION AND REVISION OF LEAD-BASED PAINT POISONING PREVENTION ACT

SEC. 204. (a) (1) Section 101(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801(c)) is amended by inserting after and below paragraph (4) the following:

“Follow-up programs described in paragraph (3) shall include programs to eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, including programs to provide for such purpose financial assistance to the owners of such units or houses who are financially unable to eliminate such hazards from their units or houses. In administering programs for the elimination of such hazards, priority shall be given to the elimination of such hazards in residential dwelling units or houses in which reside children with diagnosed lead-based paint poisoning.”.

Follow-up
programs.

(2) (A) Section 101(c) of such Act is amended by striking out “should include” and inserting in lieu thereof “shall include”.

(B) Section 101(f) of such Act is amended by (i) striking out “and (B)” and inserting in lieu thereof “(B)”, and (ii) by inserting before the period at the end the following “, and (C) the services to be provided will be provided under local programs which meet the requirements of subsections (c) and (d) of this section”.

(b) Section 401 of such Act (42 U.S.C. 4831) is amended to read as follows:

“PROHIBITION AGAINST USE OF LEAD-BASED PAINT IN CONSTRUCTION OF FACILITIES AND THE MANUFACTURE OF CERTAIN TOYS AND UTENSILS

“SEC. 401. (a) The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any cooking utensil, drinking utensil, or eating utensil manufactured and distributed after the date of enactment of this Act.

“(b) The Secretary of Housing and Urban Development shall take steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form after the date of enactment of this Act.

“(c) The Consumer Product Safety Commission shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article.”.

(c) (1) Section 501(3) of such Act (42 U.S.C. 4841(3)) is amended to read as follows:

“Lead-based paint.”

“(3) (A) Except as provided in subparagraph (B), the term ‘lead-based paint’ means any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

Hearing.

“(B) (i) The Consumer Product Safety Commission shall, during the six-month period beginning on the date of the enactment of the National Health Promotion and Disease Prevention Act of 1976, determine, on the basis of available data and information and after providing opportunity for an oral hearing and considering recommendations of the Secretary of Health, Education, and Welfare (including those of the Center for Disease Control) and of the National Academy of Sciences, whether or not a level of lead in paint which is greater than six one-hundredths of 1 per centum but not in excess of five-tenths of 1 per centum is safe. If the Commission determines, in accordance with the preceding sentence, that another level of lead is safe, the term ‘lead-based paint’ means, with respect to paint which is manufactured after the expiration of the six-month period beginning on the date of the Commission’s determination, paint containing by weight (calculated as lead metal) in the total nonvolatile content of the paint more than the level of lead determined by the Commission to be safe or the equivalent measure of lead in the dried film of paint already applied, or both.

“(ii) Unless the definition of the term ‘lead-based paint’ has been established by a determination of the Consumer Product Safety Commission pursuant to clause (i) of this subparagraph, the term ‘lead-based paint’ means, with respect to paint which is manufactured after the expiration of the twelve-month period beginning on such date of enactment, paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.”.

(2) Section 501 of such Act is amended (1) by striking out “the term” in paragraphs (1) and (2) and inserting in lieu thereof “The term”, (2) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period, and (3) by striking out “; and” at the end of paragraph (2) and inserting in lieu thereof a period.

(d) Section 502 of such Act (42 U.S.C. 4842) is amended by striking out “In carrying out the authority under this Act, the Secretary of Health, Education, and Welfare shall” and inserting in lieu thereof “In carrying out their respective authorities under this Act, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall each”.

Appropriation authorization.

(e) (1) Section 503 of such Act (42 U.S.C. 4843) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

“(a) There are authorized to be appropriated to carry out this Act \$10,000,000 for the fiscal year 1976, \$12,000,000 for the fiscal year 1977, and \$14,000,000 for the fiscal year 1978.”.

(2) Subsection (d) of such section is redesignated as subsection (b).

TITLE III—MISCELLANEOUS AMENDMENT

SEC. 301. (a) Section 2(f) of the Public Health Service Act is amended to read as follows: 42 USC 201.

“(f) Except as provided in sections 314(g) (4) (B), 355(5), 361(d), 1002(c), 1201(2), 1401(13), 1531(1), and 1633(1), the term ‘State’ includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.”.

(b) (1) Section 361(d) is amended by adding at the end thereof the following: “For purposes of this subsection, the term ‘State’ includes, in addition to the several States, only the District of Columbia.”. 42 USC 264.

(2) Section 1401 is amended by adding after paragraph (12) the following new paragraph: 42 USC 300f.

“(13) The term ‘State’ includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.”.

Approved June 23, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1007 accompanying H.R. 12678 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-330 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 30, considered and passed Senate.

Vol. 122 (1976): Apr. 7, considered and passed House, amended, in lieu of H.R. 12678.

May 26, Senate concurred in amendment, with amendment.

June 7, House concurred in Senate amendment.

Public Law 94-318
94th Congress

Joint Resolution

June 25, 1976

[S.J. Res. 201]

To authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to undertake dredging operations for Operation Sail.

Whereas the Congress finds that—

(a) Operation Sail is a major Bicentennial activity and an international undertaking involving almost every four-masted sailing ship in the world plus many smaller vessels and a display and review of United States and foreign naval vessels. The President of the United States and the Queen of England are scheduled to participate in this activity;

(b) on or about July 3, 1976, approximately two hundred unique sailing ships representing many nations of the world are scheduled to arrive in New York Harbor and surrounding waters to commemorate the United States Bicentennial;

(c) the sailing ships will be berthed in basins and marinas throughout the New York/New England area for public display and visits. Four of the most significant sailing vessels are scheduled for berthing in the South Street Museum area of downtown New York City which is the focal point of this major Bicentennial event;

(d) some docking areas for the ships participating in Operation Sail are of inadequate depth;

(e) the United States Army Corps of Engineers currently maintains New York Harbor and surrounding waters for navigation purposes and has the capability of providing adequate docking depths for the ships of Operation Sail; and

(f) the United States Army Corps of Engineers has extensive knowledge of the technical and environmental aspects of dredging in the New York area and can apply this expertise to the dredging required in the areas proposed for the docking of the ships of Operation Sail: Now, therefore, be it

Operation Sail.
New York
Harbor, dredging
operation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to dredge New York Harbor in the vicinity of the South Street Seaport Museum, Manhattan, New York, to an authorized depth of eighteen feet for the purpose of providing adequate docking depth for ships of Operation Sail.

The Secretary of the Army, acting through the Chief of Engineers, is authorized to use any funds presently available to him for operation and maintenance of navigation in New York Harbor and surrounding waters to carry out the work authorized by this resolution presently estimated to cost \$100,000.

Approved June 25, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-962 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 21, considered and passed Senate.

June 22, considered and passed House.

Public Law 94-319
94th Congress

An Act

To amend the Act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes.

June 25, 1976

[S. 18]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 31, 1922, as amended (42 Stat. 833; 76 Stat. 169; 7 U.S.C. 281), is amended to read as follows:

Honeybees.
Importation,
limitation.

“(a) In order to prevent the introduction and spread of diseases and parasites harmful to honeybees, and the introduction of genetically undesirable germ plasm of honeybees, the importation into the United States of all honeybees is prohibited, except that honeybees may be imported into the United States—

“(1) by the United States Department of Agriculture for experimental or scientific purposes, or

“(2) from countries determined by the Secretary of Agriculture—

“(A) to be free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees; and

“(B) to have in operation precautions adequate to prevent the importation of honeybees from other countries where harmful diseases or parasites, or undesirable species or subspecies, of honeybees exist.

“(b) Honeybee semen may be imported into the United States only from countries determined by the Secretary of Agriculture to be free of undesirable species or subspecies of honeybees, and which have in operation precautions adequate to prevent the importation of such undesirable honeybees and their semen.

“(c) Honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section shall be imported under such rules and regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe.

“(d) Except with respect to honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section, all honeybees or honeybee semen offered for import or intercepted entering the United States shall be destroyed or immediately exported.

“(e) As used in this Act, the term ‘honeybee’ means all life stages and the germ plasm of honeybees of the genus *Apis*, except honeybee semen.”

“Honeybee.”

SEC. 2. Section 2 of the Act of August 31, 1922 (42 Stat. 834; 7 U.S.C. 282), is amended to read as follows:

“SEC. 2. Any person who violates any provision of section 1 of this Act or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than \$1,000, or imprisoned for not more than one year, or both.”

Penalties.

SEC. 3. The Act of August 31, 1922, is further amended by adding the following new sections:

“SEC. 3. (a) The Secretary of Agriculture either independently or in cooperation with States or political subdivisions thereof, farmers’ associations, and similar organizations and individuals, is authorized

Undesirable
species,
eradication and
control.
7 USC 284.

to carry out operations or measures in the United States to eradicate, suppress, control, and to prevent or retard the spread of undesirable species and subspecies of honeybees.

“(b) The Secretary of Agriculture is authorized to cooperate with the Governments of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia, or the local authorities thereof, in carrying out necessary research, surveys, and control operations in those countries in connection with the eradication, suppression, control, and prevention or retardation of the spread of undesirable species and subspecies of honeybees, including but not limited to *Apis mellifera adansonii*, commonly known as the African or Brazilian honeybee. The measure and character of cooperation carried out under this subsection on the part of such countries, including the expenditure or use of funds appropriated pursuant to this Act, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State.

“(c) In performing the operations or measures authorized in this Act, the cooperating foreign country, State, or local agency shall be responsible for the authority to carry out such operations or measures on all lands and properties within the foreign country or State, other than those owned or controlled by the Federal Government of the United States, and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

7 USC 285.

“SEC. 4. Funds appropriated to carry out the provisions of this Act may also be used for printing and binding without regard to section 501 of title 44, United States Code, for employment, by contract or otherwise, of civilian nationals of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia for services abroad, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

Appropriation
authorization.
7 USC 286.

“SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.”.

Approved June 25, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1160 (Comm. on Agriculture).

SENATE REPORT No. 94-193 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 16, considered and passed Senate.

Vol. 122 (1976): June 7, considered and passed House, amended.

June 15, Senate concurred in House amendment.

Public Law 94-320
94th Congress

An Act

To authorize certain flagpoles to be located on the Capitol Grounds, and to improve the flow of traffic to and from the United States Capitol Grounds and the National Visitor Center.

June 25, 1976

[S. 3161]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the approval of the Architect of the Capitol and to such conditions as he may prescribe, the Secretary of the Interior is authorized to make such use of that portion of the United States Capitol Grounds adjacent or in close proximity to the sidewalks abutting the circular perimeter of the Union Station Plaza in front of Columbus Plaza and the National Visitor Center as may be necessary to enable the Secretary of the Interior to erect and maintain flagpoles to fly the flags of each of the States of the United States and its territories and possessions, generally as shown on NCPC Map File Numbered 1.11 (38.00)-27861.

SEC. 2. (a) Notwithstanding any other provision of law, the Architect of the Capitol is authorized, subject to the provisions of this Act and to such conditions as the Architect of the Capitol may prescribe, to enter into an agreement with the appropriate officials of the government of the District of Columbia pursuant to which the Architect of the Capitol is authorized to permit the government of the District of Columbia to utilize certain areas of the United States Capitol Grounds for the purpose of making certain street changes in order to coordinate and improve the flow of traffic to and from the United States Capitol Grounds and the National Visitor Center (formerly Union Station), and the flow of traffic within Union Station Plaza.

(b) Pursuant to such agreement, the Architect of the Capitol is authorized to make available to the government of the District of Columbia, for the purposes referred to in subsection (a), certain portions of the United States Capitol Grounds as follows:

(1) approximately two thousand one hundred square feet of land in Square 680, at the east end thereof, located within the United States Capitol Grounds adjacent to the Union Station Plaza, Massachusetts Avenue, and E Street Northeast, in order to enable the government of the District of Columbia to carry out the purposes referred to in subsection (a) of this section, and to change the curbline, and relocate existing sidewalks and curbs, to conform to such street change;

(2) approximately three thousand five hundred square feet of land in Square 723, at the northwest end thereof, located within the United States Capitol Grounds adjacent to the Union Station Plaza, First Street, and Massachusetts Avenue Northeast, in order to enable the government of the District of Columbia to carry out the purposes referred to in subsection (a) of this section, and to change the curbline, and relocate existing sidewalks and curbs, to conform to such street change; and

(3) approximately four hundred square feet of land in Square 721, at the southwest end thereof, located within the United States Capitol Grounds adjacent to the Union Station Plaza and Massachusetts Avenue Northeast, in order to enable the government

U.S. Capitol
Grounds.

U.S. State flags,
placement; flow
of traffic,
improvement.

40 USC 801 note.

of the District of Columbia to carry out the purposes referred to in subsection (a) of this section, and to change the curblines, and relocate existing sidewalks and curbs, to conform to such street change.

SEC. 3. Nothing in this Act shall be construed to grant to the Secretary of the Interior or to the government of the District of Columbia any right, title, or interest in or to any part of the United States Capitol Grounds and such area affected by this Act or any agreement pursuant thereto shall continue to be a part of the United States Capitol Grounds. All areas of the United States Capitol Grounds, including sidewalks, lawns and other growth, streets, and curblines, disturbed by reason of operations pursuant to this Act shall be promptly relocated or restored by the Secretary of the Interior or the government of the District of Columbia, as the case may be, in a manner approved by, and satisfactory to the Architect of the Capitol.

SEC. 4. The Congress shall not incur any expense, liability, obligation, or other responsibility (operational or otherwise), under or by reason of this Act, or any agreement pursuant to this Act, or be liable under any claim of any nature or kind that may arise from either the construction, operation, or maintenance of the flagpoles authorized by this Act, or from carrying out any agreement pursuant to this Act.

Approved June 25, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1078 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-699 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 18, considered and passed Senate.

May 17, considered and passed House, amended.

June 15, Senate concurred in House amendment.

Public Law 94-321
94th Congress

An Act

To amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of Veterans' Affairs may release the names and/or addresses of present and former members of the Armed Forces and their dependents.

June 29, 1976
[H.R. 10268]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3301 of title 38, United States Code, is amended by—

- (1) inserting "(a)" before "All";
- (2) striking out "follows:" and inserting in lieu thereof "provided in this section.", and inserting thereafter the following new subsection:

"(b) The Administrator shall make disclosure of such files, records, reports, and other papers and documents as are described in subsection (a) of this section as follows:";

- (3) redesignating paragraphs (6), (7), (8), and (9) as subsections (c), (d), (e), and (f), respectively;

(4) striking out "The" at the beginning of subsection (e) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof "Except as otherwise specifically provided in this section with respect to certain information, the"; and

- (5) striking out subsection (f) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof the following new subsections:

"(f) The Administrator may, pursuant to regulations the Administrator shall prescribe, release the names or addresses, or both, of any present or former members of the Armed Forces, and/or their dependents, (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title, or (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such names or addresses be provided for a purpose authorized by law. Any organization or member thereof or other person who, knowing that the use of any name or address released by the Administrator pursuant to the preceding sentence is limited to the purpose specified in such sentence, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than \$5,000 in the case of a first offense and not more than \$20,000 in the case of any subsequent offense.

"(g) Any disclosure made pursuant to this section shall be made in accordance with the provisions of section 552a of title 5."

Armed Forces.
Members and
dependents,
release of
information.

Organizations
and agencies
authorized to
receive
information.

Unauthorized
use, penalty.

Effective date.
38 USC 3301
note.

(b) The amendments made by subsection (a) of this section with respect to subsection (f) (as redesignated by subsection (a) (3) of this section) of section 3301 of title 38, United States Code (except for the increase in criminal penalties for a violation of the second sentence of such subsection (f)), shall be effective with respect to names or addresses released on and after October 24, 1972.

Approved June 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-704 (Comm. on Veterans' Affairs).

SENATE REPORT No. 94-892 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 15, considered and passed House.

Vol. 122 (1976): June 2, considered and passed Senate, amended.

June 16, House agreed to Senate amendments.

Public Law 94-322
94th Congress

Joint Resolution

To authorize and request the President to establish a "National Bicentennial Highway Safety Year".

June 30, 1976

[H.J. Res. 726]

Whereas 1976 will mark the two hundredth anniversary of the founding of our Nation; and
Whereas the President of the United States has called for the Bicentennial celebration to be an occasion for redefining and rededicating ourselves to our common purposes; and
Whereas a central and unifying theme for the Nation's two hundredth commemoration is improving the quality of life in America; and
Whereas the carnage on our highways each year exacts an appalling toll in lives, injuries, and national treasure; and
Whereas the two million Americans who have died on the Nation's highways since the beginning of the automobile age far exceed the combined totals of all the fatalities suffered in all the wars that this country has fought since its founding; and
Whereas hundreds of millions of Americans—men, women, and children—are planning to see and participate in Bicentennial activities; and
Whereas twenty million visitors from abroad are expected to travel to this country in order to join in our Bicentennial celebration; and
Whereas the overwhelming majority of those participating in Bicentennial related activities will travel on the Nation's roadways; and
Whereas emphasis on highway safety during our Nation's two hundredth anniversary is absolutely essential to assure that 1976 does not become a year of unparalleled carnage and slaughter; and
Whereas the Congress of the United States has provided the legislative mandate and the financial means for substantially reducing highway accidents, injuries, and fatalities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the twelve-month period commencing with the calendar month beginning after the date of the enactment of this Act as the "National Bicentennial Highway Safety Year" and call upon all Americans, in all walks of life, in both the public and private sectors, to participate in programs and activities conducted in connection with such year: Be it further

National
Bicentennial
Highway Safety
Year.
Designation
authorization.

Resolved, That it is the sense of Congress that—

(1) each month of the National Bicentennial Highway Safety Year shall focus on a specific area of activity which offers the prospect of achieving substantial reductions in accidents, injuries, and fatalities on our Nation's highways during the Nation's Bicentennial celebration and in succeeding years, as follows:

- (A) January—Safety Education;
- (B) February—Safer Bridges;
- (C) March—Pedestrian and Bicycle Safety;
- (D) April—Pavement Marking and Delineation;
- (E) May—Highway Hazard Removal;
- (F) June—Safety Belts and Child Restraints;
- (G) July—Safer Driving;

- (H) August—Roadside Obstacle Elimination;
- (I) September—Save Our Children;
- (J) October—Signs and Signals;
- (K) November—Railroad Crossing Protection; and
- (L) December—Alcohol and Problem Drinkers; and

(2) the projects and programs of the National Bicentennial Highway Safety Year shall be formulated so as to involve individuals, groups, and public and private sector organizations where they live, where they work, where they travel, and where they operate in order that the lifesaving aims, goals, and priorities of the National Bicentennial Highway Safety Year may be vigorously pursued and fully realized; and be it further

Resolved, That the lives saved and injuries prevented through this national effort shall symbolize the rededication of the American people to living and working together in a spirit of mutual cooperation, harmony, dignity, and respect in order to achieve better, healthier, happier lives for all.

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-980 (Comm. on Post Office and Civil Service).

SENATE REPORT No. 94-946 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 5, considered and passed House.

June 16, considered and passed Senate.

Public Law 94-323
94th Congress

An Act

To authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes.

June 30, 1976

[S. 98]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve in public ownership for the benefit and inspiration of the people of the United States, historic structures and trails associated with the Klondike Gold Rush of 1898, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Klondike Gold Rush National Historical Park (hereinafter referred to as the "park"), consisting of a Seattle unit, a Skagway unit, a Chilkoot Trail unit, and a White Pass Trail unit. The boundaries of the Skagway unit, the Chilkoot Trail unit, and the White Pass Trail unit shall be as generally depicted on a drawing consisting of two sheets entitled "Boundary Map, Klondike Gold Rush National Historical Park", numbered 20,013-B and dated May, 1973, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Within the Pioneer Square Historic District in Seattle as depicted on a drawing entitled "Pioneer Square Historic District", numbered 20,010-B and dated May 19, 1973, which shall also be on file and available as aforesaid, the Secretary may select a suitable site for the Seattle unit and publish a description of the site in the Federal Register. The Secretary may relocate the site of the Seattle unit by publication of a new description in the Federal Register, and any property acquired for purposes of the unit prior to such relocation shall be subject to disposal in accordance with the Federal surplus property laws: *Provided*, That the Seattle unit shall be within the Pioneer Square Historic District. After advising the Committees on Interior and Insular Affairs of the Congress of the United States, in writing, the Secretary may revise the boundaries of the park from time to time, by publication of a revised map or other boundary description in the Federal Register, but the total area of the park may not exceed thirteen thousand three hundred acres.

(b)(1) The Secretary may acquire lands, waters, and interests therein within the park by donation, purchase, lease, exchange, or transfer from another Federal agency. Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation. Lands under the jurisdiction of any Federal agency may, with the concurrence of such agency, be transferred without consideration to the Secretary for the purposes of the park.

(2) The Secretary is authorized to acquire outside the boundaries of the park, by any of the above methods, not to exceed fifteen acres of land or interests therein located in, or in the vicinity of, the city of Skagway, Alaska, for an administrative site; and to acquire by any of the above methods, up to ten historic structures or interests in such structures located in the city of Skagway but outside the Skagway unit for relocation within such unit as the Secretary deems essential for adequate preservation and interpretation of the park.

Klondike Gold
Rush National
Historical Park,
Alaska-Wash.
Establishment.
16 USC 410bb.
Map.

Publication in
Federal Register.

Relocation.
Limitations.

Revision,
advising
congressional
committees.
Publication in
Federal Register.

Land acquisition.

Existing rights.

Rights-of-way.

43 USC 270.

(c) All lands acquired pursuant to this Act shall be taken by the Secretary subject to all valid existing rights granted by the United States for railroad, telephone, telegraph, and pipeline purposes. The Secretary is authorized to grant rights-of-way, easements, permits, and other benefits in, through and upon all lands acquired for the White Pass Trail unit for pipeline purposes, pursuant to the Acts of February 25, 1920 (41 Stat. 449), August 21, 1935 (49 Stat. 678), and August 12, 1953 (67 Stat. 557), and for railroad purposes pursuant to the Act of May 14, 1898 (30 Stat. 409): *Provided*, That significant adverse impacts to park resources will not result.

(d) The Secretary is authorized to grant to the State of Alaska a highway right-of-way across lands in the Chilkoot Trail unit, in the area of Dyea, for the purpose of linking the communities of Haines and Skagway by road if he finds that (1) there is no feasible and prudent alternative to the use of such lands, (2) the road proposal includes all possible planning to minimize harm to the park resulting from such road use, and (3) to grant such right-of-way will not have significant adverse effects on the historical and archeological resources of the park and its administration, protection, and management in accordance with the purposes of this Act.

Publication in
Federal Register.
16 USC
410bb-1.
Administration.

SEC. 2 (a) The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he deems sufficient lands, waters, and interests therein have been acquired for administration in accordance with the purposes of this Act. Pending such establishment and thereafter, the Secretary shall administer lands, waters, and interests therein acquired for the park in accordance with the provisions of the Act approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act approved August 21, 1935 (49 Stat. 666), as amended.

43 USC 1457.
16 USC 461.
Cooperation.

(b) The Secretary is authorized to cooperate and enter into agreements with other Federal agencies, State and local public bodies, and private interests, relating to planning, development, use, acquisition, or disposal (including as provided in section 5 of the Act of July 15, 1968, 82 Stat. 356; 16 U.S.C. 4601-22) of lands, structures, and waters in or adjacent to the park or otherwise affecting the administration, use, and enjoyment thereof, in order to contribute to the development and management of such lands in a manner compatible with the purposes of the park. Such agreements, acquisitions, dispositions, development, or use and land-use plans shall provide for the preservation of historical sites and scenic areas, recreation, and visitor enjoyment to the fullest extent practicable.

Restoration.

(c) Notwithstanding any other provision of law, the Secretary may restore and rehabilitate property within the park pursuant to cooperative agreements without regard as to whether title thereto is in the United States.

Consultation with
Canadian
officials.
16 USC
410bb-2.
Proclamation
authorization.
Klondike Gold
Rush
International
Historical Park.

SEC. 3. (a) The Secretary, in cooperation with the Secretary of State, is authorized to consult and cooperate with appropriate officials of the Government of Canada and Provincial or Territorial officials regarding planning and development of the park, and an international historical park. At such time as the Secretary shall advise the President of the United States that planning, development, and protection of the adjacent or related historic and scenic resources in Canada have been accomplished by the Government of Canada in a manner consistent with the purposes for which the park was established, and upon enactment of a provision similar to this section by the proper authority of the Canadian Government, the President is authorized to issue

a proclamation designating and including the park as part of an international historical park to be known as Klondike Gold Rush International Historical Park.

(b) For purposes of administration, promotion, development, and support by appropriations, that part of the Klondike Gold Rush International Historical Park within the territory of the United States shall continue to be designated as the "Klondike Gold Rush National Historical Park".

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not more than \$2,655,000 for the acquisition of lands and interests in lands, and not more than \$5,885,000 for development.

Appropriation
authorization.
16 USC
410bb-3.

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1153 accompanying H.R. 1194 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-166 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 4, considered and passed Senate.

Vol. 122 (1976): June 8, considered and passed House, amended, in lieu of H.R. 1194.

June 18, Senate concurred in House amendments.

Public Law 94-324
94th Congress

An Act

June 30, 1976

[S. 2529]

Veterans Housing
Amendments Act
of 1976.

38 USC 1801
note.

38 USC 1801.

38 USC 1807.

To amend chapter 37 of title 38, United States Code, to increase the maximum Veterans' Administration's guaranty for mobile home loans from 30 to 50 percent, to make permanent the direct loan revolving fund, to extend entitlement under chapter 37 to those veterans who served exclusively between World War II and the Korean conflict, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Housing Amendments Act of 1976".

SEC. 2. (a) Subchapter I of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 1807. Service after July 25, 1947, and prior to June 27, 1950

"Each veteran whose only active duty service occurred after July 25, 1947, and prior to June 27, 1950, and who—

"(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

"(2) served for a period of 180 days or less and was discharged or released for a service-connected disability;

shall be eligible for benefits of this chapter."

(b) The table of sections for subchapter I of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following new item:

"1807. Service after July 25, 1947, and prior to June 27, 1950."

SEC. 3. Section 1811(d) of title 38, United States Code, is amended—

(1) by striking out in paragraph (2) (A) "\$21,000" the first time it appears and inserting in lieu thereof "\$33,000", by striking out in paragraph (2) (A) "\$21,000", the second time it appears and all that follows thereafter and inserting in lieu thereof "\$33,000."; and

(2) by striking out in paragraph (3) "\$21,000;" and all that follows thereafter and inserting in lieu thereof "\$33,000."

SEC. 4. Section 1818(a) of title 38, United States Code, is amended to read as follows:

"(a) Each veteran who served on active duty, any part of which occurred after January 31, 1955, and who—

"(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable;

"(2) has served more than 180 days in active duty status and continues on active duty without a break therein; or

"(3) was discharged or released from active duty after such date for a service-connected disability;

shall be eligible for the benefits of this chapter, subject to the provisions of this section."

SEC. 5. Section 1819(c) (3) of title 38, United States Code, is amended by striking out "30 per centum" and inserting in lieu thereof "50 percent" in the first sentence.

SEC. 6. Section 1823 of title 38, United States Code, is amended—
 (1) by striking out in subsection (a) all of the last sentence thereof; and

(2) by striking out in subsection (c) before the period at the end of the last sentence “, and not later than June 30, 1976, he shall cause to be so deposited all sums in such account and all amounts received thereafter in repayment of outstanding obligations, or otherwise, except so much thereof as he may determine to be necessary for purposes of liquidation of loans made from the revolving fund and for the purposes of meeting commitments under section 1820(e) of this title”.

SEC. 7. Chapter 37 of title 38, United States Code, is amended—

(1) by striking out in section 1801(a) (2) “widow”, “her own”, and “her husband” wherever they appear and inserting in lieu thereof “surviving spouse”, “the spouse’s own”, and “the spouse”, respectively;

(2) by striking out in section 1801(a) (3) “wife” and “her husband” wherever they appear and inserting in lieu thereof “spouse” and “the spouse”, respectively;

(3) by striking out in section 1802(b), including clause (3), “he” and “his” and inserting in lieu thereof “the Administrator” and “the veteran-transferee’s”, respectively;

(4) by striking out in subsections (c) and (d) of section 1802 “He”, “him”, and “he” whenever they appear and inserting in lieu thereof “The Administrator”, “the Administrator”, and “the Administrator”, respectively;

(5) by striking out in subsections (e) and (g) of section 1802 “him” and “his wife” wherever they appear and inserting in lieu thereof “the Administrator” and “the veteran’s spouse”, respectively;

(6) by striking out in section 1803(d) (3) “he” and inserting in lieu thereof “the Administrator”;

(7) by striking out in section 1804(c) “he” and “his” wherever they appear and inserting in lieu thereof “the veteran” and “the veteran’s”, respectively;

(8) by striking out in section 1804(d) “he” and inserting in lieu thereof “the Administrator”;

(9) by striking out in section 1805(a) “his” wherever it appears and inserting in lieu thereof “the Administrator’s”;

(10) by striking out in section 1806(a) “his” and inserting in lieu thereof “the seller’s”;

(11) by striking out in section 1810(a) “him”, “his”, and “he” wherever they appear and inserting in lieu thereof “the veteran”, “the veteran’s”, and “the Administrator”, respectively;

(12) by striking out in section 1811(b) “he” and “He” and inserting in lieu thereof “the Administrator” and “The Administrator”, respectively;

(13) by striking out in section 1811(c) “he” wherever it appears and inserting in lieu thereof “the veteran”;

(14) by striking out in section 1811(g) “him” and “he” and inserting in lieu thereof “the Administrator”;

(15) by striking out in section 1811(k) “his” and “he” wherever they appear and inserting in lieu thereof “the Administrator’s” and “the Administrator”, respectively;

(16) by striking out in section 1815(a) “he” and inserting in lieu thereof “the Administrator”;

38 USC 1801
et seq.

38 USC 1816.

(17) by striking out in subsections (a) and (b) of section 1816 “his” and “he” wherever they appear and inserting in lieu thereof “the Administrator’s” and “the Administrator”, respectively;

(18) by striking out in section 1817(a) “him” wherever it appears and inserting in lieu thereof “the veteran”, by striking out “he” the first time it appears and inserting in lieu thereof “the Administrator”, by striking out “has obligated himself” and inserting in lieu thereof “is obligated”, and by striking out “he” the second and third time it appears and inserting in lieu thereof “the transferee”;

(19) by striking out in section 1817(b) “him” and “he” and inserting in lieu thereof “the veteran” and “the Administrator”, respectively;

(20) by striking out in paragraphs (1) and (3) of section 1819(c) “he” wherever it appears and inserting in lieu thereof “the Administrator”;

(21) by striking out in paragraphs (1) and (3) of section 1819(d) “his” and “he” wherever they appear and inserting in lieu thereof “the Administrator’s” and “the Administrator”, respectively;

(22) by striking out in paragraphs (4) and (5) of section 1819(e) “subparagraph”, “he”, and “his” and inserting in lieu thereof “subsection”, “the veteran”, and “the veteran’s”, respectively;

(23) by striking out in subsections (f), (h), (k), and (l) of section 1819 “he” and “his” wherever they appear and inserting in lieu thereof “the Administrator” and “the manufacturer’s”, respectively;

(24) by striking out in clauses (1) and (5) of section 1820(a) “his” and “he” wherever they appear and inserting in lieu thereof “the Administrator’s” and “the Administrator”, respectively;

(25) by striking out in section 1820(a) (6) “him” and inserting in lieu thereof “the Administrator”;

(26) by striking out in paragraphs (1) and (2) of section 1820(e) “he”, “him”, and “his” wherever they appear and inserting in lieu thereof “the Administrator”, “the Administrator”, and “the Administrator’s”, respectively;

(27) by striking out in subsections (a) and (c) of section 1823 “he” and “his” wherever they appear and inserting in lieu thereof “the Administrator” and “the Administrator’s”, respectively;

(28) by striking out in section 1824(d) “his” and inserting in lieu thereof “the Administrator’s”;

(29) by striking out in section 1825 “he” and inserting in lieu thereof “said person”;

(30) by striking out in section 1826 “he” and “widow” wherever they appear and inserting in lieu thereof “the Administrator” and “surviving spouse”, respectively; and

(31) by striking out in subsections (a) and (b) of section 1827 “he” and “his” wherever they appear and inserting in lieu thereof “the Administrator” and “the Administrator’s”, respectively.

SEC. 8. (a) The provisions of the constitution of any State expressly limiting the amount of interest which may be charged, taken, received, or reserved by certain classes of lenders and the provisions of any law

of that State expressly limiting the amount of interest which may be charged, taken, received, or reserved shall not apply to—

(1) any loan or mortgage which is secured by a one- to four-family dwelling and which is (A) insured under title I or II of the National Housing Act, or (B) insured, guaranteed, or made under chapter 37 of title 38, United States Code; or

(2) any temporary construction loan or other interim financing if at the time such loan is made or financing is arranged, the intention to obtain permanent financing substantially by means of loans or mortgages so insured, guaranteed, or made is declared.

(b) The provisions of this section shall apply to such loans, mortgages, or other interim financing made or executed in any State until the effective date (after the date of enactment of this section) of a provision of law of that State limiting the amount of interest which may be charged, taken, received, or reserved on such loans, mortgages, or financing.

SEC. 9. (a) Except as provided in subsection (b), the provisions of this Act shall become effective on the date of enactment.

(b) Sections 2 and 3 shall become effective on October 1, 1976. Section 5 shall become effective on July 1, 1976.

12 USC 1702,
1707.

38 USC 1801
et seq

Effective dates.
38 USC 1801
note.

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1129 accompanying H.R. 13724 (Comm. on Veterans' Affairs).

SENATE REPORT No. 94-806 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 13, considered and passed Senate.

May 18, considered and passed House, amended, in lieu of H.R. 13724.

June 11, Senate concurred in House amendments with amendments.

June 16, House concurred in Senate amendments.

Public Law 94-325
94th Congress

An Act

June 30, 1976
[S. 3122]

To extend the authorization for appropriations to carry out the Endangered Species Act of 1973.

Endangered
Species Act of
1973;
appropriation
authorization,
extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended—

(1) by striking out “(A) not to exceed \$4,000,000” and all that follows through “\$10,000,000 for fiscal year 1976,” in paragraph (A) thereof and inserting in lieu thereof “(1) not to exceed \$10,000,000 for the fiscal year ending June 30, 1976, not to exceed \$1,800,000 for the fiscal transitional period ending September 30, 1976, and not to exceed a total of \$25,000,000 for the fiscal year ending September 30, 1977 and the fiscal year ending September 30, 1978,”; and

(2) by striking out “(B) not to exceed \$2,000,000” and all that follows through “\$2,000,000 for fiscal year 1976,” in paragraph (B) thereof and inserting in lieu thereof “(2) not to exceed \$2,000,000 for the fiscal year ending June 30, 1976, not to exceed \$500,000 for the fiscal transitional period ending September 30, 1976, and not to exceed a total of \$5,000,000 for the fiscal year ending September 30, 1977 and the fiscal year ending September 30, 1978,”.

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-887 accompanying H.R. 8092 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-837 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 15, H.R. 8092 considered and passed House.

May 18, considered and passed Senate.

June 17, considered and passed House, in lieu of H.R. 8092.

Public Law 94-326
94th Congress

An Act

To extend the Marine Protection, Research, and Sanctuaries Act for two years.

June 30, 1976
[S. 3147]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out “and” immediately after “fiscal year 1976,”; and

(2) by adding immediately after “September 30, 1976),” the following: “and not to exceed \$4,800,000 for fiscal year 1977,”.

SEC. 2. Section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1421) is amended—

(1) by striking out “Administrator shall” and inserting in lieu thereof “Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating shall each individually”;

(2) by striking out “June 30 of each year” and inserting in lieu thereof “March 1 of each year”.

SEC. 3. The last sentence of section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by inserting immediately before the period the following: “, and not to exceed \$5,600,000 for fiscal year 1977”.

SEC. 4. Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended—

(1) by striking out “and” immediately after “fiscal year 1976,”; and

(2) by adding immediately after “September 30, 1976)” the following “, and not to exceed \$500,000 for fiscal year 1977”.

Approved June 30, 1976.

Marine
Protection,
Research, and
Sanctuaries Act
of 1972,
extension.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-860 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 21, 25, considered and passed Senate.

June 17, considered and passed House.

Public Law 94-327
94th Congress

An Act

June 30, 1976
[S. 3475]

Relating to the display of certain historical documents within the United States Capitol Building during the calendar year 1976.

Historical
documents.
Display within
the U.S. Capitol.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing contained in the provisions of section 1815 of the Revised Statutes of the United States (40 U.S.C. 189), or any other law, shall be construed as prohibiting the Architect of the Capitol, during the Bicentennial year from displaying, in such manner and within such area of the United States Capitol Building, as the Architect of the Capitol, with the approval of the Joint Committee on the Library, shall determine, the historical drawings which resulted from the architectural competition held in 1793 for the design of the United States Capitol Building.

SEC. 2. For the purpose of displaying such historical drawings in the United States Capitol Building, the Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to enter into such arrangements or agreements as may be necessary in order to assure the protection of the aforementioned drawings while such drawings are under his supervision.

Approved June 30, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-924 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 122 (1976):

June 10, considered and passed Senate.
June 18, considered and passed House.

Public Law 94-328
94th Congress

Joint Resolution

To amend the Higher Education Act of 1965, and for other purposes.

June 30, 1976
[S.J. Res. 203]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the “Emergency Technical Provisions Act of 1976”.

Emergency
Technical
Provisions Act of
1976.
20 USC 1001
note.
20 USC 1074.

SEC. 2. (a) The first sentence of section 424(a) of the Higher Education Act of 1965 is amended by striking out “for the fiscal year ending June 30, 1975” and inserting in lieu thereof the following: “each for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976”.

20 USC 1078.

(b) Section 428(a)(5) of such Act is amended by striking out “June 30, 1975” and inserting in lieu thereof “September 30, 1976”.

(c) Section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1976”.

20 USC 1078a.

(d) The amendments made by this section shall not be deemed to authorize the automatic extension of the programs so amended, under section 414 of the General Education Provisions Act, beyond the date specified in such amendments.

Extension,
limitation.
20 USC 1226a
note.

(e) For the purposes of section 446(b) of the Higher Education Act of 1965, the period beginning July 1, 1976, and ending September 30, 1977, shall be treated as one fiscal year, any other provision of law to the contrary notwithstanding.

42 USC 2756.
note.
42 USC 2756.

(f) Section 411 of the Higher Education Act of 1965 is amended by inserting at the end thereof the following new subsection:

20 USC 1070a.

“(c) Any institution of higher education which enters into an agreement with the Commissioner to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Commissioner.”.

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1281 accompanying H.J. Res. 984 (Comm. on Education and Labor).

SENATE REPORT No. 94-954 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 17, considered and passed Senate.

June 21, considered and passed House, lieu of H.J. Res. 984.

Public Law 94-329
94th Congress

An Act

To amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

June 30, 1976
[H.R. 13680]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Security Assistance and Arms Export Control Act of 1976".

International
 Security
 Assistance and
 Arms Export
 Control Act of
 1976.
 22 USC 2151
 note.

TITLE I—MILITARY ASSISTANCE PROGRAM

AUTHORIZATION

SEC. 101. Section 504(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

22 USC 2312.

"(a) (1) There is authorized to be appropriated to the President to carry out the purposes of this chapter \$196,700,000 for the fiscal year 1976 and \$177,300,000 for the fiscal year 1977. Not more than the following amounts of funds available for carrying out this chapter (other than funds appropriated under section 507 of the International Security Assistance and Arms Export Control Act of 1976) may be allocated and made available to each of the following countries for such fiscal years:

Limitation.

Country	Fiscal Year 1976 Amount	Fiscal Year 1977 Amount
Greece -----	\$31,000,000	\$33,000,000
Indonesia -----	13,000,000	15,000,000
Jordan -----	50,000,000	55,000,000
Republic of Korea -----	55,000,000	8,300,000
Philippines -----	17,000,000	17,000,000
Thailand -----	16,000,000	16,000,000
Turkey -----	31,000,000	50,000,000
Ethiopia -----	6,000,000	6,000,000

The amount specified in this paragraph for military assistance to any such country for fiscal year 1976 or for fiscal year 1977 may be increased by not more than 10 per centum of such amount if the President deems such increase necessary for the purposes of this chapter.

"(2) Not to exceed \$6,000,000 of the funds available for fiscal year 1976 to carry out the purposes of this chapter, and not to exceed \$3,700,000 of the funds available for fiscal year 1977 to carry out the purposes of this chapter (other than funds appropriated under section 507 of the International Security Assistance and Arms Export Control Act of 1976), may be used to provide assistance to international organizations and, subject to the limitations contained in paragraph (3), to countries which are not designated in paragraph (1).

"(3) Funds available for assistance under this chapter may not be used to furnish assistance to more than 20 countries (including those countries designated in paragraph (1)) in fiscal year 1976. Funds available for assistance under this chapter (other than funds appropriated under section 507 of the International Security Assistance and Arms Export Control Act of 1976) may not be used to furnish assistance to more than 12 countries (including those countries designated in paragraph (1)) in fiscal year 1977.

22 USC 2351,
2364.

Infra.

Appropriation
authorization.

Prohibition.

22 USC 2370.

“(4) The authority of section 610(a) and of section 614(a) may not be used to increase any amount specified in paragraph (1) or (2). The limitations contained in paragraphs (1), (2), and (3) shall not apply to emergency assistance furnished under section 506(a).

“(5) There is authorized to be appropriated to the President, for administrative and other related expenses incurred in carrying out the purposes of this chapter, \$32,000,000 for the fiscal year 1976 and \$70,000,000 for the fiscal year 1977.

“(6) None of the funds appropriated under this subsection shall be used to furnish sophisticated weapons systems, such as missile systems or jet aircraft for military purposes, to any less developed country not specified in paragraph (1) unless the President determines that the furnishing of such weapons systems is important to the national security of the United States and reports within thirty days each such determination to the Congress.

“(7) Amounts appropriated under this subsection are authorized to remain available until expended.

“(8) Assistance for Turkey under this chapter shall be subject to the requirements of section 620(x) of this Act.”.

SPECIAL AUTHORITY

22 USC 2318.

SEC. 102. Section 506(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

22 USC 2411.

“(a) (1) If the President first determines and reports to Congress in accordance with section 652 of this Act—

“(A) that an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization;

“(B) that a failure to respond immediately to that emergency will result in serious harm to vital United States security interests; and

Post, p. 734.
22 USC 2751
note.

“(C) that the emergency requirement cannot be met under authority of the Arms Export Control Act or any other law except this section;

he may order defense articles from the stocks of the Department of Defense and defense services for the purposes of this part, subject to reimbursement from subsequent appropriations made specifically therefor under subsection (b).

“(2) The total value of defense articles and defense services ordered under this subsection in any fiscal year may not exceed \$67,500,000. The authority contained in this subsection shall be effective in any fiscal year only to the extent provided in an appropriation Act.

“(3) The President shall keep the Congress fully and currently informed of all defense articles and defense services ordered under this subsection.”.

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

22 USC 2321h.

SEC. 103. Section 514 of the Foreign Assistance Act of 1961 is amended to read as follows:

“SEC. 514. STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES.—(a) No defense article in the inventory of the Department of Defense which is set aside, reserved, or in any way earmarked or intended for future use by any foreign country may be made available to or for use by any foreign country unless such transfer is authorized under this Act or the Arms Export Control Act, or any subsequent corresponding legislation, and the value of such transfer is charged

against funds authorized under such legislation or against the limitations specified in such legislation, as appropriate, for the fiscal period in which such defense article is transferred. For purposes of this subsection, 'value' means the acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

"Value."

"(b) (1) The value of defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization) in stockpiles located in foreign countries may not exceed in any fiscal year an amount greater than is specified in security assistance authorizing legislation for that fiscal year.

"(2) The value of such additions to stockpiles in foreign countries shall not exceed \$93,750,000 for the period beginning July 1, 1975, and ending September 30, 1976, and \$125,000,000 for the fiscal year 1977.

"(c) Except for stockpiles in existence on the date of enactment of the International Security Assistance and Arms Export Control Act of 1976 and for stockpiles located in countries which are members of the North Atlantic Treaty Organization, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

"(d) No defense article transferred from any stockpile which is made available to or for use by any foreign country may be considered an excess defense article for the purpose of determining the value thereof.

"(e) The President shall promptly report to the Congress each new stockpile, or addition to an existing stockpile, described in this section of defense articles valued in excess of \$10,000,000 in any fiscal year."

Report to Congress.

TERMINATION OF MILITARY ASSISTANCE ADVISORY GROUPS AND MISSIONS

SEC. 104. Section 515 of the Foreign Assistance Act of 1961 is amended— 22 USC 2321i.

(1) by striking out "Effective July 1, 1976," and inserting in lieu thereof "(a) During the period beginning July 1, 1976, and ending September 30, 1977,"; and

(2) by adding at the end thereof the following new subsections:

"(b) (1) After September 30, 1977, no military assistance advisory group, military mission, or other organization of United States military personnel performing similar military advisory functions under this Act may operate in any foreign country unless specifically authorized by the Congress.

"(2) The President may assign not more than three members of the Armed Forces of the United States to the Chief of each United States Diplomatic Mission to perform such functions as such Chief of Mission determines necessary with respect to international military education and training provided under chapter 5 of this part, to sales of defense articles and services under the Arms Export Control Act, or to such other international security assistance programs as the President may designate. After September 30, 1977, no such functions or related activities may be performed by any defense attachés assigned, detailed, or attached to the United States Diplomatic Mission in any foreign country.

Post, p. 732.
Post, p. 734.
22 USC 2751
note.

"(c) After September 30, 1976, the number of military missions, groups, and similar organizations may not exceed 34.

"(d) As used in this section, the term 'military assistance advisory group, military mission, or other organization of United States mili-

Definition.

tary personnel performing similar military advisory functions under this Act' does not include regular units of Armed Forces of the United States engaged in routine functions designed to bring about the standardization of military operations and procedures between the Armed Forces of the United States and allies of the United States."

TERMINATION OF AUTHORITY TO FURNISH GRANT MILITARY ASSISTANCE

SEC. 105. Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

22 USC 2321j.

"SEC. 516. TERMINATION OF AUTHORITY.—(a) Except to the extent that the Congress may, subsequent to the enactment of this section, authorize the furnishing of military assistance in accordance with this chapter to specified countries in specified amounts, the authorities contained in this chapter (other than the authorities contained in sections 506, 514, and 515(b)(2)) may not be exercised after September 30, 1977, except that such authorities shall remain available until September 30, 1980, to the extent necessary to carry out obligations incurred under this chapter on or before September 30, 1977.

22 USC 2318.
Ante, pp. 730,
731.

"(b) Funds available to carry out this chapter shall be available notwithstanding the limitations contained in paragraphs (2) and (3) of section 504(a) of this Act—

Ante, p. 729.

"(1) for the winding up of military assistance programs under this chapter, including payment of the costs of packing, crating, handling, and transporting defense articles furnished under this chapter and of related administrative costs; and

22 USC 2311.

"(2) for costs incurred under section 503(c) with respect to defense articles on loan to countries no longer eligible under section 504(a) for military assistance."

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 106. (a) Part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new chapter:

"CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

22 USC 2347.

"SEC. 541. GENERAL AUTHORITY.—The President is authorized to furnish, on such terms and conditions consistent with this Act as the President may determine (but whenever feasible on a reimbursable basis), military education and training to military and related civilian personnel of foreign countries. Such training and education may be provided through—

"(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

"(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

"(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

22 USC 2347a.

"SEC. 542. AUTHORIZATION.—There are authorized to be appropriated to the President to carry out the purposes of this chapter \$27,000,000 for the fiscal year 1976 and \$30,200,000 for the fiscal year 1977. After June 30, 1976, no training under this section may be conducted outside the United States unless the President has reported and justified such training to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

Report to
Speaker of the
House and
congressional
committee.

"SEC. 543. PURPOSES.—Education and training activities conducted under this chapter shall be designed— 22 USC 2347b.

"(1) to encourage effective and mutually beneficial relations and increased understanding between the United States and foreign countries in furtherance of the goals of international peace and security; and

"(2) to improve the ability of participating foreign countries to utilize their resources, including defense articles and defense services obtained by them from the United States, with maximum effectiveness, thereby contributing to greater self-reliance by such countries."

(b) The Foreign Assistance Act of 1961 is amended as follows:

(1) Section 510 is repealed.

Repeal.
22 USC 2321a.
22 USC 2382.

(2) Section 622 is amended—

(A) in subsection (b) by inserting "and military education and training" immediately after "(including civic action)"; and

(B) by amending subsection (c) to read as follows:

"(c) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby."

(3) Section 623 is amended—

22 USC 2383.

(A) in subsection (a) (4) by inserting "and related civilian" immediately after "military"; and

(B) in subsection (a) (6) by inserting ", education and training" immediately after "assistance".

(4) Section 632 is amended—

22 USC 2392.

(A) in subsections (a) and (e) by inserting ", military education and training" immediately after "articles" wherever it appears; and

(B) in subsection (b) by striking out "and defense articles" and inserting in lieu thereof ", defense articles, or military education and training".

(5) Section 636 is amended—

22 USC 2396.

(A) in subsection (g) (1) by inserting ", military education and training" immediately after "articles"; and

(B) in subsection (g) (2) and in subsection (g) (3) by striking out "personnel" and inserting in lieu thereof "and related civilian personnel".

(6) Section 644 is amended—

22 USC 2403.

(A) by amending subsection (f) to read as follows:

"(f) 'Defense service' includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, but does not include military educational and training activities under chapter 5 of part II."; and

"Defense service."

(B) by adding at the end thereof the following new subsection:

"(n) 'Military education and training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, con-

"Military education and training."

tractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.”.

22 USC 2321a
note.

(c) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law amended or repealed by this section shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

22 USC 2347
note.

(d) Funds made available pursuant to other provisions of law for foreign military educational and training activities shall remain available for obligation and expenditure for their original purposes in accordance with the provisions of law originally applicable to those purposes or in accordance with the provisions of law currently applicable to those purposes.

TITLE II—ARMS EXPORT CONTROLS

CHANGE IN TITLE

22 USC 2751
note.

SEC. 201. (a) The first section of the Foreign Military Sales Act is amended by striking out “‘The Foreign Military Sales Act” and inserting in lieu thereof “the ‘Arms Export Control Act”.

(b) Any reference to the Foreign Military Sales Act shall be deemed to be a reference to the Arms Export Control Act.

ARMS SALES POLICY

22 USC 2751.

SEC. 202. (a) Section 1 of the Foreign Military Sales Act is amended by striking out the last paragraph and inserting in lieu thereof the following new paragraphs:

“It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for or procedures governing the export, sale, and grant of defense articles and defense services to foreign countries and international organizations shall be administered in a manner which will carry out this policy.

“It is the sense of the Congress that the President should seek to initiate multilateral discussions for the purpose of reaching agreements among the principal arms suppliers and arms purchasers and other countries with respect to the control of the international trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sale and distribution of conventional weapons of death and destruction and to encourage regional arms control arrangements. In furtherance of this policy, the President should undertake a concerted effort to convene an international conference of major arms-supplying and arms-purchasing nations which shall consider measures to limit conventional arms transfers in the interest of international peace and stability.

“It is the sense of the Congress that the aggregate value of defense articles and defense services—

“(1) which are sold under section 21 or section 22 of this Act;

or

“(2) which are licensed or approved for export under section 38 of this Act to, for the use, or for benefit of the armed forces, police, intelligence, or other internal security forces of a foreign country or international organization under a commercial sales contract;

in any fiscal year should not exceed current levels.”.

(b) (1) The President shall conduct a comprehensive study of the arms sales policies and practices of the United States Government, including policies and practices with respect to commercial arms sales, in order to determine whether such policies and practices should be changed. Such study shall examine the rationale for arms sales to foreign countries, the benefits to the United States of such arms sales, the risks to world peace as a result of such arms sales, trends in arms sales by the United States and other countries, and steps which might be taken by the United States to provide for limitations on arms sales. In addition, such study shall include an evaluation of the impact of United States arms sales policies on the economic and social development of foreign countries and consideration of steps which might be taken by the United States to encourage the maximum use of the resources of the developing countries for economic and social development purposes.

Study.
22 USC 2751
note.

(2) Not later than the end of the one-year period beginning on the date of enactment of this section, the President shall submit to the Congress a report setting forth in detail (A) the findings made and conclusions reached as a result of the study conducted pursuant to paragraph (1) of this subsection, together with such recommendations for legislation as the President deems appropriate, (B) the efforts made by the United States during the five years immediately preceding the submission of such report to initiate and otherwise encourage arms sales limitations, and (C) the efforts being made by the United States at the time of the submission of such report to initiate and otherwise encourage arms sales limitations in accordance with the policies stated in the amendment made by subsection (a) of this section.

Report to
Congress.

TRANSFER OF DEFENSE SERVICES

SEC. 203. (a) Section 3(a)(2) of the Foreign Military Sales Act is amended, effective July 1, 1976, by inserting immediately after “article” each time it appears “or related training or other defense service”.

22 USC 2753 and
note.

(b) Section 505(a) of the Foreign Assistance Act of 1961 is amended, effective July 1, 1976, by inserting immediately after “articles” each time it appears “or related training or other defense service”.

22 USC 2314 and
note.

APPROVAL FOR TRANSFER OF DEFENSE ARTICLES

SEC. 204. (a) Section 3 of the Foreign Military Sales Act is amended by adding at the end thereof the following new subsections:

22 USC 2753.

“(e) The President may not give his consent under paragraph (2) of subsection (a) or under the third sentence of such subsection to a transfer of a defense article, or related training or other defense service, sold under this Act and may not give his consent to such a transfer under section 505(a)(1) or 505(a)(4) of the Foreign Assistance Act of 1961 unless, 30 days prior to giving such consent, the President submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

Written
certification,
submittal to
Speaker of the
House and
congressional
committee.
22 USC 2314.

“(1) the name of the country or international organization proposing to make such transfer,

“(2) a description of the defense article or related training or other defense service proposed to be transferred, including the original acquisition cost of such defense article or related training or other defense service,

“(3) the name of the proposed recipient of such defense article or related training or other defense service,

“(4) the reasons for such proposed transfer, and

“(5) the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this subsection shall be unclassified, except that information regarding the dollar value and number of defense articles, or related training or other defense services, proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

Report to
Speaker of the
House and
congressional
committee.
22 USC 2314.

“(f) If the President receives any information that a transfer of any defense article, or related training or other defense service, has been made without his consent as required under this section or under section 505 of the Foreign Assistance Act of 1961, he shall report such information immediately to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.”.

22 USC 2753.

(b) (1) The second sentence of subsection (a) of section 3 of the Foreign Military Sales Act is amended by striking out “, and prior” and all that follows thereafter through “transferred” the second time it appears.

22 USC 2314.

(2) The first sentence of section 505(e) of the Foreign Assistance Act of 1961 is amended by striking out “, and prior” and all that follows thereafter through “transferred” the second time it appears.

SALES FROM STOCKS

22 USC 2761.

SEC. 205. Section 21 of the Foreign Military Sales Act is amended to read as follows:

“SEC. 21. SALES FROM STOCKS.—(a) The President may sell defense articles and defense services from the stocks of the Department of Defense to any eligible country or international organization if such country or international organization agrees to pay in United States dollars—

“(1) in the case of a defense article not intended to be replaced at the time such agreement is entered into, not less than the actual value thereof;

“(2) in the case of a defense article intended to be replaced at the time such agreement is entered into, the estimated cost of replacement of such article, including the contract or production costs less any depreciation in the value of such article; or

“(3) in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service.

“(b) Except as provided by subsection (d) of this section, payment shall be made in advance or, if the President determines it to be in the national interest, upon delivery of the defense article or rendering of the defense service.

“(c) Personnel performing defense services sold under this Act may not perform any duties of a combatant nature, including any duties related to training, advising, or otherwise providing assistance regarding combat activities, outside the United States in connection with the performance of those defense services.

“(d) If the President determines it to be in the national interest pursuant to subsection (b) of this section, billings for sales made

under letters of offer issued under this section after the enactment of this subsection may be dated and issued upon delivery of the defense article or rendering of the defense service and shall be due and payable upon receipt thereof by the purchasing country or international organization. Interest shall be charged on any net amount due and payable which is not paid within sixty days after the date of such billing. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the billing and shall be computed from the date of billing. The President may extend such sixty-day period to one hundred and twenty days if he determines that emergency requirements of the purchaser for acquisition of such defense articles or defense services exceed the ready availability to the purchaser of funds sufficient to pay the United States in full for them within such sixty-day period and submits that determination to the Congress together with a special emergency request for the authorization and appropriation of additional funds to finance such purchases under this Act.

“(e) (1) After September 30, 1976, letters of offer for the sale of defense articles or for the sale of defense services that are issued pursuant to this section or pursuant to section 22 of this Act shall include appropriate charges for—

22 USC 2762.

“(A) administrative services, calculated on an average percentage basis to recover the full estimated costs of administration of sales made under this Act to all purchasers of such articles and services;

“(B) any use of plant and production equipment in connection with such defense articles; and

“(C) a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment.

“(2) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under paragraphs (1)(B) and (1)(C) for particular sales that would, if made, significantly advance United States Government interests in North Atlantic Treaty Organization standardization, or foreign procurement in the United States under coproduction arrangements.

Reduction or waiver.

“(f) Any contracts entered into between the United States and a foreign country under the authority of this section or section 22 of this Act shall be prepared in a manner which will permit them to be made available for public inspection to the fullest extent possible consistent with the national security of the United States.

“(g) In carrying out section 814 of the Act of October 7, 1975 (Public Law 94-106), the President may enter into North Atlantic Treaty Organization standardization agreements for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.”

NATO standardization agreements.
89 Stat. 540.

Transmittal to Speaker of the House and congressional committees.

SALES FROM STOCKS AFFECTING UNITED STATES COMBAT READINESS

Ante, p. 736.

Written
statement,
transmittal to
Speaker of the
House and
congressional
committees.

SEC. 206. Section 21 of the Foreign Military Sales Act, as amended by section 205 of this Act, is further amended by adding at the end thereof the following new subsection:

“(h) (1) Sales of defense articles and defense services which could have significant adverse effect on the combat readiness of the Armed Forces of the United States shall be kept to an absolute minimum. The President shall transmit to the Speaker of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate on the same day a written statement giving a complete explanation with respect to any proposal to sell, under this section, any defense articles or defense services if such sale could have a significant adverse effect on the combat readiness of the Armed Forces of the United States. Each such statement shall be unclassified except to the extent that public disclosure of any item of information contained therein would be clearly detrimental to the security of the United States. Any necessarily classified information shall be confined to a supplemental report. Each such statement shall include an explanation relating to only one such proposal to sell and shall set forth—

“(A) the country or international organization to which the sale is proposed to be made;

“(B) the amount of the proposed sale;

“(C) a description of the defense article or service proposed to be sold;

“(D) a full description of the impact which the proposed sale will have on the Armed Forces of the United States; and

“(E) a justification for such proposed sale, including a certification that such sale is important to the security of the United States.

A certification described in subparagraph (E) shall take effect on the date on which such certification is transmitted and shall remain in effect for not to exceed one year.

“(2) No delivery may be made under any sale which is required to be reported under paragraph (1) of this subsection unless the certification required to be transmitted by paragraph (E) of paragraph (1) is in effect.”.

PROCUREMENT FOR CASH SALES

22 USC 2762.

Interest rate.

SEC. 207. (a) Section 22(a) of the Foreign Military Sales Act is amended by adding at the end thereof the following: “Interest shall be charged on any net amount by which any such country or international organization is in arrears under all of its outstanding unliquidated dependable undertakings, considered collectively. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage.”.

(b) Section 22(b) of the Foreign Military Sales Act is amended by striking out the first sentence and inserting in lieu thereof the following: “The President may, if he determines it to be in the national interest, issue letters of offer under this section which provide for billing upon delivery of the defense article or rendering of the defense service and for payment within one hundred and twenty days after the date of billing. This authority may be exercised, however, only if the President also determines that the emergency requirements of the purchaser for acquisition of such defense articles and services exceed the ready availability to the purchaser of funds sufficient to make

payments on a dependable undertaking basis and submits both determinations to the Congress together with a special emergency request for authorization and appropriation of additional funds to finance such purchases under this Act.”.

EXTENSION OF PAYMENT PERIOD FOR CREDIT SALES

SEC. 208. (a) Paragraph (1) of section 23 of the Foreign Military Sales Act is amended by striking out “ten years” and inserting in lieu thereof “twelve years”. 22 USC 2763.

(b) The amendment made by subsection (a) shall apply with respect to financing under agreements entered into on or after the date of enactment of this Act for the procurement of defense articles to be delivered, or defense services to be rendered, after such date. 22 USC 2763 note.

ANNUAL ESTIMATE AND JUSTIFICATION FOR SALES PROGRAM

SEC. 209. (a) Immediately after section 24 of the Foreign Military Sales Act, add the following new section:

“SEC. 25. ANNUAL ESTIMATE AND JUSTIFICATION FOR SALES PROGRAM.—(a) The President shall transmit to the Congress, as a part of the presentation materials for security assistance programs proposed for each fiscal year, a report which sets forth— 22 USC 2765. Report to Congress.

“(1) an estimate of the amount of sales expected to be made to each country under sections 21 and 22 of this Act, including a detailed explanation of the foreign policy and United States national security considerations involved in expected sales to each country; 22 USC 2761, 2762.

“(2) an estimate of the amount of credits and guaranties expected to be extended to each country under sections 23 and 24 of this Act; 22 USC 2763, 2764.

“(3) a list of all findings which are in effect on the date of such transmission made by the President pursuant to section 3(a)(1) of this Act, together with a full and complete justification for each such finding, explaining how sales to each country with respect to which such finding has been made will strengthen the security of the United States and promote world peace; and

“(4) an arms control impact statement for each purchasing country, including (A) an analysis of the relationship between expected sales to each country and arms control efforts relating to that country, and (B) the impact of such expected sales on the stability of the region that includes the purchasing country.

“(b) Not later than thirty days following the receipt of a request made by the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives for additional information with respect to any estimate submitted pursuant to subsection (a), the President shall submit such information to such committee. Information, submittal to congressional committee.

“(c) The President shall make every effort to submit all of the information required by this section wholly in unclassified form. In the event the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.”.

(b) Section 634(d) of the Foreign Assistance Act of 1961 is amended by striking out “and military sales under this or any other Act” in the fourth sentence. 22 USC 2394.

MILITARY SALES AUTHORIZATION

- 22 USC 2771. SEC. 210. (a) Section 31(a) of the Foreign Military Sales Act is amended by striking out "not to exceed \$405,000,000 for the fiscal year 1975" and inserting in lieu thereof "not to exceed \$1,039,000,000 for the fiscal year 1976 and not to exceed \$740,000,000 for the fiscal year 1977".
- (b) Section 31(b) of such Act is amended to read as follows:
- "(b) The aggregate total of credits, or participations in credits, extended pursuant to this Act and of the principal amount of loans guaranteed pursuant to section 24(a) shall not exceed \$2,374,700,000 for the fiscal year 1976, of which not less than \$1,500,000,000 shall be available only for Israel, and shall not exceed \$2,022,100,000 for the fiscal year 1977, of which not less than \$1,000,000,000 shall be available only for Israel."
- 22 USC 2764. (c) (1) Section 31 of such Act is further amended by adding at the end thereof the following new subsections:
- "(c) Funds made available for the fiscal years 1976 and 1977 under subsection (a) of this section shall be obligated to finance the procurement of defense articles and defense services by Israel on a long-term repayment basis either by the extension of credits, without regard to the limitations contained in section 23, or by the issuance of guaranties under section 24. Repayment shall be in not less than twenty years, following a grace period of ten years on repayment of principal. Israel shall be released from one-half of its contractual liability to repay the United States Government with respect to defense articles and defense services so financed for each such year.
- "(d) The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year after fiscal year 1976 for delivery to foreign countries or international organizations under the authority of chapter 2 of part II of the Foreign Assistance Act of 1961 or pursuant to sales under this Act may not exceed \$100,000,000 (exclusive of ships and their on-board stores and supplies transferred in accordance with law)."
- 22 USC 2763. (2) Subsections (a), (b), (c), and (e) of section 8 of the Act entitled "An Act to amend the Foreign Military Sales Act and for other purposes", approved January 12, 1971 (Public Law 91-672; 84 Stat. 2053), are repealed effective July 1, 1976. All funds in the suspense account referred to in subsection (a) of such section on July 1, 1976, shall be transferred to the general fund of the Treasury.
- 22 USC 2311 *et seq.*
- Repeal.
22 USC 2321b
and notes.
Transfer of funds.

REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS;
CONGRESSIONAL ACTION

- 22 USC 2776. SEC. 211. (a) Section 36 of the Foreign Military Sales Act is amended to read as follows:
- "SEC. 36. REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS; CONGRESSIONAL ACTION.—(a) The President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate not more than thirty days after the end of each quarter an unclassified report (except that any material which was transmitted in classified form under subsection (b) (1) or (c) (1) of this section may be contained in a classified addendum to such report, and any letter of offer referred to in paragraph (1) of this subsection may be listed in such addendum unless such letter of offer has been the subject of an unclassified certification pursuant to subsection (b) (1) of this section) containing—
- "(1) a listing of all letters of offer to sell any major defense equipment for \$1,000,000 or more under this Act to each foreign
- Report to Speaker of the House and congressional committee.
- Contents.

country and international organization, by category, if such letters of offer have not been accepted or canceled;

“(2) a listing of all such letters of offer that have been accepted during the fiscal year in which such report is submitted, together with the total value of all defense articles and defense services sold to each foreign country and international organization during such fiscal year;

“(3) the cumulative dollar amounts, by foreign country and international organization, of sales credit agreements under section 23 and guaranty agreements under section 24 made during the fiscal year in which such report is submitted;

22 USC 2763,
2764.

“(4) a numbered listing of all licenses and approvals for the export to each foreign country and international organization during such fiscal year of commercially sold major defense equipment, by category, sold for \$1,000,000 or more, together with the total value of all defense articles and defense services so licensed for each foreign country and international organization, setting forth with respect to the listed major defense equipment—

“(A) the items to be exported under the license,

“(B) the quantity and contract price of each such item to be furnished, and

“(C) the name and address of the ultimate user of each such item;

“(5) projections of the dollar amounts, by foreign country and international organization, of cash sales expected to be made under sections 21 and 22, credits to be extended under section 23, and guaranty agreements to be made under section 24 in the quarter of the fiscal year immediately following the quarter for which such report is submitted;

22 USC 2761,
2762.

“(6) a projection with respect to all cash sales expected to be made and credits expected to be extended to each country and organization for the remainder of the fiscal year in which such report is transmitted;

“(7) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel present in each such country at the end of that quarter for assignments in implementation of sales and commercial exports under this Act; and

“(8) an analysis and description of the services being performed by officers and employees of the United States Government under section 21(a) of this Act, including the number of personnel so employed.

For each letter of offer to sell under paragraphs (1) and (2), the report shall specify (i) the foreign country or international organization to which the defense article or service is offered or was sold, as the case may be; (ii) the dollar amount of the offer to sell or the sale and the number of defense articles offered or sold, as the case may be; (iii) a description of the defense article or service offered or sold, as the case may be; and (iv) the United States Armed Force or other agency of the United States which is making the offer to sell or the sale, as the case may be.

“(b) (1) In the case of any letter of offer to sell any defense articles or services under this Act for \$25,000,000 or more, or any major defense equipment for \$7,000,000 or more, before such letter of offer is issued, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through

Certification,
submittal to
Speaker of the
House and
congressional
committee.

Statement,
transmittal to
congressional
committee.

(iv) of subsection (a). In addition, the President shall, upon the request of such committee or the Committee on International Relations of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request—

“(A) a detailed description of the defense articles or services to be offered, including a brief description of the capabilities of any defense article to be offered;

“(B) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in such country to carry out the proposed sale;

“(C) the name of each contractor expected to provide the defense article or defense service proposed to be sold (if known on the date of transmittal of such statement);

“(D) an analysis of the arms control impact pertinent to such offer to sell, prepared in consultation with the Secretary of Defense;

“(E) the reasons why the foreign country or international organization to which the sale is proposed to be made needs the defense articles or services which are the subject of such sale and a description of how such country or organization intends to use such defense articles or services;

“(F) an analysis by the President of the impact of the proposed sale on the military stocks and the military preparedness of the United States;

“(G) the reasons why the proposed sale is in the national interest of the United States;

“(H) an analysis by the President of the impact of the proposed sale on the military capabilities of the foreign country or international organization to which such sale would be made;

“(I) an analysis by the President of how the proposed sale would affect the relative military strengths of countries in the region to which the defense articles or services which are the subject of such sale would be delivered and whether other countries in the region have comparable kinds and amounts of defense articles or services;

“(J) an estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization to which the sale would be made which are needed and available to utilize effectively the defense articles or services proposed to be sold;

“(K) an analysis of the extent to which comparable kinds and amounts of defense articles or services are available from other countries;

“(L) an analysis of the impact of the proposed sale on United States relations with the countries in the region to which the defense articles or services which are the subject of such sale would be delivered; and

“(M) a detailed description of any agreement proposed to be entered into by the United States for the purchase or acquisition by the United States of defense articles, services, or equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such letter of offer, including an analysis of the impact of such proposed agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States, an estimate of the costs to be

incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement.

A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (ii) and the details of the description specified in clause (iii) of subsection (a) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States. The letter of offer shall not be issued if the Congress, within thirty calendar days after receiving such certification, adopts a concurrent resolution stating that it objects to the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States.

“(2) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

Post, p. 765.

“(3) For the purpose of expediting the consideration and adoption of concurrent resolutions under this subsection, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

“(c) In the case of an application by a person (other than with regard to a sale under section 21 or section 22 of this Act) for a license for the export of any major defense equipment sold under a contract in the amount of \$7,000,000 or more or of defense articles or defense services sold under a contract in the amount of \$25,000,000 or more, not less than 30 days before issuing such license the President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate an unclassified numbered certification with respect to such application specifying (1) the foreign country or international organization to which such export will be made, (2) the dollar amount of the items to be exported, and (3) a description of the items to be exported. In addition, the President shall, upon the request of such committee or the Committee on International Relations of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request, a description of the capabilities of the items to be exported, an estimate of the total number of United States personnel expected to be needed in the foreign country concerned in connection with the items to be exported and an analysis of the arms control impact pertinent to such application, prepared in consultation with the Secretary of Defense. A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in paragraph (2) and the details of the description specified in paragraph (3) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States.

Certification,
transmittal to
Speaker of the
House and
congressional
committee.
22 USC 2761,
2762.

Statement,
transmittal to
congressional
committees.

“(d) In the case of an approval under section 38 of this Act of a United States commercial technical assistance or manufacturing licensing agreement for or in a country not a member of the North Atlantic Treaty Organization which involves the manufacture abroad of any item of significant combat equipment on the United States Munitions List, before such approval is given, the President shall submit a certification with respect to such proposed commercial agreement in a manner similar to the certification required under subsection (c) containing

Post, p. 744.

comparable information, except that the last sentence of such subsection shall not apply to certifications submitted pursuant to this subsection.”.

22 USC 2776
note.

22 USC 2776.

Infra.

(b) The amendment made by subsection (a) of this section shall apply with respect to letters of offer for which a certification is transmitted pursuant to section 36(b) of the Arms Export Control Act on or after the date of enactment of this Act and to export licenses for which an application is filed under section 38 of such Act on or after such date.

CONTROL OF LICENSES WITH RESPECT TO ARMS EXPORTS AND IMPORTS

22 USC 2778.

Regulations.

SEC. 212. (a) (1) Chapter 3 of the Foreign Military Sales Act is amended by adding at the end thereof the following new section:

“SEC. 38. CONTROL OF ARMS EXPORTS AND IMPORTS.—(a) (1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

“(2) Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account the Director’s opinion as to whether the export of an article will contribute to an arms race, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

“(b) (1) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a) (1) shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this Act or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

“(2) Except as otherwise specifically provided in regulations issued under subsection (a) (1), no defense articles or defense services designated by the President under subsection (a) (1) may be exported or imported without a license for such export or import, issued in accordance with this Act and regulations issued under this Act, except that no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government, or (B) for

carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

“(3) No license may be issued under this Act for the export of any major defense equipment sold under a contract in the amount of \$25,000,000 or more to any foreign country which is not a member of the North Atlantic Treaty Organization unless such major defense equipment was sold under this Act.

“(c) Any person who willfully violates any provision of this section or section 39, or any rule or regulation issued under either section, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than \$100,000 or imprisoned not more than two years, or both.

Penalties.
Post, p. 767.

“(d) This section applies to and within the Canal Zone.

“(e) In carrying out functions under this section with respect to the export of defense articles and defense services, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by sections 6 (c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969, subject to the same terms and conditions as are applicable to such powers under such Act. Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress.”.

50 USC app.
2405, 2406.

(2) Section 2(b) of the Foreign Military Sales Act is amended—

22 USC 2752.

(A) by inserting “and exports” immediately after “sales” both times it appears; and

(B) by inserting “and whether there shall be delivery or other performance under such sale or export,” immediately after “thereof.”.

(b)(1) Section 414 of the Mutual Security Act of 1954 is repealed. Any reference to such section shall be deemed to be a reference to section 38 of the Arms Export Control Act and any reference to licenses issued under section 38 of the Arms Export Control Act shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954.

Repeal.
22 USC 1934 and
note, 2778 note.

(2) All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under section 414 of the Mutual Security Act of 1954 shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

22 USC 1934
note.

CANCELLATION AND SUSPENSION OF LICENSES AND CONTRACTS

SEC. 213. Section 42 of the Foreign Military Sales Act is amended by adding at the end thereof the following new subsection:

22 USC 2791

“(e)(1) Each contract for sale entered into under sections 21 and 22 of this Act shall provide that such contract may be canceled in whole or in part, or its execution suspended, by the United States at any time under unusual or compelling circumstances if the national interest so requires.

22 USC 2761,
2762.

“(2)(A) Each export license issued under section 38 of this Act shall provide that such license may be revoked, suspended, or amended by the Secretary of State, without prior notice, whenever the Secretary deems such action to be advisable.

Ante, p. 744.

“(B) Nothing in this paragraph may be construed as limiting the regulatory authority of the President under this Act.

22 USC 2761, 2762. “(3) There are authorized to be appropriated from time to time such sums as may be necessary (A) to refund moneys received from purchasers under contracts of sale entered into under sections 21 and 22 of this Act that are canceled or suspended under this subsection to the extent such moneys have previously been disbursed to private contractors and United States Government agencies for work in progress, and (B) to pay such damages and costs that accrue from the corresponding cancellation or suspension of the existing procurement contracts or United States Government agency work orders involved.”.

ADMINISTRATIVE EXPENSES

22 USC 2792. SEC. 214. Section 43 of the Foreign Military Sales Act is amended by designating the present section as subsection (a) and by adding at the end thereof the following new subsection:

“(b) Administrative expenses incurred by any department or agency of the United States Government (including any mission or group) in carrying out functions under this Act which are primarily for the benefit of any foreign country shall be fully reimbursed from amounts received for sales under sections 21 and 22.”.

DEFINITIONS

22 USC 2794. SEC. 215. Section 47 of the Foreign Military Sales Act is amended—
 (1) by striking out “and” at the end of paragraph (1);
 (2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and
 (3) by adding immediately after paragraph (2) the following new paragraphs:

“(3) ‘defense article’, except as provided in paragraph (7) of this section, includes—

“(A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war,

“(B) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of making military sales,

“(C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and

“(D) any component or part of any article listed in this paragraph,

42 USC 2014. but does not include merchant vessels or (as defined by the Atomic Energy Act of 1954) source material, byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data;

22 USC 2403. “(4) ‘defense service’, except as provided in paragraph (7) of this section, includes any service, test, inspection, repair, training, publication, technical or other assistance, or defense information (as defined in section 644(e) of the Foreign Assistance Act of 1961), used for the purposes of making military sales;

“(5) ‘training’ includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

“(6) ‘major defense equipment’ means any item of significant combat equipment on the United States Munitions List having a non-recurring research and development cost of more than \$50,000,000 or a total production cost of more than \$200,000,000; and

“(7) ‘defense articles and defense services’ means, with respect to commercial exports subject to the provisions of section 38 of this Act, those items designated by the President pursuant to subsection (a) (1) of such section.”.

Ante, p. 744.

ANNUAL FOREIGN SALES REPORT

SEC. 216. Section 657 of the Foreign Assistance Act of 1961 is amended as follows: 22 USC 2417.

(1) The section caption is amended by inserting “AND MILITARY EXPORTS” after “FOREIGN ASSISTANCE”.

(2) Paragraph (1) of subsection (a) is amended to read as follows:

“(1) the aggregate dollar value of all foreign assistance (including military education and training), foreign military sales, sales credits, and guaranties provided or made by the United States Government by any means to all foreign countries and international organizations, and the aggregate dollar value of such assistance, sales, sales credits, and guaranties, by category, provided or made by the United States Government to or for each such country or organization during that fiscal year;”.

(3) Paragraph (3) of subsection (a) is amended to read as follows:

“(3) the aggregate dollar value and quantity of defense articles and defense services, and of military education and training, exported to each foreign country and international organization, by category, specifying whether the export was made by grant under chapter 2 or chapter 5 of part II of this Act, by sale under chapter 2 of the Arms Export Control Act, by commercial sale licensed under chapter 3 of that Act, or by other authority; and”.

(4) Paragraph (4) of subsection (a) is repealed.

(5) Paragraph (5) of subsection (a) is amended—

(A) by redesignating such paragraph as paragraph (4), and

(B) by striking out “(4)” and inserting in lieu thereof “(3)”.

REPORT ON SALES OF EXCESS DEFENSE ARTICLES

SEC. 217. Not later than February 28, 1977, the President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a full and complete report regarding all sales made under the Arms Export Control Act during the period July 1, 1976, through December 31, 1976, of excess defense articles to foreign governments and international organizations (other than any such article sold solely for scrap). Such report shall set forth—

(1) the number of such sales;

(2) the total acquisition costs of the articles sold;

(3) the total gross price paid for such articles exclusive of administrative surcharges and costs of repairing, rehabilitation, or modifying such articles;

(4) the data set forth under paragraphs (1), (2), and (3) totaled separately for those sales made at less than 33⅓ per centum of the acquisition costs thereof; and

Transmittal to Speaker of the House and congressional committee.
22 USC 2751 note.

(5) the estimated total proceeds of sales of articles included under paragraph (4) if such articles had been sold instead through United States Government surplus property disposal operations and the percentage thereof that would have been paid out of such proceeds to meet direct expenses incurred in connection with such dispositions pursuant to law.

STUDY OF THE EFFECTS OF ARMS EXPORT CONTROL PROVISIONS

22 USC 2751
note.

SEC. 218. (a) The Secretary of State, in consultation with the Secretary of Defense, shall conduct a comprehensive study of the effects of the enactment of the arms export control provisions contained in this title with a view to determining the consequences of such provisions on (1) the foreign policy of the United States, (2) the balance of payments of the United States, (3) the trade with foreign countries, (4) unemployment in the United States, and (5) weapons procurement by the Department of Defense.

Submittal to
President and
Congress.

(b) The Secretary of State shall submit the results of such study to the President and the Congress within one year after the date of enactment of this section, together with such comments and recommendations for legislation as he deems appropriate.

TITLE III—GENERAL LIMITATIONS

HUMAN RIGHTS

22 USC 2304.

SEC. 301. (a) Section 502B of the Foreign Assistance Act of 1961 is amended to read as follows:

“SEC. 502B. HUMAN RIGHTS.—(a) (1) It is the policy of the United States, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, to promote and encourage increased respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion. To this end, a principal goal of the foreign policy of the United States is to promote the increased observance of internationally recognized human rights by all countries.

“(2) It is further the policy of the United States that, except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.

“(3) In furtherance of the foregoing policy the President is directed to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

Report to
Congress.

“(b) The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs proposed for each fiscal year, a full and complete report, prepared with the assistance of the Coordinator for Human Rights and Humanitarian Affairs, with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. In determining whether a government falls within the provisions of subsection (a) (3)

and in the preparation of any report or statement required under this section, consideration shall be given to—

“(1) the relevant findings of appropriate international organizations, including nongovernmental organizations, such as the International Committee of the Red Cross; and

“(2) the extent of cooperation by such government in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights.

“(c)(1) Upon the request of the Senate or the House of Representatives by resolution of either such House, or upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the Secretary of State shall, within thirty days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Coordinator for Human Rights and Humanitarian Affairs, with respect to the country designated in such request, setting forth—

Statement,
transmittal to
Congress.

“(A) all the available information about observance of and respect for human rights and fundamental freedom in that country, and a detailed description of practices by the recipient government with respect thereto;

“(B) the steps the United States has taken to—

“(i) promote respect for and observance of human rights in that country and discourage any practices which are inimical to internationally recognized human rights, and

“(ii) publicly or privately call attention to, and disassociate the United States and any security assistance provided for such country from, such practices;

“(C) whether, in the opinion of the Secretary of State, notwithstanding any such practices—

“(i) extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and, if so, a description of such circumstances and the extent to which such assistance should be continued (subject to such conditions as Congress may impose under this section), and

“(ii) on all the facts it is in the national interest of the United States to provide such assistance; and

“(D) such other information as such committee or such House may request.

“(2)(A) A resolution of request under paragraph (1) of this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

“(B) The term ‘certification’, as used in section 601 of such Act, means, for the purposes of this subsection, a resolution of request of the Senate under paragraph (1) of this subsection.

Post, p. 765.
“Certification.”

“(3) In the event a statement with respect to a country is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within thirty days after receipt of such request, no security assistance shall be delivered to such country except as may thereafter be specifically authorized by law from such country unless and until such statement is transmitted.

“(4)(A) In the event a statement with respect to a country is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating, restricting, or continuing security assistance for such country. In the event such a joint resolution is adopted, such assistance shall be so terminated, so restricted, or so continued, as the case may be.

“(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

“Certification.”

“(C) The term ‘certification’, as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

Definitions.

“(d) For the purposes of this section—

“(1) the term ‘gross violations of internationally recognized human rights’ includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, and other flagrant denial of the right to life, liberty, or the security of person; and

“(2) the term ‘security assistance’ means—

“(A) assistance under chapter 2 (military assistance) or chapter 4 (security supporting assistance) or chapter 5 (military education and training) of this part or part VI (assistance to the Middle East) of this Act;

“(B) sales of defense articles or services, extensions of credits (including participations in credits, and guaranties of loans under the Arms Export Control Act; or

“(C) any license in effect with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country under section 38 of the Arms Export Control Act.”.

Ante, p. 744.

22 USC 2384.

Coordinator for Human Rights and Humanitarian Affairs.

(b) Section 624 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

“(f) (1) There is established in the Department of State a Coordinator for Human Rights and Humanitarian Affairs. The Coordinator shall be appointed by the President with the advice and consent of the Senate. He shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy. The Secretary of State shall carry out his responsibility under section 502B of this Act through the Coordinator for Human Rights and Humanitarian Affairs.

Ante, p. 748.

“(2) The Coordinator for Human Rights and Humanitarian Affairs shall maintain continuous observation and review of all matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy including—

“(A) gathering detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights in each country to which requirements of sections 116 and 502B of this Act are relevant;

22 USC 2151n.

“(B) preparing the statements and reports to Congress required under section 502B of this Act;

“(C) making recommendations to the Secretary of State and the Administrator of the Agency for International Development regarding compliance with sections 116 and 502B of this Act; and

“(D) performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.”.

PROHIBITION AGAINST DISCRIMINATION

SEC. 302. (a) Section 505 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection: 22 USC 2314.

“(g) (1) It is the policy of the United States that no assistance under this chapter should be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a) (30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this chapter on the basis of race, religion, national origin, or sex. 26 USC 7701.

“(2) (A) No agency performing functions under this chapter shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

“(B) Each contract entered into by any such agency for the performance of any function under this chapter shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

“(3) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any transaction in which any United States person (as defined in section 7701(a) (30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the furnishing of assistance under this chapter, or education and training under chapter 5, to any foreign country. Such reports shall include (A) a description of the facts and circumstances of any such discrimination, (B) the response thereto on the part of the United States or any agency or employee thereof, and (C) the result of such response, if any.

Reports,
transmittal to
Speaker of the
House and
congressional
committee.

“(4) (A) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Coordinator for Human Rights and Humanitarian Affairs, with respect to the country designated in such request, setting forth—

“(i) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin, or sex and prevent any such person from participating in a transaction involving the furnishing of any assistance under this chapter or any education and training under chapter 5;

“(ii) the response of the United States thereto and the results of such response;

“(iii) whether, in the opinion of the President, notwithstanding any such policies or practices—

“(I) extraordinary circumstances exist which necessitate a continuation of such assistance or education and training transaction, and, if so, a description of such circumstances

Ante, p. 732.

and the extent to which such assistance or education and training transaction should be continued (subject to such conditions as Congress may impose under this section), and

“(II) on all the facts it is in the national interest of the United States to continue such assistance or education and training transaction; and

“(iv) such other information as such committee may request.

“(B) In the event a statement with respect to an assistance or training transaction is requested pursuant to subparagraph (A) of this paragraph but is not transmitted in accordance therewith within 60 days after receipt of such request, such assistance or training transaction shall be suspended unless and until such statement is transmitted.

“(C) (i) In the event a statement with respect to an assistance or training transaction is transmitted under subparagraph (A) of this paragraph, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such assistance or training transaction.

“(ii) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

Post, p. 765.

“Certification.”

“(iii) The term ‘certification’, as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under subparagraph (A) of this paragraph.”

22 USC 2755.

(b) Chapter 1 of the Foreign Military Sales Act is amended by adding at the end thereof the following new section:

“SEC. 5. PROHIBITION AGAINST DISCRIMINATION.—(a) It is the policy of the United States that no sales should be made, and no credits (including participations in credits) or guaranties extended to or for any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a) (30) of the Internal Revenue Code of 1954) from participating in the furnishing of defense articles or defense services under this Act on the basis of race, religion, national origin, or sex.

26 USC 7701.

“(b) (1) No agency performing functions under this Act shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

“(2) Each contract entered into by any such agency for the performance of any function under this Act shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

Reports,
transmittal to
Speaker of the
House and
congressional
committee.

“(c) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any instance in which any United States person (as defined in section 7701(a) (30) of the Internal Revenue Code of 1954) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the performance of any sale or licensed transaction under this Act. Such reports shall include (1) a description of the facts and circum-

stances of any such discrimination, (2) the response thereto on the part of the United States or any agency or employee thereof, and (3) the result of such response, if any.

“(d) (1) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Coordinator for Human Rights and Humanitarian Affairs, with respect to the country designated in such request, setting forth—

Statement,
transmittal to
congressional
committees.

“(A) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin or sex and prevent any such person from participating in the performance of any sale or licensed transaction under this Act;

“(B) the response of the United States thereto and the results of such response;

“(C) whether, in the opinion of the President, notwithstanding any such policies or practices—

“(i) extraordinary circumstances exist which necessitate a continuation of such sale or licensed transaction, and, if so, a description of such circumstances and the extent to which such sale or licensed transaction should be continued (subject to such conditions as Congress may impose under this section), and

“(ii) on all the facts it is in the national interest of the United States to continue such sale or licensed transaction; and

“(D) such other information as such committee may request.

“(2) In the event a statement with respect to a sale or licensed transaction is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within 60 days after receipt of such request, such sale or licensed transaction shall be suspended unless and until such statement is transmitted.

“(3) (A) In the event a statement with respect to a sale or licensed transaction is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such sale or licensed transaction.

“(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

“(C) The term ‘certification’, as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.”

Post, p. 765.
“Certification.”

PROHIBITION OF ASSISTANCE TO COUNTRIES GRANTING SANCTUARY TO INTERNATIONAL TERRORISTS

SEC. 303. Chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

“SEC. 620A. PROHIBITION AGAINST FURNISHING ASSISTANCE TO COUNTRIES WHICH GRANT SANCTUARY TO INTERNATIONAL TERRORISTS.—(a) Except where the President finds national security to require otherwise, the President shall terminate all assistance under this Act to any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism and the President may not thereafter

22 USC 2371.

furnish assistance to such government until the end of the one year period beginning on the date of such termination, except that if during its period of ineligibility for assistance under this section such government aids or abets, by granting sanctuary from prosecution to, any other individual or group which has committed an act of international terrorism, such government's period of ineligibility shall be extended for an additional year for each such individual or group.

Report to
Speaker of the
House and
congressional
committee.

"(b) If the President finds that national security justifies a continuation of assistance to any government described in subsection (a), he shall report such finding to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate."

INELIGIBILITY

22 USC 2314.

SEC. 304. (a) Section 505(d) of the Foreign Assistance Act of 1961 is amended to read as follows:

68 Stat. 832.
22 USC 1751
note.

"(d) (1) Assistance and deliveries of assistance under this chapter to any country shall be terminated as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, the Mutual Security Act of 1954, or any predecessor Foreign Assistance Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (A) by using such articles or services for a purpose not authorized under section 502 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 502, for a purpose not authorized under such agreement; (B) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (C) by failing to maintain the security of such articles or services.

22 USC 2302.

"(2) (A) Assistance and deliveries of assistance shall be terminated pursuant to paragraph (1) of this subsection if the President so determines and so states in writing to the Congress, or if the Congress so finds by joint resolution.

Report to
Congress.

"(B) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

"(3) Assistance to a country shall remain terminated in accordance with paragraph (1) of this subsection until such time as—

"(A) the President determines that the violation has ceased; and

"(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

"(4) The authority contained in section 614(a) of this Act may not be used to waive the provisions of this section with respect to further assistance under this chapter."

22 USC 2753.

(b) (1) Section 3(c) of the Foreign Military Sales Act is amended to read as follows:

"(c) (1) (A) No credits (including participations in credits) may be issued and no guaranties may be extended for any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (i) by using such articles or services for a purpose not authorized

under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4 for a purpose not authorized under such agreement; (ii) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (iii) by failing to maintain the security of such articles or services.

22 USC 2754.

“(B) No cash sales or deliveries pursuant to previous sales may be made with respect to any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantity or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4, for a purpose not authorized under such agreement.

“(2) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

Report to Congress.

“(3) (A) A country shall be deemed to be ineligible under subparagraph (A) of paragraph (1) of this subsection, or both subparagraphs (A) and (B) of such paragraph in the case of a violation described in both such paragraphs, if the President so determines and so reports in writing to the Congress, or if the Congress so determines by joint resolution.

“(B) Notwithstanding a determination by the President of ineligibility under subparagraph (B) of paragraph (1) of this subsection, cash sales and deliveries pursuant to previous sales may be made if the President certifies in writing to the Congress that a termination thereof would have significant adverse impact on United States security, unless the Congress adopts or has adopted a joint resolution pursuant to subparagraph (A) of this paragraph with respect to such ineligibility.

“(4) A country shall remain ineligible in accordance with paragraph (1) of this subsection until such time as—

“(A) the President determines that the violation has ceased; and

“(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.”.

(2) Section 3(d) of the Foreign Military Sales Act is repealed and subsections (e) and (f) of such section, as added by section 204 of this Act, are redesignated as subsections (d) and (e), respectively.

Repeal.
Ante, p. 735.

NUCLEAR TRANSFERS

SEC. 305. Chapter 3 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

“SEC. 669. NUCLEAR TRANSFERS.—(a) Except as provided in subsection (b), no funds authorized to be appropriated by this Act or the Arms Export Control Act may be used for the purpose of—

22 USC 2429.

“(1) providing economic assistance;

“(2) providing military or security supporting assistance or grant military education and training; or

“(3) extending military credits or making guarantees; to any country which—

“(A) delivers nuclear reprocessing or enrichment equipment, materials, or technology to any other country; or

“(B) receives such equipment, materials or technology from any other country;
unless before such delivery—

“(i) the supplying country and receiving country have reached agreement to place all such equipment, materials, and technology, upon delivery, under multilateral auspices and management when available; and

“(ii) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

“(b) (1) Notwithstanding the provisions of subsection (a) of this section, the President may, by Executive order effective not less than 30 days following its date of promulgation, furnish assistance which would otherwise be prohibited under paragraph (1), (2), or (3) of such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

“(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

“(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

“(2) (A) The Congress may by joint resolution terminate or restrict assistance described in paragraphs (1) through (3) of subsection (a) with respect to a country to which the prohibition in such subsection applies or take any other action with respect to such assistance for such country as it deems appropriate.

“(B) Any such joint resolution with respect to a country shall, if introduced within 30 days after the transmittal of a certification under paragraph (1) with respect to such country, be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.”.

Post, p. 765.

TITLE IV—PROVISIONS RELATING TO SPECIFIC REGIONS OR COUNTRIES

MIDDLE EAST POLICY STATEMENT

22 USC 2441.

SEC. 401. Section 901 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

“It is the sense of Congress that the United States will continue to determine Middle East Policy as circumstances may require and that the authority contained in the joint resolution entitled ‘Joint resolution to implement the United States proposal for the early-warning system in Sinai’, approved October 13, 1975 (Public Law 94-110), and the authorizations contained in the amendments made by the International Security Assistance and Arms Export Control Act of 1976 do not, and shall not in any way be construed to, constitute congressional approval, acceptance, or endorsement (1) of any oral or written commitment, understanding, assurance, promise, or agreement, whether expressed or implied, or any other expression, oral or written (other than the ‘United States Proposal for the Early Warning System in Sinai’), made by any official of the United States which

22 USC 2441
note.

Israel, Egypt, or any other nation or organization might construe or interpret as a basis on which it could rely or act, or (2) of any characterization of any such commitment, understanding, assurance, promise, or agreement, or other expression, as constituting a 'codification' of existing, congressionally approved United States policy."

AID FOR CYPRIOT REFUGEES

SEC. 402. Section 495 of the Foreign Assistance Act of 1961 is amended by striking out "\$30,000,000" and inserting in lieu thereof "\$40,000,000". 22 USC 2292f.

ASSISTANCE TO TURKEY

SEC. 403. Section 620(x) (1) of the Foreign Assistance Act of 1961, as amended by section 2(c) of the Act of October 6, 1975 (Public Law 94-104), is amended by striking out "*Provided,*" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following: "*Provided,* That for the fiscal year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal year 1977, the President may suspend the provisions of this subsection and of section 3(c) of the Arms Export Control Act with respect to cash sales and extensions of credits and guaranties under such Act for the procurement of such defense articles and defense services as the President determines are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization, except that (A) during the fiscal year 1976 and the period beginning July 1, 1976, and ending September 30, 1976, the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed \$125,000,000, and (B) during the fiscal year 1977, the total value of defense articles and defense services sold to Turkey under such Act, either for cash or financed by credits and guaranties, shall not exceed \$125,000,000. Any such suspension shall be effective only so long as Turkey observes the cease-fire on Cyprus, does not increase its military forces or its civilian population on Cyprus, and does not transfer to Cyprus any United States supplied arms, ammunition, or implements of war. The determination required by the proviso in the first sentence of this paragraph shall be made, on a case-by-case basis, with respect to each cash sale, each approval for use of credits, and each approval for use of a guaranty for Turkey. Each such determination shall be reported to the Congress and shall be accompanied by a full and complete statement of the reasons supporting the President's determination and a statement containing the information specified in clauses (A) through (D) of section 2(c) (4) of the Act of October 6, 1975 (Public Law 94-104). In any case involving the sale of significant combat equipment on the United States Munitions List in which the congressional review provisions of section 36(b) of the Arms Export Control Act do not apply, the President may not issue the letter of offer or approve the use of the credits or guaranty, as the case may be, until the end of the thirty-day period beginning on the date on which the report required by the preceding sentence is submitted to the Congress." Suspension. 22 USC 2370. 22 USC 2753. Report to Congress. 89 Stat. 509. Ante, p. 740.

LIMITATION ON CERTAIN ASSISTANCE TO AND ACTIVITIES IN ANGOLA

SEC. 404. (a) Notwithstanding any other provision of law, no assistance of any kind may be provided for the purpose, or which would have the effect, of promoting or augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual 22 USC 2293 note.

Report to
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to conduct military or paramilitary operations in Angola unless and until the Congress expressly authorizes such assistance by law enacted after the date of enactment of this section.

(b) If the President determines that assistance prohibited by subsection (a) should be furnished in the national security interests of the United States, he shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing—

(1) a description of the amounts and categories of assistance which he recommends to be authorized and the identity of the proposed recipients of such assistance; and

(2) a certification that he has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement, in unclassified form, of the reasons supporting such determination.

(c) The prohibition contained in subsection (a) does not apply with respect to assistance which is furnished solely for humanitarian purposes.

(d) The provisions of this section may not be waived under any other provision of law.

SOVIET INTERVENTION IN ANGOLA

22 USC 2293
note.

SEC. 405. The Congress views the large-scale and continuing Soviet intervention in Angola, including active sponsorship and support of Cuban armed forces in Angola, as being completely inconsistent with any reasonably defined policy of détente, as well as with Articles 1 and 2 of the United Nations Charter, the principle of noninterference in the affairs of other countries agreed to at Helsinki in 1975, and with the spirit of recent bilateral agreements between the United States and the Union of Soviet Socialist Republics. Such intervention should be taken explicitly into account in United States foreign policy planning and negotiations.

LIMITATIONS ON ECONOMIC ASSISTANCE, MILITARY ASSISTANCE, SALES, AND SALES CREDITS FOR CHILE

22 USC 2370
note.
22 USC 2151
note.

SEC. 406. (a) (1) No military or security supporting assistance and no military education and training may be furnished under the Foreign Assistance Act of 1961 for Chile; and no credits (including participations in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act with respect to Chile. No deliveries of any such assistance, credits, or guaranties may be made to Chile on or after the date of enactment of this section.

(2) No sales (including cash sales) may be made and no export license may be issued under the Arms Export Control Act with respect to Chile on or after the date of enactment of this section.

(b) (1) Notwithstanding any other provision of law, the total amount of economic assistance which may be made available for Chile during the period beginning July 1, 1976, and ending September 30, 1977, may not exceed \$27,500,000. For purposes of this subsection, economic assistance includes any assistance of any kind which is provided, directly or indirectly, to or for the benefit of Chile by any department, agency, or other instrumentality of the United States Government (other than assistance provided under chapter 2, 4, or 5

of part II of the Foreign Assistance Act of 1961 or credits or guaranties extended under the Arms Export Control Act), but does not include commodities furnished under title II of the Agricultural Trade Development and Assistance Act of 1954. This subsection shall not be construed to authorize the furnishing of any assistance which is prohibited under any other provision of law.

(2) The \$27,500,000 limit set forth in paragraph (1) of this subsection may be increased by not to exceed \$27,500,000 if the President certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the Government of Chile—

(A) does not engage in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges or trial, or other flagrant denials of the right to life, liberty, or the security of person;

(B) has permitted the unimpeded investigation, by internationally recognized commissions on human rights (including the United Nations Commission on Human Rights and the Inter-American Commission on Human Rights of the Organization of American States) of alleged violations of internationally recognized human rights (as described in subparagraph (A) of this paragraph); and

(C) has taken steps to inform the families of prisoners of the condition of and charges against such prisoners.

CONTROL OF MILITARY FORCES IN THE INDIAN OCEAN

SEC. 407. (a) It is the sense of Congress that the President should undertake to enter into negotiations with the Soviet Union intended to achieve an agreement limiting the deployment of naval, air, and land forces of the Soviet Union and the United States in the Indian Ocean and littoral countries. Such negotiations should be convened as soon as possible and should consider, among other things, limitations with respect to—

(1) the establishment or use of facilities for naval, air, or land forces in the Indian Ocean and littoral countries;

(2) the number of naval vessels which may be deployed in the Indian Ocean, or the number of "shipdays" allowed therein; and

(3) the type and number of military forces and facilities allowed therein.

(b) Not later than December 1, 1976, the President shall transmit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate with respect to steps he has taken to carry out the provisions of this section.

22 USC 2151
note.

Report to
Speaker of the
House and
congressional
committee.

UNITED STATES CITIZENS IMPRISONED IN MEXICO

SEC. 408. (a) The Congress, while sharing the concern of the President over the urgent need for international cooperation to restrict traffic in dangerous drugs, is convinced that such efforts must be consistent with respect for fundamental human rights. The Congress, therefore, calls upon the President to take steps to insure that United States efforts to secure stringent international law enforcement measures are

22 USC 2291
note.

combined with efforts to secure fair and humane treatment for citizens of all countries.

(b) (1) The Congress requests that the President communicate directly to the President and Government of the Republic of Mexico, a nation with which we have friendly and cooperative relations, the continuing desire of the United States for such relations between our two countries and the concern of the United States over treatment of United States citizens arrested in Mexico.

Report to
Speaker of the
House and
congressional
committee.

(2) The Secretary of State shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate within one hundred and twenty days after the date of enactment of this section, and every one hundred and twenty days thereafter, on progress toward full respect for the human and legal rights of all United States citizens detained in Mexico.

EMERGENCY FOOD NEEDS OF PORTUGAL

22 USC 2293
note.

SEC. 409. It is the sense of the Congress that the President should undertake immediately an evaluation of the emergency food needs of Portugal. It is further the sense of the Congress that the President should take timely action to alleviate such emergency by providing Portugal with food commodities under the provisions of pertinent statutes.

STRIFE IN LEBANON

22 USC 2441
note.

SEC. 410. It is the sense of the Congress that the situation in Lebanon, a nation traditionally friendly to the United States, poses a danger to peace in the Middle East. The Congress deplores the armed civil strife and the continuing erosion of national institutions which threaten to destroy the political and economic fabric of Lebanon with such tragic impact on all its people. The Congress views with grave concern any outside efforts to exploit the current strife with the purpose of transforming Lebanon into a radical state in confrontation with Israel. The Congress requests that the President use his good offices to secure an end to the civil strife and national discord in Lebanon and to preserve the traditional friendly attitude of Lebanon toward the United States.

REPORT ON KOREA

SEC. 411. Chapter 3 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

22 USC 2428.

"SEC. 668. REPORT ON KOREA.—Within ninety days after the enactment of this section, and at least once during each of the next five years, the President shall transmit to the Speaker of the House of Representatives and to the Committees on Foreign Relations and Armed Services of the Senate a report which (1) reviews the progress made under the announced program of the Republic of Korea to modernize its armed forces so as to achieve military self-sufficiency by 1980, (2) reports on the role of the United States in mutual security efforts in the Republic of Korea, and (3) reports on the prospects for or implementation of phased reduction of United States Armed Forces assigned to duty in the Republic of Korea, in coordination with the timetable of the Republic of Korea for military self-sufficiency."

KOREA

SEC. 412. The Congress views with distress the erosion of important civil liberties in the Republic of Korea and requests that the President communicate this concern in forceful terms to the Government of the Republic of Korea within sixty days after enactment.

22 USC 2428
note.

REPEAL OF INDOCHINA ASSISTANCE

SEC. 413. (a) Part V of the Foreign Assistance Act of 1961 and sections 34, 35, 36, 37, 38, 39, and 40 of the Foreign Assistance Act of 1974 are repealed. All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this section shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

Repeal.
22 USC 2431,
2432, 2433
notes, 2434,
2435, 2415,
2416.
22 USC 2431
note.

(b) Subject to the availability of appropriations therefor, the President is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract which had been funded or approved for funding by the Agency for International Development prior to June 30, 1975, for financing with funds made available under the Foreign Assistance Act of 1961 or the Foreign Assistance Act of 1974, or any equitable claim based upon a letter of intent issued prior to April 30, 1975, in which the Agency had expressed its intention to finance a transaction subject to the availability of funds, between the former Governments of Vietnam or Cambodia (including any of their agencies) or the Government of Laos (or any of its agencies) and any person and to apply with respect to any such contract the authorities of the Foreign Assistance Act of 1961.

22 USC 2151
note, 2151a note.

(c) Funds made available for the purposes of part V of the Foreign Assistance Act of 1961 and of section 36 of the Foreign Assistance Act of 1974 (including amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C. 200), as having been obligated against appropriations heretofore made) are authorized to be appropriated, and thereafter, to remain available until expended, to meet necessary expenses arising from the actions authorized by subsection (b) of this section and such funds are authorized to remain available until expended to meet necessary expenses arising from the termination of assistance programs authorized by such part and such section 36, which expenses may include but need not be limited to the settlement of claims and associated personnel costs.

LEBANON HOUSING RECONSTRUCTION

SEC. 414. Section 223(j) of the Foreign Assistance Act of 1961 is amended by striking out "and" in the last sentence and by inserting immediately before the period at the end of such sentence " , and in Lebanon, not exceeding a face amount of \$15,000,000".

22 USC 2183.

ITALY RELIEF AND REHABILITATION

SEC. 415. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:
"SEC. 495B. ITALY RELIEF AND REHABILITATION.—(a) In addition to amounts otherwise available for such purpose, there is authorized to be appropriated \$25,000,000 for the fiscal year 1976 to furnish

Appropriation
authorization.
22 USC 2292h.

assistance under this chapter for the relief and rehabilitation of the people who have been victimized by the recent earthquake in Italy. Amounts appropriated under this section are authorized to remain available until expended.

“(b) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Italy may be charged to the appropriations authorized under this section.”.

LEBANON RELIEF AND REHABILITATION

SEC. 416. Chapter 9 of part I of the Foreign Assistance Act of 1961, as amended by section 415 of this Act, is further amended by adding at the end thereof the following new section:

22 USC 2292i.

“SEC. 495C. LEBANON RELIEF AND REHABILITATION.—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate the human suffering arising from civil strife in Lebanon and to restore the confidence of the people of Lebanon, authorizes the President to furnish assistance, on such terms and conditions as he may determine, for the relief and rehabilitation of refugees and other needy people in Lebanon.

Appropriation
authorization.

“(b) There is authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, \$20,000,000, which amount is authorized to remain available until expended.

22 USC 2292.

“(c) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

“(d) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing relief and rehabilitation assistance to the people of Lebanon may be charged to the appropriations authorized under this section.

Reports to
Speaker of the
House and
congressional
committees.

“(e) Not later than sixty days after the date of enactment of appropriations to carry out this section, and on a quarterly basis thereafter, the President shall transmit reports to the Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House of Representatives regarding the programing and obligation of funds under this section.”.

TITLE V—MISCELLANEOUS AUTHORIZATIONS

SECURITY SUPPORTING ASSISTANCE

22 USC 2346a.

SEC. 501. (a) Section 532 of the Foreign Assistance Act of 1961 is amended to read as follows:

“SEC. 532. AUTHORIZATION.—(a) There is authorized to be appropriated to the President to carry out the purposes of this chapter for the fiscal year 1976 \$1,766,200,000, of which not less than \$65,000,000 shall be available only for Greece, \$730,000,000 shall be available only for Israel, and \$705,000,000 shall be available only for Egypt, and for the fiscal year 1977 \$1,860,000,000, of which not less than \$785,000,000 shall be available only for Israel, not less than \$750,000,000 shall be available only for Egypt, not less than \$27,500,000 shall be available only for Zambia, and not less than \$27,500,000 shall be available only for Zaire. Amounts appropriated under this section are authorized to remain available until expended.

“(b) (1) None of the funds made available under this section for Zaire and Zambia may be used for military, guerrilla, or paramilitary activities in either such country or in any other country.

“(2) Assistance furnished under this chapter to Zaire and Zambia for fiscal year 1977 shall not be counted for purposes of the limitation contained in the last sentence of section 531 on the number of countries which may receive assistance under this chapter in any fiscal year.”.

22 USC 2346.

MIDDLE EAST SPECIAL REQUIREMENT FUND

SEC. 502. Section 903 of the Foreign Assistance Act of 1961 is amended— 22 USC 2443.

(1) in subsection (a), by striking out “for the fiscal year 1975 not to exceed \$100,000,000” and inserting in lieu thereof “for the fiscal year 1976 not to exceed \$50,000,000 and for the fiscal year 1977 not to exceed \$35,000,000”; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

“(c) Funds appropriated under subsection (a) shall be available to assist the Governments of Egypt and Israel in carrying out activities under the Agreement of October 10, 1975, and to pay the costs of implementing the United States proposal for the early warning system in Sinai. Such funds may be obligated without regard to the provisions of subsection (b) of this section to the extent that the proposed obligation has been justified to the Congress prior to the enactment of this subsection.

“(d) Of the amount authorized to be appropriated in subsection (a) for the fiscal years 1976 and 1977, not less than \$12,000,000 for each such year shall constitute a contribution by the United States toward the settlement of the deficit of the United Nations Relief and Works Agency for Palestine Refugees in the Middle East, if the President determines that a reasonable number of other countries will contribute a fair share toward the settlement of such deficit within a reasonable period of time after the date of enactment of the International Security Assistance and Arms Export Control Act of 1976. In determining such fair share, the President shall take into consideration the economic position of each such country. Such \$24,000,000 shall be in addition to any other contribution to such Agency by the United States pursuant to any other provision of law.

Ante, p. 729.

“(e) Funds made available under this section may be obligated without regard to the provisions of subsection (b) of this section for programs contained in the presentation materials submitted to Congress for the fiscal year 1977.”.

CONTINGENCY FUND

SEC. 503. Chapter 5 of part I of the Foreign Assistance Act of 1961 is amended— 22 USC 2261.

(1) in the chapter heading, by striking out “DISASTER RELIEF” and inserting in lieu thereof “CONTINGENCY FUND”; and

(2) in section 451(a)—

22 USC 2261.

(A) by striking out “for the fiscal year 1975 not to exceed \$5,000,000,” and inserting in lieu thereof “for the fiscal year 1976 not to exceed \$5,000,000 and for the fiscal year 1977 not to exceed \$5,000,000”;

(B) by striking out “or by section 639”; and

(C) by adding at the end thereof the following new sentence: "Amounts appropriated under this section are authorized to remain available until expended."

INTERNATIONAL NARCOTICS CONTROL

22 USC 2291a.

SEC. 504. (a) Section 482 of the Foreign Assistance Act of 1961 is amended by inserting immediately before the period at the end of the first sentence " \$40,000,000 for the fiscal year 1976, no part of which may be obligated for or on behalf of any country where illegal traffic in opiates has been a significant problem unless and until the President determines and certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that assistance furnished to such country pursuant to the authority in this chapter is significantly reducing the amount of illegal opiates entering the international market, and not to exceed \$34,000,000 for the fiscal year 1977".

22 USC 2291.

(b) Section 481 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(c) (1) Notwithstanding any other provision of law, no officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts.

Study,
transmittal to
Speaker of the
House and
President of the
Senate.

"(2) The President shall carry out a study with respect to methods through which United States narcotics control programs in foreign countries might be placed under the auspices of international or regional organizations. The results of such study shall be transmitted to the Speaker of the House of Representatives and the President of the Senate not later than June 30, 1977."

AUTHORIZATION FOR INTERNATIONAL ATOMIC ENERGY AGENCY

22 USC 2222.

SEC. 505. Section 302 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(i) In addition to amounts otherwise available under this section, there are authorized to be appropriated for fiscal year 1976 \$1,000,000 and for fiscal year 1977 \$2,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear fissile facilities and materials. Amounts appropriated under this subsection are authorized to remain available until expended."

INTERIM QUARTER AUTHORIZATIONS

22 USC 2162
note.

SEC. 506. (a) Any authorization of appropriations in this Act, or in any amendment to any other law made by this Act, for the fiscal year 1976, shall be deemed to include an additional authorization of appropriations for the period beginning July 1, 1976, and ending September 30, 1976, in amounts which equal one-fourth of any amount authorized for the fiscal year 1976 and in accordance with the authorities applicable to operations and activities authorized under this Act or such other law, unless appropriations for the same purpose are specifically authorized in a law hereinafter enacted.

22 USC 2751
note.
Ante, p. 734.
22 USC 2764.

(b) The aggregate total of credits, including participations in credits, extended pursuant to the Arms Export Control Act and of the principal amount of loans guaranteed pursuant to section 24(a) of such Act during the period beginning July 1, 1976, and ending Sep-

tember 30, 1976, may not exceed an amount equal to one-fourth of the amount authorized by section 31(b) of such Act to be extended and guaranteed for the fiscal year 1976.

Ante, p. 740.

BASE AGREEMENTS WITH SPAIN, GREECE, AND TURKEY

SEC. 507. (a) In addition to any amounts authorized to be appropriated by any amendment made by this Act which may be available for such purpose, there are authorized to be appropriated such sums as may be necessary for the fiscal year 1977 to carry out international agreements or other arrangements for the use by the Armed Forces of the United States of military facilities in Spain, Greece, or Turkey.

(b) No funds appropriated under this section may be obligated or expended to carry out any such agreement or other arrangement until legislation has been enacted approving such agreement or other arrangement.

22 USC 2151
note.

TITLE VI—MISCELLANEOUS PROVISIONS

EXPEDITED PROCEDURE IN THE SENATE

SEC. 601. (a)(1) The provisions of subsection (b) of this section shall apply with respect to the consideration in the Senate of any resolution required by law to be considered in accordance with such provisions.

(2) Any such law shall—

(A) state whether the term “resolution” as used in subsection

“Resolution.”

(b) of this section, means, for the purposes of such law—

(i) a joint resolution; or

(ii) a resolution of either House of Congress;

(iii) a concurrent resolution; and

(B) specify the certification to which such resolution shall apply.

(b)(1) For purposes of any such law, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subsection (a)(1) of this section; and they supersede other rules of the Senate only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(3)(A) If the committee of the Senate to which has been referred a resolution relating to a certification has not reported such resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same certification which has been referred to the committee,

except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same certification.

(B) A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4) (A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

PROCUREMENTS FROM SMALL BUSINESSES

Report to
Congress.
22 USC 2352
note.

SEC. 602. In order to encourage procurements from small business concerns under chapter 4 of the Foreign Assistance Act of 1961, the Administrator of the Agency for International Development shall report to the Congress every six months on the extent to which small businesses have participated in procurements under such chapter and on what efforts the Agency has made to foster such procurements from small business concerns. The Small Business Administration shall lend all available assistance to the Agency for the purposes of carrying out this section.

PAYMENT OF CONSULTANTS

22 USC 2386.

SEC. 603. Section 626(a) of the Foreign Assistance Act of 1961 is amended by striking out "\$100 per diem" and inserting in lieu thereof "the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5, United States Code".

FEES OF MILITARY SALES AGENTS AND OTHER PAYMENTS

22 USC 2776.

SEC. 604. (a) Section 36 of the Foreign Military Sales Act, as amended by section 211 of this Act, is further amended as follows:

(1) In subsection (a)—

(A) strike out "and" at the end of paragraph (7);

(B) redesignate paragraph (8) as paragraph (9); and

(C) insert the following new paragraph immediately after paragraph (7):

“(8) a description of each payment, contribution, gift, commission, or fee reported to the Secretary of State under section 39, including (A) the name of the person who made such payment, contribution, gift, commission, or fee; (B) the name of any sales agent or other person to whom such payment, contribution, gift, commission, or fee was paid; (C) the date and amount of such payment, contribution, gift, commission, or fee; (D) a description of the sale in connection with which such payment, contribution, gift, commission, or fee was paid; and (E) the identification of any business information considered confidential by the person submitting it which is included in the report; and”.

(2) In the first sentence of subsection (b), insert immediately before the period “and a description, containing the information specified in paragraph (8) of subsection (a), of any contribution, gift, commission, or fee paid or offered or agreed to be paid in order to solicit, promote, or otherwise to secure such letter of offer”.

(b) Chapter 3 of the Foreign Military Sales Act, as amended by section 212 of this Act, is further amended by adding at the end thereof the following new section: 22 USC 2779.

“SEC. 39. FEES OF MILITARY SALES AGENTS AND OTHER PAYMENTS.—(a) In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with—

“(1) sales of defense articles or defense services under section 22 of this Act; or

22 USC 2762.

“(2) commercial sales of defense articles or defense services licensed or approved under section 38 of this Act;

to or for the armed forces of a foreign country or international organization in order to solicit, promote, or otherwise to secure the conclusion of such sales. Such regulations shall specify the amounts and the kinds of payments, offers, and agreements to be reported, and the form and timing of reports, and shall require reports on the names of sales agents and other persons receiving such payments. The Secretary of State shall by regulation require such recordkeeping as he determines is necessary.

Recordkeeping.

“(b) The President may, by regulation, prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions, and fees as he determines will be in furtherance of the purposes of this Act.

“(c) No such contribution, gift, commission, or fee may be included, in whole or in part, in the amount paid under any procurement contract entered into under section 22 of this Act, unless the amount thereof is reasonable, allocable to such contract, and not made to a person who has solicited, promoted, or otherwise secured such sale, or has held himself out as being able to do so, through improper influence. For the purposes of this section, ‘improper influence’ means influence, direct or indirect, which induces or attempts to induce consideration or action by any employee or officer of a purchasing foreign government or international organization with respect to such purchase on any basis other than such consideration of merit as are involved in comparable United States procurements.

“Improper influence.”

“(d) (1) All information reported to the Secretary of State and all records maintained by any person pursuant to regulations prescribed under this section shall be available, upon request, to any standing committee of the Congress or any subcommittee thereof and to any agency of the United States Government authorized by law to have access to the books and records of the person required to submit reports or to maintain records under this section.

“(2) Access by an agency of the United States Government to records maintained under this section shall be on the same terms and conditions which govern the access by such agency to the books and records of the person concerned.”.

(c) The amendments made by this section shall take effect sixty days after the date of enactment of this Act.

Effective date.
22 USC 2776
note.

USE OF PERSONNEL

22 USC 2751
note.
22 USC 2751
note.
Ante, p. 734.

SEC. 605. (a) Nothing in this Act is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of Defense assigned to carry out functions under the Arms Export Control Act and the Foreign Assistance Act of 1961.

22 USC 2791.

(b) Section 42 of the Foreign Military Sales Act, as amended by section 213 of this Act, is further amended by adding at the end thereof the following new subsection:

“(f) The President shall, to the maximum extent possible and consistent with the purposes of this Act, use civilian contract personnel in any foreign country to perform defense services sold under this Act.”.

ASSISTANCE FOR PRODUCTIVE ENTERPRISES

22 USC 2370.

SEC. 606. Section 620(k) of the Foreign Assistance Act of 1961 is amended by inserting immediately before the period at the end of the first sentence “, except that this sentence does not apply with respect to assistance for construction of any productive enterprise in Egypt which is described in the presentation materials to Congress for fiscal year 1977”.

EXTORTION AND ILLEGAL PAYMENTS

Report to
Congress.
22 USC 2394a.

SEC. 607. Within 60 days after receiving information which substantiates that officials of a foreign country receiving international security assistance have (1) received illegal or otherwise improper payments from a United States corporation in return for a contract to purchase defense articles or services from such corporation, or (2) extorted, or attempted to extort, money or other things of value in return for actions by officials of that country that permit a United States citizen or corporation to conduct business in that country, the President shall submit to Congress a report outlining the circumstances of such payment or extortion. The report shall contain a recommendation from the President as to whether the United States should continue a security assistance program for that country.

EXTENSION OF AIRPORT AT PINECREEK, MINNESOTA

SEC. 608. The consent of Congress is hereby granted for the State of Minnesota or a subdivision or instrumentality thereof to enter into an agreement with the Government of Canada, a Canadian Province, or a subdivision or instrumentality of either, providing for the extension of the Pinecreek Airport at Pinecreek, Minnesota, into the Province of Manitoba, Canada, and the operation of the airport by a joint Canadian-American airport authority. The effectiveness of such agreement shall be conditioned on its approval by the Secretary of State.

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1144 (Comm. on International Relations) and No. 94-1272 (Comm. of Conference).

SENATE REPORT No. 94-876 accompanying S. 3439 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 19, June 2, considered and passed House.

June 14, considered and passed Senate, amended, in lieu of S. 3439.

June 22, House agreed to conference report.

June 25, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 27:

July 1, Presidential statement.

Public Law 94-330
94th Congress

An Act

Making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

June 30, 1976
[H.R. 12203]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Foreign Assistance and related programs for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, namely:

Foreign
Assistance and
Related
Programs
Appropriations
Act, 1976, and
the period ending
September 30,
1976.

TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, as amended, and for other purposes, to remain available until June 30, 1976, and the period ending September 30, 1976, unless otherwise specified herein, as follows:

22 USC 2151
note.

ECONOMIC ASSISTANCE

Food and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, \$426,600,000: *Provided*, That the amounts provided for loans to carry out the purposes of these paragraphs shall remain available until expended.

22 USC 2151a.

For "Food and nutrition, Development Assistance" for the period July 1, 1976, through September 30, 1976, \$112,500,000.

Population planning and health, Development Assistance: For necessary expenses to carry out the provisions of section 104, \$146,400,000: *Provided*, That not less than \$103,000,000 of such amount shall be available only for population planning: *Provided further*, That the amounts provided for loans to carry out the purposes of these paragraphs shall remain available until expended.

22 USC 2151b.

For "Population planning and health, Development Assistance" for the period July 1, 1976, through September 30, 1976, \$33,450,000.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, \$60,800,000: *Provided*, That the amounts provided for loans to carry out the purposes of these paragraphs shall remain available until expended.

22 USC 2151c.

For "Education and human resources development, Development Assistance" for the period July 1, 1976, through September 30, 1976, \$8,800,000.

Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: For necessary expenses to carry out the provisions of section 106, \$57,400,000: *Provided*, That the amounts provided for loans to carry out the purposes of these paragraphs shall remain available until expended.

22 USC 2151d.

For "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance" for the period July 1, 1976, through September 30, 1976, \$11,100,000.

22 USC 2151a-2151d. Loan allocation, Development Assistance: Of the new obligational authority appropriated under this Act to carry out the provisions of sections 103-106, not less than \$300,000,000 shall be available for loans for fiscal year 1976 and not less than \$75,000,000 shall be available for loans for the period July 1, 1976, through September 30, 1976.

22 USC 2221. International organizations and programs: For necessary expenses to carry out the provisions of section 301, \$175,250,000: *Provided*, That not more than \$20,000,000 shall be available for the United Nations Children's Fund: *Provided further*, That not less than \$1,000,000 shall be available until expended only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear fissile facilities and materials: *Provided further*, That none of the funds appropriated or made available pursuant to this Act shall be used to supplement the funds provided to the United Nations Development Program in fiscal year 1975.

For "International organizations and programs" for the period July 1, 1976, through September 30, 1976, \$16,300,000.

22 USC 287 note. United Nations Environment Fund: For necessary expenses to carry out the provisions of section 2 of the United Nations Environment Program Participation Act of 1973, \$7,500,000.

22 USC 2174. American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, \$19,800,000.

For "American schools and hospitals abroad" for the period July 1, 1976, through September 30, 1976, \$2,400,000.

American schools and hospitals abroad (special foreign currency program): For necessary expenses to carry out the provisions of section 214, \$7,000,000 in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, to remain available until expended.

For "American schools and hospitals abroad (special foreign currency program)" for the period July 1, 1976, through September 30, 1976, \$1,750,000, in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, to remain available until expended.

22 USC 2362. John McCormack Center, St. John's Medical College (special foreign currency program): For necessary expenses to carry out the purposes of Part I, as authorized by section 612(a), \$13,650,000 in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States: *Provided*, That such amount shall be available solely for the John W. McCormack Center, the Hospital of St. John's Medical College, Bangalore, India, and that of such amount not more than \$9,000,000 shall be available for an endowment to assist needy patients at the Center.

22 USC 2222. Indus Basin Development Fund, grants: For necessary expenses to carry out the provisions of section 302(b)(2) with respect to Indus Basin Development Fund, grants, \$9,000,000: *Provided*, That no other funds appropriated or made available under this Act shall be used for the purposes of such section during the current fiscal year.

For "Indus Basin Development Fund, grants" for the period July 1, 1976, through September 30, 1976, \$2,250,000.

Indus Basin Development Fund, loans: For expenses authorized by section 302(b)(1) \$10,000,000, to remain available until expended: *Provided*, That no other funds appropriated or made available under this Act shall be used for the purposes of such section during the current fiscal year.

Contingency fund: For necessary expenses \$5,000,000, to be used for the purposes set forth in section 451.

22 USC 2261.

For "Contingency fund" for the period July 1, 1976, through September 30, 1976, \$1,250,000.

International disaster assistance: For necessary expenses to carry out the provisions of section 495A, \$45,000,000: *Provided*, That of this amount \$25,000,000 shall be available only for Guatemala disaster relief assistance: *Provided further*, That the President shall submit quarterly reports to the Committee on Appropriations of the United States Senate and to the Committee on Appropriations of the House of Representatives on the programing and obligation of funds appropriated for International Disaster Assistance.

Ante, p. 397.
22 USC
2292a-1.

Report to
congressional
committees.

For "International disaster assistance" for the period July 1, 1976, through September 30, 1976, \$5,000,000.

African development program: For necessary expenses to carry out the provisions of section 494B, \$5,000,000.

22 USC 2292e.

Cyprus relief and rehabilitation: For necessary expenses to carry out the provisions of section 495, \$25,000,000.

22 USC 2292f.

For "Cyprus relief and rehabilitation" for the period July 1, 1976, through September 30, 1976, \$5,000,000.

International narcotics control: For necessary expenses to carry out the provisions of section 481, \$37,500,000.

22 USC 2291.

For "International narcotics control" for the period July 1, 1976, through September 30, 1976, \$9,375,000.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service retirement and disability fund," as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 1105-1106), \$16,680,000.

Overseas training (Special foreign currency program): For necessary expenses to carry out the provisions of Section 612, \$200,000 in foreign currencies which the Treasury declares to be excess to the normal requirements of the United States.

22 USC 2362.

Except for the Contingency Fund, unobligated balances as of June 30, 1975, and June 30, 1976, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, except as otherwise provided by law, are hereby continued available through September 30, 1976, for the same general purposes for which appropriated and amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Economic Assistance," "Middle East Special Requirements Fund," "Security Supporting Assistance," "Operating Expenses of the Agency for International Development," "International Military Education and Training," and "Indochina Postwar Reconstruction Assistance," are hereby continued available for the same period as the respective appropriations in such subparagraphs for the same general purpose: *Provided*, That such purpose relates to a project or program previously justified to Congress, and the Committees on Appropriations of the House of Representatives and the Senate are notified prior to the reobligation of funds for such projects or programs.

22 USC 2151
note.

31 USC 200.

None of the funds made available under this Act for "Food and nutrition, Development Assistance," "Population planning and health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance," "International organizations and programs,"

"United Nations Environment Fund," "American schools and hospitals abroad," "Indus Basin Development Fund," "International narcotics control," "African development program," "Security supporting assistance," "Operating Expenses of the Agency for International Development," "Middle East Special requirements fund," "Military assistance," "International military education and training," "Inter-American Foundation," "Peace Corps," "Migration and refugee assistance," or "Assistance to refugees from the Soviet Union or other Communist countries in Eastern Europe," shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year without the approval of the Appropriations Committees of both Houses of the Congress.

MIDDLE EAST SPECIAL REQUIREMENTS FUND

22 USC 2441, 2443. Middle East special requirements fund: For necessary expenses to carry out the provisions of section 901 and section 903 of the Foreign Assistance Act of 1961, as amended, \$50,000,000: *Provided*, That none of the funds appropriated under this heading may be used to provide a United States contribution to the United Nations Relief and Works Agency.

For "Middle East special requirements fund" for the period July 1, 1976, through September 30, 1976, \$10,000,000.

SECURITY SUPPORTING ASSISTANCE

22 USC 2346. Security supporting assistance: For necessary expenses to carry out the provisions of section 531 of the Foreign Assistance Act of 1961, as amended, \$1,689,900,000: *Provided*, That of the funds appropriated under this paragraph, \$700,000,000 shall be allocated to Israel, \$695,000,000 shall be allocated to Egypt, \$72,500,000 shall be allocated to Jordan, \$80,000,000 shall be allocated to Syria, and \$65,000,000 shall be allocated to Greece.

For "Security Supporting Assistance" for the period July 1, 1976, through September 30, 1976, \$269,700,000: *Provided*, That of the funds appropriated under this paragraph, \$75,000,000 shall be allocated to Israel, \$100,000,000 shall be allocated to Egypt, \$60,000,000 shall be allocated to Jordan, and \$15,000,000 shall be allocated to Syria.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For "Operating Expenses of the Agency for International Development", \$194,600,000.

For "Operating Expenses of the Agency for International Development" for the period July 1, 1976, through September 30, 1976, \$55,500,000.

MILITARY ASSISTANCE

22 USC 2311. Military assistance: For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, \$225,000,000; and, for liquidation of obligations incurred pursuant to the authority of section 506 of the Foreign Assistance Act of 1961, as amended, \$275,000,000: *Provided*, That none of the funds contained in this paragraph shall be available for the purchase of new automotive vehicles outside of the United States.

22 USC 2318. For "Military Assistance" for the period July 1, 1976, through September 30, 1976, \$27,200,000.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

International military education and training: For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, as amended, \$23,000,000.

Ante, p. 732.

For "International military education and training" for the period July 1, 1976, through September 30, 1976, \$5,750,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed \$10,000 for entertainment allowances), and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year and for the period July 1, 1976, through September 30, 1976.

INTER-AMERICAN FOUNDATION

The Inter-American Foundation is authorized to make such expenditures within the limits of funds available to it and in accordance with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out its authorized programs during the current fiscal year and for the period July 1, 1976, through September 30, 1976: *Provided*, That not to exceed \$7,500,000 shall be available to carry out the authorized programs during the current fiscal year.

For "Inter-American Foundation" for the period July 1, 1976, through September 30, 1976, not to exceed \$1,875,000 shall be available to carry out the authorized programs.

GENERAL PROVISIONS

SEC. 101. None of the funds herein appropriated (other than funds appropriated for "International organizations and programs" and "Indus Basin Development Fund") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America as per memorandum of the President dated May 15, 1962.

Flood control and related projects.

Sec. 102. Except for the appropriations entitled "Contingency fund", "International disaster assistance", and appropriations of funds to be used for loans, not more than 20 per centum of any appropriation item made available by this title for fiscal year 1976 shall be obligated and/or reserved during the last month of availability.

SEC. 103. None of the funds herein appropriated nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any persons heretofore or hereafter serving in the armed forces of any recipient country.

SEC. 104. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as

Procurement contracts, restriction.

22 USC 2151
note.

amended, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

22 USC 2151d.
United Nations
members,
assessments,
dues.

SEC. 105. Of the funds appropriated or made available pursuant to this Act, not more than \$15,000,000 may be used during the current fiscal year and the period July 1, 1976, through September 30, 1976, in carrying out research under section 106(a)(3) of the Foreign Assistance Act of 1961, as amended.

SEC. 106. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

22 USC 2169,
2211.
North and South
Vietnam, or
Cambodia, or
Laos, assistance
prohibition.
Angola, military
assistance,
prohibition.

SEC. 107. None of the funds contained in title I of this Act may be used to carry out the provisions of sections 209(d) and 251(h) of the Foreign Assistance Act of 1961, as amended.

SEC. 108. None of the funds appropriated or made available pursuant to this Act shall be used to provide assistance to the Democratic Republic of Vietnam (North Vietnam), South Vietnam, Cambodia or Laos.

SEC. 109. None of the funds appropriated or made available pursuant to this Act shall be obligated or expended to finance directly or indirectly any type of military assistance to Angola.

SEC. 110. None of the funds appropriated or made available pursuant to this Act shall be obligated or expended to finance directly or indirectly, (A) the planning or carrying out of any assassination, or (B) the financing directly or indirectly any foreign political activity or to otherwise influence any foreign election in peace time.

Loans, waiver.

SEC. 111. All amounts due and owing on loans made for the benefit of the Weizmann Institute, Hebrew University, Tel Aviv University, Israel Institute of Technology, American-Israeli Cultural Foundation, Bar Ilan University, Israel Program for Scientific Translations, Keren Hanegev and Misrachi Women's Organization of America from funds available under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480), are hereby waived and forgiven.

7 USC 1701
et seq.

SEC. 112. The Act of May 23, 1975 (making appropriations for special assistance to refugees from Cambodia and Vietnam, Public Law 94-24) is hereby amended by striking out "Cambodia and Vietnam" each place it appears therein and inserting in lieu thereof "Cambodia, Vietnam, and Laos".

89 Stat. 89.

SEC. 113. Of the funds appropriated or made available pursuant to this Act not to exceed \$103,000 shall be for Official Residence Expenses of the Agency for International Development during the fiscal year ending June 30, 1976; and not to exceed \$28,500 shall be for Official Residence Expenses of the Agency for International Development for the period July 1, 1976 through September 30, 1976.

SEC. 114. Of the funds appropriated or made available pursuant to this Act not to exceed \$19,000 shall be for Entertainment Expenses of the Agency for International Development during the fiscal year ending June 30, 1976; and not to exceed \$4,750 shall be for Entertainment Expenses of the Agency for International Development for the period July 1, 1976 through September 30, 1976.

SEC. 115. Of the funds appropriated or made available pursuant to this Act not to exceed \$91,000 shall be for Representation Allowances of the Agency for International Development during the fiscal year ending June 30, 1976; and not to exceed \$23,000 shall be for Rep-

resentation Allowances of the Agency for International Development for the period July 1, 1976 through September 30, 1976.

TITLE II—FOREIGN MILITARY CREDIT SALES

FOREIGN MILITARY CREDIT SALES

For expenses not otherwise provided for, necessary to enable the President to carry out the provisions of the Foreign Military Sales Act, \$1,065,000,000: *Provided*, That of the amount provided for the total aggregate credit sale ceiling during the current fiscal year, not less than \$1,500,000,000 shall be allocated to Israel.

22 USC 2751
note.

For "Foreign Military Credit Sales" for the period July 1, 1976, through September 30, 1976, \$140,000,000: *Provided*, That of the amount provided for the total aggregate credit sale ceiling during the period July 1, 1976 through September 30, 1976, not less than \$200,000,000 shall be allocated to Israel.

TITLE III—FOREIGN ASSISTANCE (OTHER)

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

PEACE CORPS

For expenses necessary for Action to carry out the provisions of the Peace Corps Act (75 Stat. 612), as amended, \$80,826,000: *Provided*, That of this amount \$7,599,000 shall be for Peace Corps volunteer readjustment allowances, as authorized by Public Law 94-130.

22 USC 2501
note.

For "Action—International Programs (Peace Corps)" for the period July 1, 1976, through September 30, 1976, \$24,000,000: *Provided*, That of this amount not less than \$2,684,000 shall be used to fund Peace Corps volunteer readjustment allowances, as authorized by Public Law 94-130.

89 Stat. 684.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

ASSISTANCE TO REFUGEES IN THE UNITED STATES

(CUBAN PROGRAM)

For expenses necessary to carry out the provisions of the Migration and Refugee Assistance Act of 1962 (Public Law 87-510), relating to aid to refugees within the United States (Cuban program) including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, \$85,000,000.

22 USC 2601
note.

For "Assistance to refugees in the United States (Cuban program)" for the period July 1, 1976, through September 30, 1976, \$19,000,000.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-

1158); allowances as authorized by 5 U.S.C. 5921-5925; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109; \$9,000,000: *Provided*, That of this amount not more than \$3,054,390 shall be available for the United States Refugee Program, and, of which not to exceed \$8,171,000 shall remain available until December 31, 1976: *Provided*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere.

For "Migration and refugee assistance" for the period July 1, 1976, through September 30, 1976, \$700,000.

EMERGENCY MIGRATION AND REFUGEE ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Authorization Act of 1962, as amended (22 U.S.C. 2601), \$5,000,000.

ASSISTANCE TO REFUGEES FROM THE SOVIET UNION AND OTHER COMMUNIST COUNTRIES IN EASTERN EUROPE

For necessary expenses to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972 and the provisions of section 501(c) of the Foreign Relations Authorization Act, Fiscal Year 1976, \$15,000,000.

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

INVESTMENT IN ASIAN DEVELOPMENT BANK

For payment by the Secretary of the Treasury of the second installment of the United States subscription to the (1) paid-in capital stock; (2) callable capital stock; and (3) for the United States contribution to the special funds of the Asian Development Bank, as authorized by the Asian Development Bank Act of December 22, 1974 (Public Law 93-537) \$145,634,909, to remain available until expended.

22 USC 285q,
285r.

INVESTMENT IN INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations authorized by the Acts of December 30, 1970 (Public Law 91-599), and March 10, 1972 (Public Law 92-246), \$225,000,000 to remain available until expended: *Provided*, That the amounts made available under this head in the "Foreign Assistance and Related Programs Appropriations Act, 1975" shall be available without limitation, notwithstanding the three provisos contained therein.

84 Stat. 1657.
86 Stat. 59.
22 USC 283p-
283s.

INVESTMENT IN INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment by the Secretary of the Treasury of the first installment of the United States contribution to the fourth replenishment of the resources of the International Development Association as authorized by the International Development Association Act of August 14, 1974 (Public Law 93-373), \$320,000,000, to remain available until expended.

22 USC 284l,
284m.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year and for the period July 1, 1976, through September 30, 1976, for such corporation, except as hereinafter provided.

31 USC 849.

LIMITATION ON PROGRAM ACTIVITY

Not to exceed \$5,619,945,000 (of which not to exceed \$3,000,000,000 shall be for equipment and service loans) shall be authorized during the current fiscal year for other than administrative expenses.

For "Limitation on program activity" for the period July 1, 1976, through September 30, 1976, not to exceed \$1,436,813,000 (of which not to exceed \$737,500,000 shall be for equipment and service loans).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$11,412,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, and not to exceed \$20,000 for entertainment allowances for members of the Board of Directors: *Provided*, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes hereof.

For "Limitation on administrative expenses" for the period July 1, 1976, through September 30, 1976, \$2,948,000, of which not to exceed \$5,000 shall be for entertainment allowances for members of the Board of Directors.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

Publicity or
propaganda.

SEC. 502. No part of any appropriation contained in this Act shall be used for expenses of the Inspector General, Foreign Assistance, after the expiration of the thirty-five day period which begins on the date the General Accounting Office or any committee of the Congress, or any duly authorized subcommittee thereof, charged with considering foreign assistance legislation, appropriations, or expenditures, has delivered to the Office of the Inspector General, Foreign Assistance, a written request that it be furnished any document, paper, communica-

Inspector
General, Foreign
Assistance.

tion, audit, review, finding, recommendation, report, or other material in the custody or control of the Inspector General, Foreign Assistance, relating to any review, inspection or audit arranged for, directed, or conducted by him, unless and until there has been furnished to the General Accounting Office or to such committee or subcommittee, as the case may be, (A) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested or (B) a certification by the President, personally, that he has forbidden the furnishing thereof pursuant to such request and his reason for so doing.

Fiscal year
limitation.

SEC. 503. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein, except as provided by section 204 of Public Law 93-554.

88 Stat. 1784.
Space and
services.

SEC. 504. No part of any appropriation, funds, or other authority contained in this Act shall be available for paying to the Administrator of the General Services Administration in excess of 90 per centum of the standard level user charge established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, for space and services.

40 USC 490.

SEC. 505. Not to exceed \$1,550,000 of the funds appropriated or made available pursuant to this Act for fiscal year 1976 shall be made available to the Office of the Inspector General of Foreign Assistance: *Provided*, That not to exceed \$375,000 of the funds appropriated or made available pursuant to this Act for the period July 1, 1976 through September 30, 1976 shall be made available to the Office of the Inspector General of Foreign Assistance.

Default countries.

SEC. 506. Beginning three months from the date of enactment of this Act, no part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act unless (1) such debt has been disputed by such country prior to the enactment of this Act or (2) such country has either arranged to make payment of the amount in arrears or otherwise taken appropriate steps, which may include renegotiation, to cure the existing default.

SEC. 507. The amounts appropriated in this Act shall be available only upon the enactment of authorizing legislation.

Short title.

This Act may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1976, and the period ending September 30, 1976".

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 94-857 (Comm. on Appropriations) and No. 94-1006 (Comm. of Conference).

SENATE REPORT No. 94-704 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 4, considered and passed House.

Mar. 23, considered and passed Senate, amended.

June 28, House agreed to conference report; receded and concurred in Senate amendments with amendments.

June 29, Senate agreed to House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 27:

July 1, Presidential statement.

Public Law 94-331
94th Congress

An Act

To amend section 815 of the Internal Revenue Code to allow a life insurance company to disregard (for purposes of that section) a distribution during the last month of its taxable year, determined to have been made out of the policyholders surplus account, if such distribution is returned to the company not later than the due date for filing its income tax return (including extensions thereof) for that year, and for other purposes.

June 30, 1976

[H.R. 10051]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 815(d) of the Internal Revenue Code of 1954 (relating to special rules for distributions to shareholders) is amended by adding at the end thereof the following new paragraph:

“(6) RESTORATION OF AMOUNTS DISTRIBUTED OUT OF POLICYHOLDERS SURPLUS ACCOUNT.—Notwithstanding any other provision of this subchapter, no amount shall be subtracted from a taxpayer’s policyholders surplus account with respect to a distribution made during the last month of the taxable year which, without regard to this paragraph, would be treated in whole or in part as a distribution out of the policyholders surplus account, to the extent that amounts so distributed are returned to the taxpayer no later than the time prescribed by law (including extensions thereof) for filing the taxpayer’s return for the taxable year in which the distribution was made. For purposes of this paragraph, amounts returned to a taxpayer with respect to a distribution shall be first applied to the return of amounts which, without regard to this paragraph, would have been treated as distributed out of the policyholders surplus account. This paragraph shall not apply if, at the time such distribution was made, the taxpayer intended to avail itself of the provisions of this paragraph by having its shareholders return all or a part of such distribution. Nothing in this paragraph shall affect the tax treatment of the receipt of the distribution by any shareholder, and the basis to a shareholder of his stock in the taxpayer shall not be increased by reason of amounts returned under this paragraph to the extent that a dividends received deduction or exclusion was allowable in respect of the distribution of such amount under any provision of this title.”.

Life insurance companies, certain distributions out of policyholders surplus account, restoration; Social Security Act, amendments. 26 USC 815.

(b) The amendment made by this section shall apply with respect to taxable years ending after December 31, 1957.

Effective date. 26 USC 815 note.

SEC. 2. EXCLUSION FROM INCOME UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) **IN GENERAL.**—Section 1612(b) of the Social Security Act is amended—

42 USC 1382a.

(1) by striking out the word “and” which appears at the end of paragraph (9),

(2) by striking out the period at the end of paragraph (10) and by inserting in lieu thereof “; and”,

(3) by inserting the following new paragraph:

“(11) assistance received under the Disaster Relief Act of 1974 or other assistance provided pursuant to a Federal statute on account of a catastrophe which is declared to be a major disaster by the President.”.

42 USC 5121 note.

42 USC 1382a
note.

(b) **EFFECTIVE DATE.**—The amendments made by this Act shall be applicable only in the case of catastrophes which occur on or after June 1, 1976 and before December 31, 1976.

SEC. 3. WITHHOLDING; ESTIMATED TAX PAYMENTS.

(a) **WITHHOLDING.**—

26 USC 3402.

(1) **IN GENERAL.**—Section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) is amended by striking out “July 1, 1976” and inserting in lieu thereof “September 1, 1976”.

26 USC 3402
note.

(2) **TECHNICAL AMENDMENT.**—Section 209(c) of the Tax Reduction Act of 1975 is amended by striking out “July 1, 1976” and inserting in lieu thereof “September 1, 1976”.

26 USC 6153.

(b) **ESTIMATED TAX PAYMENTS BY INDIVIDUALS.**—Section 6153(g) of such Code (relating to installment payments of estimated income by individuals) is amended by striking out “July 1, 1976” and inserting in lieu thereof “September 1, 1976”.

26 USC 6154.

(c) **ESTIMATED TAX PAYMENTS BY CORPORATIONS.**—Section 6154(h) of such Code (relating to installment payments of estimated income by corporations) is amended by striking out “July 1, 1976” and inserting in lieu thereof “September 1, 1976”.

SEC. 4. AMENDMENT TO SUPPLEMENTAL SECURITY INCOME PROGRAM.

Unearned
income.
42 USC 1382a.

(a) **IN GENERAL.**—Section 1612(a)(2)(A) of the Social Security Act is amended—

(1) by striking out the word “and” which appears at the end of clause (i) thereof and by inserting a comma in lieu of such word, and

(2) by inserting immediately before the semicolon at the end thereof the following: “, and (iii) support and maintenance shall not be included and the provisions of clause (i) shall not be applicable in the case of any individual (and his eligible spouse, if any) for the period which begins with the month in which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in a residential facility (including a private household) maintained by another person and ends with the close of the month in which such individual (or such individual and his eligible spouse) ceases to receive support and maintenance while living in such a residential facility (or, if earlier, with the close of the fifth month following the month in which such period began), if, not more than 30 days prior to the date on which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in such a residential facility, (I) such individual (or such individual and his eligible spouse) were residing in a household maintained by such individual (or by such individual and others) as his or their own home, (II) there occurred within the area in which such household is located (and while such individual, or such individual and his spouse, were residing in the household referred to in subclause (I)) a catastrophe on account of which the President declared a major disaster to exist therein

for purposes of the Disaster Relief Act of 1974, and (III) such individual declares that he (or he and his eligible spouse) ceased to continue living in the household referred to in subclause (II) because of such catastrophe".

42 USC 5121
note.

(b) **EFFECTIVE DATE.**—The amendments made by this Act shall be applicable only in the case of catastrophes which occur on or after June 1, 1976 and before December 31, 1976.

26 USC 1382a
note.

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1263 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 22, considered and passed House.

June 28, considered and passed Senate, amended.

June 29, House agreed to Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 27:

June 30, Presidential statement.

Public Law 94-332
94th Congress

An Act

June 30, 1976
[S. 3625]

To extend the expiration date of the Federal Energy Administration Act of 1974.

Federal Energy
Administration
Act of 1974,
extension.
15 USC 761 note.
Effective date.
15 USC 761 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976." and inserting in lieu thereof "July 30, 1976."

(b) The amendment to the Federal Energy Administration Act of 1974 made by subsection (a) shall take effect on June 30, 1976.

Approved June 30, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 28, considered and passed Senate.

June 30, considered and passed House.

Public Law 94-333
94th Congress

An Act

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

June 30, 1976

[H.R. 13965]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes, namely:

District of
Columbia
Appropriation
Act, 1976.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending June 30, 1976: \$248,948,700, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code 47-2501d); and \$5,688,000 in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government as authorized by the Act of May 18, 1954 (D.C. Code 43-1541 and 1611).

For "Federal payment to the District of Columbia" for the period July 1, 1976, through September 30, 1976: \$66,137,600, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (88 Stat. 793, D.C. Code 47-2501d); and \$1,422,000 in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government as authorized by the Act of May 18, 1954 (D.C. Code 43-1541 and 1611).

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, \$210,000,000, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Mayor: *Provided*, That notwithstanding any other provision of law, the Mayor is authorized to accept loans for the District from the United States Treasury, and the Secretary of the Treasury is authorized to lend the Mayor such sums as the Mayor may determine are required for financing capital projects for which appropriations are authorized in this Act.

D.C. Code 1-101
note.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year and for the period July 1, 1976, through September 30, 1976, out of the general fund of the District of Columbia, except as otherwise specifically provided:

GENERAL OPERATING EXPENSES

General operating expenses, \$116,366,400, of which \$207,473 shall be available for fiscal year 1973, \$6,065,579 shall be available for fiscal year 1974 and \$10,103,627 shall be available for fiscal year 1975, of which \$4,261,300 shall be payable from the revenue sharing trust fund: *Provided*, That not to exceed \$2,500 for the Mayor and \$2,500 for the Chairman of the Council of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further*, That, for the purpose of assessing and reassessing real property in the District of Columbia, \$5,000 of the appropriation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not in excess of \$100 per diem: *Provided further*, That not to exceed \$7,500 of this appropriation shall be available for test borings and soil investigations: *Provided further*, That \$3,260,800 of this appropriation (to remain available until expended) shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That not to exceed \$325,000 of this appropriation shall be available for settlement of property damage claims not in excess of \$1,500 each and personal injury claims not in excess of \$5,000 each: *Provided further*, That not to exceed \$50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Civil Defense for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further*, That not to exceed \$42,100 of this appropriation shall remain available until December 31, 1976, for expenses of the District of Columbia Law Revision Commission: *Provided further*, That not to exceed \$15,300 of this appropriation shall be available for the payment of stipends and reimbursements to the Commissioners of the District of Columbia Law Revision Commission for expenses incurred prior to the enactment of this Act.

For "General operating expenses" for the period July 1, 1976, through September 30, 1976, \$30,111,700, of which \$1,065,325 shall be payable from the revenue sharing trust fund: *Provided*, That not to exceed \$625 for the Mayor and \$625 for the Chairman of the Council of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further*, That, for the purpose of assessing and reassessing real property in the District of Columbia, \$1,250 of the appropriation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not in excess of \$100 per diem: *Provided further*, That not to exceed \$1,875 of this appropriation shall be available for test borings and soil investigations: *Provided further*, That \$837,800 of this appropriation (to remain available until expended) shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That not to exceed \$81,250 of this appropriation shall be available for settlement of property damage claims not in excess of \$1,500 each and personal injury claims not in excess of \$5,000 each: *Provided further*, That not to exceed \$12,500 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Civil Defense for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor.

PUBLIC SAFETY

Public safety, including purchase of two hundred and sixty-five passenger motor vehicles for replacement only (including two hundred and sixty for police-type use and five for fire-type use without regard to the general purchase price limitation for the current fiscal year), \$243,059,100, of which \$5,530,500 shall be payable from the revenue sharing trust fund: *Provided*, That \$1,300,000 of this appropriation shall be available for fiscal year 1975: *Provided further*, That the Police Department is authorized to replace not to exceed twenty-five passenger carrying vehicles, and the Fire Department not to exceed five such vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths the cost of the replacement: *Provided further*, That \$2,895,000 of this appropriation (to remain available until expended) shall be available for obligations incurred in fiscal year 1975 and fiscal year 1976 for the compensation and reimbursement of attorneys appointed under the District of Columbia Criminal Justice Act of 1974 (Public Law 93-412): *Provided further*, That not to exceed \$200,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime.

D.C. Code
11-2601 note.

For "Public safety" for the period July 1, 1976, through September 30, 1976, \$64,999,500, of which \$1,382,625 shall be payable from the revenue sharing trust fund: *Provided*, That not to exceed \$50,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime.

EDUCATION

Education, including the development of national defense education programs, \$237,325,900, of which \$8,149,000 shall be payable from the revenue sharing trust fund: *Provided*, That the District of Columbia Public Schools are authorized to accept not to exceed thirty-one motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$1,000 for the Superintendent of Schools, \$1,000 for the President of Federal City College, and \$1,000 for the President of Washington Technical Institute shall be available from this appropriation for expenditures for official purposes.

For "Education" for the period July 1, 1976, through September 30, 1976, including the development of national defense education programs, \$47,465,200, of which \$2,037,250 shall be payable from the revenue sharing trust fund: *Provided*, That the District of Columbia Public Schools are authorized to accept not to exceed thirty-one motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$250 for the Superintendent of Schools, \$250 for the President of Federal City College, and \$250 for the President of Washington Technical Institute shall be available from this appropriation for expenditures for official purposes.

RECREATION

Recreation, \$16,520,000, of which \$208,200 shall be payable from the revenue sharing trust fund.

For "Recreation" for the period July 1, 1976, through September 30, 1976, \$4,956,000, of which \$52,050 shall be payable from the revenue sharing trust fund.

HUMAN RESOURCES

42 USC 1396.

Human Resources, including care and treatment of indigent patients in institutions under contracts to be made by the Director of the Department of Human Resources, \$264,074,500, of which \$7,500,000 shall be payable from the revenue sharing trust fund: *Provided*, That the inpatient rate and outpatient rate under such contracts shall not exceed \$76 per diem and the outpatient rate shall not exceed \$12 per visit and the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be \$25.18 per diem: *Provided further*, That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed the amount for the fiscal year 1970: *Provided further*, That the hospital rates specified herein shall not apply, beginning July 1, 1969, to services provided to patients who are eligible for such services under the District of Columbia plan for medical assistance under title XIX of the Social Security Act: *Provided further*, That this appropriation shall be available for the furnishing of medical assistance to individuals sixty-five years of age or older who are residing in the District of Columbia.

For "Human resources" for the period July 1, 1976, through September 30, 1976, including care and treatment of indigent patients in institutions under contracts to be made by the Director of the Department of Human Resources, \$74,871,000 including \$333,500 for the improvement of care and treatment of the mentally retarded at Forest Haven, of which \$1,875,000 shall be payable from the revenue sharing trust fund: *Provided*, That the inpatient rate and outpatient rate under such contracts shall not exceed \$76 per diem and the outpatient rate shall not exceed \$12 per visit and the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be \$25.18 per diem: *Provided further*, That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed the amount for the fiscal year 1970: *Provided further*, That the hospital rates specified herein shall not apply, beginning July 1, 1969, to services provided to patients who are eligible for such services under the District of Columbia plan for medical assistance under title XIX of the Social Security Act: *Provided further*, That this appropriation shall be available for the furnishing of medical assistance to individuals sixty-five years of age or older who are residing in the District of Columbia.

TRANSPORTATION

Transportation, including rental of one passenger-carrying vehicle for use by the Mayor, and purchase of forty-six passenger motor vehicles, of which forty-three shall be for replacement only; \$26,919,400, of which \$2,500,000 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for the purchase of driver-training vehicles.

For "Transportation" for the period July 1, 1976, through September 30, 1976, including rental of one passenger-carrying vehicle for use by the Mayor; \$6,915,600, of which \$625,000 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for the purchase of driver-training vehicles.

ENVIRONMENTAL SERVICES

Environmental services, \$63,492,300, of which \$1,500,000 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

For "Environmental services" for the period July 1, 1976, through September 30, 1976, \$16,311,200, of which \$375,000 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

PERSONAL SERVICES

For pay increases and related costs for Police officers, Firefighters and Teachers to be transferred by the Mayor of the District of Columbia to the appropriations for the fiscal year 1976 from which said employees are properly payable, \$10,000,000.

For pay increases and related costs for Police officers, Firefighters and Teachers for the period July 1, 1976, through September 30, 1976, to be transferred by the Mayor of the District of Columbia to the appropriations for the period July 1, 1976, through September 30, 1976, from which said employees are properly payable, \$2,500,000.

SETTLEMENT OF CLAIMS AND SUITS

For payment of property damage claims in excess of \$500 and of personal injury claims in excess of \$1,000, approved by the Mayor in accordance with the provisions of the Act of February 11, 1929, as amended (45 Stat. 1160; 46 Stat. 500; 65 Stat. 131), \$304,500.

D.C. Code 1-902
to 1-906.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with sections 108, 217, and 402 of the Act of May 18, 1954 (68 Stat. 103, 109, and 110), as amended; section 9 of the Act of September 7, 1957 (71 Stat. 619), as amended; section 1 of the Act of June 6, 1958 (72 Stat. 183), as amended; and section 4 of the Act of June 12, 1960 (74 Stat. 211), as amended, including interest as required thereby, \$63,380,600: *Provided*, That there are hereby appropriated from the funds of the District of Columbia such sums as may be necessary to repay funds borrowed under the provisions of sections 471 and 472 of Public Law 93-198: *Provided further*, That the District is authorized to repay outstanding loans from the United States Treasury with funds received from the sale of its first issue of general obligation bonds.

D.C. Code
43-1540,
43-1616, 7-133.
D.C. Code
2-1727.
D.C. Code 9-220.
D.C. Code
43-1623.
D.C. Code
47-247, 47-248.
D.C. Code
47-241 note.

BICENTENNIAL SERVICES

For bicentennial services and related costs, \$700,000, to be available solely for District of Columbia bicentennial activities (to remain available until September 30, 1977) and to be transferred by the Mayor of the District of Columbia to the applicable appropriations from which such services are properly payable.

CAPITAL OUTLAY

D.C. Code
43-1510,
43-1604, 7-133,
9-220, 40-804,
1-1441 note.

For reimbursement to the United States of funds loaned in compliance with the Act of August 7, 1946 (60 Stat. 896), as amended, and construction projects as authorized by the Acts of April 22, 1904 (33 Stat. 244), May 18, 1954 (68 Stat. 105, 110), June 6, 1958 (72 Stat. 183), August 20, 1958 (72 Stat. 686), and the Act of December 9, 1969 (83 Stat. 321); including acquisition of sites; preparation of plans and specifications; conducting preliminary surveys; erection of structures, including building improvement and alteration and treatment of grounds; to remain available until expended, \$117,706,500: *Provided*, That \$3,445,700 shall be available for construction services by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor and the funds for the use of the Director of the Department of General Services shall be advanced to the appropriation account "Construction Services, Department of General Services": *Provided further*, That the amount appropriated to the Construction Services Fund, Department of General Services, be limited, during the current fiscal year, to ten per centum of appropriations for all construction projects: *Provided further*, Notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968 (Public Law 90-495, approved August 23, 1968), for which funds are provided by this paragraph, shall expire on June 30, 1978, except authorizations for projects as to which funds have been obligated in whole or in part prior to such date. Upon expiration of any such project authorization the funds provided herein for such project shall lapse.

D.C. Code 7-135
note.

GENERAL PROVISIONS

Vouchers.

SEC. 1. Except as otherwise provided herein, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

Maximum
allowances.

SEC. 2. Whenever in this Act an amount is specified within an appropriation for particular purposes or object of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor.

Automobile
allowances.

SEC. 3. Appropriations in this Act shall be available, when authorized or approved by the Mayor, for allowances for privately owned conveyances used for the performance of official duties at 13 cents per mile but not to exceed \$45 a month for each automobile and at 8 cents per mile but not to exceed \$30 a month for each motorcycle, unless otherwise therein specifically provided, except that one hundred and thirteen (eighteen for venereal disease investigators in the Department of Human Resources) such automobile allowances at not more than \$715 each per annum may be authorized or approved by the Mayor.

Travel expenses
and organization
dues.

SEC. 4. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor.

SEC. 5. Appropriations in this Act shall not be used for or in connection with the preparation, issuance, publication, or enforcement of any regulation or order of the Public Service Commission requiring the installation of meters in taxicabs, or for or in connection with the licensing of any vehicle to be operated as a taxicab except for operation in accordance with such system of uniform zones and rates and regulations applicable thereto as shall have been prescribed by the Public Service Commission.

Taxicabs,
restrictions.

SEC. 6. Appropriations in this Act shall not be available for the payment of rates for electric current for street lighting in excess of 2 cents per kilowatt-hour for current consumed.

Street lighting.
D.C. Code 7-701
note.

SEC. 7. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments which have been entered against the government of the District of Columbia: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of paragraph 3, subsection (c) of section 11 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, as amended.

Judgment
payments.

SEC. 8. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of subsection (b) of section 5 of the District of Columbia Public Assistance Act of 1962 and for the non-Federal share of funds necessary to qualify for Federal assistance under the Act of July 31, 1968 (Public Law 90-445).

D.C. Code
47-1586j.
D.C. Code 3-204
note.
D.C. Code 3-204.
42 USC 3801
note.

SEC. 9. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein, except as provided in section 204 of the Supplemental Appropriation Act, 1975 (Public Law 93-554).

Fiscal year
limitation.

SEC. 10. No part of any funds appropriated by this Act shall be used to pay the compensation (whether by contract or otherwise) of any individual for performing services as a chauffeur or driver for any designated officer or employee of the District of Columbia government (other than the Mayor of the District of Columbia, Chief of Police and Fire Chief), or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of any such officer or employee (other than the Mayor of the District of Columbia, Chief of Police and Fire Chief). No part of any funds appropriated by this Act, in excess of \$1,000 per month in the aggregate (\$12,000 per annum) shall be used to pay the compensation (whether by contract or otherwise) of individuals for performing services as a chauffeur or driver for the Mayor of the District of Columbia, or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of the Mayor of the District of Columbia.

88 Stat. 1771.
Chauffeur
compensation.
D.C. Code
40-501a note.

SEC. 11. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

Overtime or
temporary
positions, cost
limitation.
Travel
expenditure
limitation.

SEC. 12. The total expenditure of funds appropriated by this Act for authorized travel and per diem costs outside of the District of Columbia, Maryland, and Virginia shall not exceed \$210,000 for fiscal year 1976 and \$52,500 for the period July 1, 1976, through September 30, 1976.

SEC. 13. Appropriations in this Act shall not be available, during the fiscal year ending June 30, 1976, and for the period July 1, 1976, through September 30, 1976, for the compensation of any person appointed—

Number of
employees.
D.C. Code 1-216
note.

- (1) as full-time employee to a permanent, authorized position in the government of the District of Columbia during any month when the number of such employees is greater than 39,619; or
- (2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year.
- Partisan political activities. SEC. 14. No funds appropriated herein, for the government of the District of Columbia for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community groups during non-school hours.
- Space and service charges. SEC. 15. Appropriations in this Act shall be available for services as authorized by 5 U.S.C. 3109, at rates to be fixed by the Mayor.
- 40 USC 490. SEC. 16. No part of any appropriation contained in this Act shall be available for paying to the Administrator of the General Services Administration in excess of 90 per centum of the standard level user charge established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, for space and services.
- Short title. This Act may be cited as the "District of Columbia Appropriation Act, 1976".

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1185 (Comm. on Appropriations and No. 94-1293 (Comm. of Conference).

SENATE REPORT No. 94-943 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 26, considered and passed House.

June 17, considered and passed Senate, amended.

June 28, House agreed to conference report; receded and concurred in a Senate amendment; receded and concurred with amendments in certain other Senate amendments.

June 29, Senate agreed to conference report; concurred in House amendments.

Public Law 94-334
94th Congress

An Act

To increase the temporary debt limit, and for other purposes.

June 30, 1976

[H.R. 14114]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased as follows:

Public debt limit.
Temporary
increase.
31 USC 757b
note.

(1) for the period beginning on July 1, 1976, and ending on September 30, 1976, by \$236,000,000,000,

(2) for the period beginning on October 1, 1976, and ending on March 31, 1977, by \$282,000,000,000, and

(3) for the period beginning on April 1, 1977, and ending on September 30, 1977, by \$300,000,000,000.

SEC. 2. The last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "\$12,000,000,000" and inserting in lieu thereof "\$17,000,000,000".

Approved June 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1217 (Comm. on Ways and Means).

SENATE REPORTS: No. 94-995 (Comm. on Finance) and No. 94-1014 (Comm. on Budget).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 14, considered and passed House.

June 30, considered and passed Senate.

Public Law 94-335
94th Congress

An Act

July 1, 1976

[S. 2847]

To amend section 318 of the Communications Act of 1934, as amended, to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing, and to authorize frequency modulation (FM) radio translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations.

Communications
Act of 1934,
amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (3) of the first proviso of section 318 of the Communications Act of 1934 (47 U.S.C. 318) is amended—

(1) by striking out “solely” and inserting in lieu thereof “primarily”, and

(2) by striking out “television”.

Approved July 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1261 accompanying H.R. 9689 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-919 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 27, considered and passed Senate.

June 21, considered and passed House, in lieu of H.R. 9689.

Public Law 94-336
94th Congress

An Act

To amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act.

July 1, 1976

[S. 2945]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(b) of the National Museum Act of 1966 (20 U.S.C. 65a) is amended to read:

Smithsonian
Institution.
Appropriation
authorization.

“(b) There are hereby authorized to be appropriated to the Smithsonian Institution \$1,000,000 each year for fiscal years 1978, 1979, and 1980.”.

Approved July 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1125 accompanying H.R. 12505 (Comm. on House Administration).

SENATE REPORT No. 94-733 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 6, considered and passed Senate.

June 22, considered and passed House, in lieu of H.R. 12505.

Public Law 94-337
94th Congress

An Act

July 4, 1976

[H.R. 5621]

To authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes.

Valley Forge
National
Historical Park,
Pa.
Establishment.
16 USC 410aa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and commemorate for the people of the United States the area associated with the heroic suffering, hardship, and determination and resolve of General George Washington's Continental Army during the winter of 1777-1778 at Valley Forge, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Valley Forge National Historical Park (hereinafter referred to as the "park"), in the Commonwealth of Pennsylvania.

Map.
16 USC 410aa-1.

SEC. 2. (a) The park shall comprise the area generally depicted on the map entitled "Valley Forge National Historical Park", dated February 1976, and numbered VF-91,000, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the offices of the superintendent of the park. After advising the Committees on Interior and Insular Affairs of the United States Congress, in writing, the Secretary may make minor revisions of the boundaries of the park when necessary by publication of a revised map or other boundary description in the Federal Register.

Publication in
Federal Register.

Lands and
interests,
acquisition.

(b) Within the boundaries of the park, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer. Any property owned by the Commonwealth of Pennsylvania or any political subdivision thereof may be acquired only by donation. The effective date of such donation shall not be prior to October 1, 1976.

Right of use and
occupancy.

(c) Except for property deemed by the Secretary to be essential for visitor facilities, or for access to or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner, or the death of his or her spouse, whichever is the later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

Termination.

(d) The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this Act, and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

"Improved
property."

(e) The term "improved property", as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1975 (hereafter referred

to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

Sec. 3. When the Secretary determines that lands and interests therein have been acquired in an amount sufficient to constitute an administrable unit, he shall establish the park by publication of a notice to that effect in the Federal Register: *Provided*, That the park shall not be established until the Secretary receives commitments which he deems to be sufficient from the Commonwealth of Pennsylvania that the appropriations made by acts 320 and 352 of 1974, and act 12A of 1975, of the Legislature of the Commonwealth of Pennsylvania, will continue to be available and obligated for development purposes within the park. The Secretary shall administer the property acquired for such park in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

Sec. 4. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not more than \$8,622,000 for the acquisition of lands and interests in lands.

(b) For the development of essential public facilities there are authorized to be appropriated not more than \$500,000. Within three years from the date of establishment of the park pursuant to this Act, the Secretary shall, after consulting with the Governor of the Commonwealth of Pennsylvania, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the development of the park consistent with the objectives of this Act, indicating:

- (1) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public;
- (2) the location and estimated cost of all facilities; and
- (3) the projected need for any additional facilities within the park.

Approved July 4, 1976.

Publication in
Federal Register.
16 USC 410aa-2.

Administration.
43 USC 1457.

16 USC 461.
Appropriation
authorization.
16 USC 410aa-3.

Master
development
plan, consultation
with Governor;
transmittal to
congressional
committees.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1142 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-817 accompanying S. 1776 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 8, considered and passed House.

June 11, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 27:

July 4, Presidential statement.

Public Law 94-338
94th Congress

Joint Resolution

July 5, 1976
[S.J. Res. 196]

Providing for the expression to Her Majesty, Queen Elizabeth II, of the appreciation of the people of the United States for the bequest of James Smithson to the United States, enabling the establishment of the Smithsonian Institution.

Whereas James Smithson, British subject, scholar, and scientist, bequeathed his entire estate to the United States of America "to found at Washington under the name of the Smithsonian Institution an establishment for the increase and diffusion of Knowledge among men;" and

Whereas the Congress of the United States in 1836 accepted the bequest and pledged the faith of this Nation to the execution of this trust, and in 1846 provided for the establishment of the Smithsonian Institution; and

Whereas the Smithsonian Institution, since the time of its founding, has been mindful of the charge stated in the will of James Smithson and has, through research and publication, through the collecting of natural history specimens and objects of art, culture, history, and technology, and through the creation of museums for the display and interpretation of these collections, been privileged to share its resources, not only with the people of the United States, but with the world community, for purposes of education, enlightenment, and betterment; and

Whereas the generous and inspiring bequest of James Smithson continues to enrich the lives of citizens of every nation: Now, therefore, be it

James Smithson,
bequest.
U.S. appreciation
and gratitude.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That on the occasion of the visit of Her Majesty, Queen Elizabeth II, during this year of the Bicentennial of the United States, the people of this Nation make known their appreciation and gratitude for the gift of James Smithson, a gift whose significance grows with the passage of time and remains a lasting symbol of the indivisible cultural bonds which link Great Britain and the United States of America.

SEC. 2. The Secretary of the Senate shall make available to the Secretary of the Smithsonian Institution a copy of this resolution for presentation to Her Majesty, Queen Elizabeth II.

Approved July 5, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1274 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 122 (1976):

May 13, considered and passed Senate.

June 22, considered and passed House, amended.

June 23, Senate concurred in House amendment.

Public Law 94-339
94th Congress

An Act

To amend the Food Stamp Act of 1964 to insure a proper level of accountability on the part of food stamp vendors.

July 5, 1976

[S. 2853]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Food Stamp Vendor Accountability Act of 1976".

SEC. 2. Section 7(d) of the Food Stamp Act of 1964, as amended, is amended by inserting "(1)" immediately after "(d)", and adding at the end thereof new paragraphs (2) through (7) as follows:

"(2) (A) The Secretary shall by regulation prescribe the manner in which funds derived from the distribution of coupons (charges made for coupon allotments) shall be deposited by coupon vendors. The regulations shall contain provisions requiring that coupon vendors promptly deposit such funds in the manner prescribed by the Secretary: *Provided*, That such regulations shall, at a minimum, require that such deposits be made weekly: *Provided further*, That such regulations shall, at a minimum, require that upon the accumulation of a balance on hand of \$1,000 or more, such deposits be made within two banking days following the accumulation of such amount.

"(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating the regulations issued under subparagraph (A) of this paragraph shall be fined not more than \$3,000, or imprisoned not more than one year, or both.

"(3) (A) Coupon vendors receiving funds derived from the distribution of coupons (charges made for coupon allotments) shall be deemed to be receiving such funds as fiduciaries of the Federal Government, and such coupon vendors shall immediately set aside all such funds as funds of the Federal Government. Funds derived from the distribution of coupons (charges made for coupon allotments) shall not be used, prior to the deposit of such funds in the manner prescribed by the Secretary, for the benefit of any person, partnership, corporation, association, organization, or entity other than the Federal Government.

"(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating subparagraph (A) of this paragraph shall be fined not more than \$10,000, or a sum equal to the amount of funds involved in the violation, whichever is the greater, or imprisoned not more than ten years, or both: *Provided*, That if the amount of such funds is less than \$1,000, such vendor shall be fined not more than \$3,000, or imprisoned not more than one year, or both.

"(4) (A) The Secretary shall by regulation require that upon the deposit, in the manner prescribed by the Secretary, of funds derived from the distribution of coupons (charges made for coupon allotments), coupon vendors shall immediately send a written notice to the State agency, accompanied by an appropriate voucher, confirming such deposit. In addition to such other information deemed by the Secretary to be appropriate, such regulations shall require that the notice contain—

"(i) the name and address of the coupon vendor;

Emergency Food
Stamp Vendor
Accountability
Act of 1976.
7 USC 2011 note.
Disposition of
funds,
regulations.
7 USC 2016.

Penalty.

Penalty.

Notice of deposit.

- “(ii) the total receipts of such coupon vendor derived from the distribution of coupons (charges made for coupon allotments) during the deposit period;
- “(iii) the amount of the deposit;
- “(iv) the name and address of the depository; and
- “(v) an oath, or affirmation signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in such notice is true and correct to the best of such person’s knowledge and belief.
- Penalty.** “(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide the notice required under subparagraph (A) of this paragraph shall be fined not more than \$3,000, or imprisoned not more than one year, or both.
- Penalty.** “(C) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any notice required under subparagraph (A) of this paragraph shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.
- Report to Secretary.** “(5) (A) The Secretary shall by regulation require each coupon vendor at intervals prescribed by the Secretary, but not less often than monthly, to send to the Secretary, or his designee, a written report of the vendor’s operations during such period under the food stamp program. In addition to such other information deemed by the Secretary to be appropriate, the regulations shall require that the report contain—
- “(i) the name and address of the coupon vendor;
- “(ii) the total receipts of the coupon vendor derived from the distribution of coupons (charges made for coupon allotments) during the report period;
- “(iii) the total amount of deposits made by the vendor of funds derived from the distribution of coupons (charges made for coupon allotments) during such period;
- “(iv) the name and address of each depository receiving such funds from such vendor; and
- “(v) an oath, or affirmation, signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in the report is true and correct to the best of such person’s knowledge and belief.
- Penalty.** “(B) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide any notice required under subparagraph (A) of this paragraph shall be fined not more than \$3,000, or imprisoned not more than one year, or both.
- “(C) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any notice required under subparagraph (A) of this paragraph shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.
- Reports to Secretary.** “(6) The Secretary may by regulation require State agencies to provide periodic reports to the Secretary, or his designee, containing a consolidation of the respective coupon vendor’s notices to such State agencies at such intervals as the Secretary in his discretion deems appropriate.
- “(7) The Secretary and the United States Postal Service shall jointly arrange for the prompt deposit of funds collected by the Postal Service on behalf of a State from charges made for coupon allotments.”
- 7 USC 2015.** SEC. 3. Section 6 of the Food Stamp Act of 1964, as amended, is amended by redesignating subsections (b) and (c) as subsections (d)

and (e), respectively, and inserting new subsections (b) and (c) as follows:

“(b) (1) The Secretary shall by regulation develop an appropriate procedure for determining and monitoring the level of coupon inventories in the hands of coupon vendors for the purpose of insuring that such inventories are at proper levels (taking into consideration the historical and projected volume of coupon distribution by such vendors). Any such regulations shall contain procedures to insure that coupon inventories in the hands of coupon vendors are not in excess of the reasonable needs of such vendors taking into consideration the ease and feasibility of resupplying such coupon inventories. The Secretary may, at his discretion, require periodic reports from such coupon vendors respecting the level of such inventories.

Coupon
inventories.

Reports to
Secretary.

“(2) Any coupon vendor, or any officer, employee, or agent thereof, convicted of failing to provide a report required under paragraph (1) of this subsection shall be fined not more than \$3,000, or imprisoned not more than one year, or both.

Penalty.

“(3) Any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any report required under paragraph (1) of this subsection shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

“(c) (1) The Secretary shall by regulation prescribe appropriate procedures for the delivery of coupons to coupon vendors and for the custody, care, control, and storage of coupons in the hands of coupon vendors in order to secure such coupons against theft, embezzlement, misuse, loss, or destruction.

Procedures.

“(2) Any coupon vendor, or any officer, employee, or agent thereof, convicted of violating any regulations issued under paragraph (1) of this subsection shall be fined not more than \$3,000, or imprisoned not more than one year, or both.”

Penalty.

SEC. 4. Section 3 of the Food Stamp Act of 1964, as amended, is amended by adding at the end thereof a new subsection (o) as follows:

“(o) The term ‘coupon vendor’ means any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated administrative responsibility in connection with, the issuance of coupons to households.”

“Coupon
vendor.”
7 USC 2012.

Approved July 5, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1282 (Comm. on Agriculture).

SENATE REPORT No. 94-714 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 8, considered and passed Senate.

June 22, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 28:

July 6, Presidential statement.

Public Law 94-340
94th Congress

An Act

July 6, 1976
[H.R. 5630]

To amend the Federal Boat Safety Act of 1971 in order to increase and extend the authorization for appropriations for financial assistance for State boating safety programs.

Federal Boat
Safety Act of
1971,
amendment.
46 USC 1476.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 et seq.) is amended as follows—

(1) Section 27 is amended by adding a new subsection (e) as follows:

“(e) The Secretary may expend funds appropriated for the program of financial assistance to the States under this Act for audit expenses incurred by him in the administration of that program. Expenditures made in any fiscal year under this subsection shall not exceed 1¼ per centum of the total funds appropriated for such fiscal year.”.

46 USC 1477.

(2) Section 28(a) is amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: “, the fiscal transition period of July 1, 1976, to September 30, 1976, and each of the two succeeding fiscal years.”.

46 USC 1479.

(3) Section 30 is amended by striking out “for the fiscal year ending June 30, 1972, and \$7,500,000 for each of the four succeeding fiscal years,” and inserting in lieu thereof the following: “for each of the fiscal years beginning with fiscal year 1972 through fiscal year 1976; \$2,500,000 for the fiscal transition period of July 1, 1976, through September 30, 1976; and \$10,000,000 for each of the fiscal years 1977 and 1978.”.

Approved July 6, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-662 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-867 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 17, considered and passed House.

Vol. 122 (1976): May 19, considered and passed Senate, amended.

June 22, House concurred in Senate amendment.

Public Law 94-341
94th Congress

An Act

To amend the Community Services Act of 1974 to make certain technical and conforming amendments.

July 6, 1976
[H.R. 12188]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the “Community Services Act Technical Amendments of 1976”.

Community
Services Act
Technical
Amendments of
1976.
42 USC 2701
note.

AMENDMENTS TO COMMUNITY SERVICES ACT OF 1974

SEC. 2. (a) The Community Services Act of 1974 (hereinafter in this Act referred to as the “Act”) is amended—

42 USC 2701
note.

(1) in section 101 thereof (as added by section 3 of the Headstart, Economic Opportunity, and Community Partnership Act of 1974), by striking out “SEC. 104. This title and titles II through IX” and inserting in lieu thereof “SEC. 3. Titles I through IX”;

42 USC 2701
note.

(2) in section 102 thereof (as added by section 3 of the Headstart, Economic Opportunity, and Community Partnership Act of 1974), by striking out “SEC. 102.” and inserting in lieu thereof “SEC. 4.”, and in paragraph (2) of such section, by striking out “the previous sentence” and inserting in lieu thereof “paragraph (1) of this section” and by inserting a comma after “places” the second place it appears therein;

42 USC 2706.

(3) by striking out “TITLE II—RESEARCH AND DEMONSTRATIONS” and inserting in lieu thereof “TITLE I—RESEARCH AND DEMONSTRATIONS”;

(4) in section 102(d) thereof (as added by section 4 of the Headstart, Economic Opportunity, and Community Partnership Act of 1974), by striking out “under this title in any fiscal year shall be made available for programs or projects receiving financial assistance”;

42 USC 2712.

(5) in section 104(d) of such Act (as added by section 3 of the Headstart, Economic Opportunity, and Community Partnership Act of 1974), by striking out “studies” each place it appears therein and inserting in lieu thereof “summaries”;

42 USC 2714.

(6) in section 201(b) thereof, by striking out “the Office of Economic Opportunity” each place it appears therein and inserting in lieu thereof “Community Services Administration”;

42 USC 2781.

(7) in section 210(f) thereof—

42 USC 2790.

(A) by striking out “may delegate functions other than” and inserting in lieu thereof “may delegate such functions (other than”;

(B) by striking out “contracts to” and inserting in lieu thereof “contracts) to”;

(C) by striking out “by him, such functions as he deems appropriate” and inserting in lieu thereof “by him, as he deems appropriate”; and

- (D) by striking out “second sentence of section 235(a)” and inserting in lieu thereof “third sentence of section 225(a)”;
- 42 USC 2812. (8) by striking out paragraph (4) of section 222(a) thereof;
- 42 USC 2809. (9) in section 222(a)(5) thereof, by striking out “Emergency Food and Medical Services” and inserting in lieu thereof “Community Food and Nutrition”, and by striking out “medical” each place it appears therein;
- (10) in the last sentence of section 222(a)(12) thereof, by inserting a comma after “agencies”;
- 42 USC 2812. (11) in section 225(c) of such Act, by amending the last two sentences to read as follows: “The Director shall not require non-Federal contributions in excess of the amount required to meet the approved cost of assisted programs or activities after calculating the per centum of Federal assistance for which such program is eligible under the first sentence of this subsection. In addition, the Director may approve assistance in excess of such per centum upon evidence that the aggregate of all non-Federal contributions by agencies within a State for financial assistance provided pursuant to sections 221 and 222(a) as a per centum of the aggregate of all financial assistance provided to such agencies in such State pursuant to such sections meets the per centum requirements of this subsection.”;
- 42 USC 2808. (12) in the heading of section 227 thereof, by striking out “YOUTH RECREATION AND” and inserting in lieu thereof “NATIONAL YOUTH”, and in subsection (a) of such section by striking out “youth recreation and” each place it appears therein and inserting in lieu thereof “national youth”;
- 42 USC 2828. (13) in the last sentence of section 235(b) thereof, by striking out “Secretary” and inserting in lieu thereof “Director”;
- 42 USC 2829. (14) in section 236 thereof—
- (A) in subsection (a) thereof, by striking out “Office of Economic Opportunity or successor authority” and inserting in lieu thereof “Community Services Administration”; and
- (B) in subsection (b)(ii) thereof, by striking out “Office of Economic Opportunity” and inserting in lieu thereof “Community Services Administration”;
- 42 USC 2855. (15) in section 306(d) thereof, by striking out “under this Act (except operations under title IV carried on by the Small Business Administration)” and inserting in lieu thereof “under this part”;
- 42 USC 2901. (16) in section 401 thereof—
- (A) by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively; and
- (B) in subsection (a) thereof, by striking out the comma after “may be used as necessary” and by striking out “paragraph 2” and inserting in lieu thereof “paragraph (2)”;
- 42 USC 2902. (17) in section 402(2) thereof, by striking out “Director” each place it appears therein and inserting in lieu thereof “Secretary”;
- 42 USC 2928c. (18) in section 514(b) thereof, by inserting “or” before “multicity”, by striking out the comma after “multicity”, and by striking out “organization” and inserting in lieu thereof “organizational”;
- 42 USC 2928f. (19) in section 517(b) thereof, by striking out “15 per centum and such total costs” and inserting in lieu thereof “15 per centum of such total costs”;

- (20) in section 523(d) thereof, by striking out “studies” each place it appears therein and inserting in lieu thereof “summaries”;
- (21) in section 525(a) thereof, by striking out “711” and inserting in lieu thereof “518”;
- (22) in section 576(a) and section 577 thereof, by striking out “part” each place it appears therein and inserting in lieu thereof “title”;
- (23) in section 601 thereof, by inserting “(a)” immediately after “SEC. 601.”;
- (24) in section 601(e)(2)(B)(iii) thereof, by inserting “of Commerce” immediately after “Secretary”;
- (25) in section 601(e)(3)(B)(ii)(II) thereof, by striking out the quotation mark at the end thereof;
- (26) in section 601(g) thereof, by inserting a comma after “Welfare” and by striking out “Economic Development Administration” and inserting in lieu thereof “Community Economic Development Administration.”;
- (27) in section 601(h)(2) thereof, by inserting a comma after “Community Services Administration” the second place it appears therein, by inserting a comma after “Welfare”, and by inserting a comma after “Community Economic Development Administration”;
- (28) in section 601(h)(3) thereof, by inserting a comma after “Community Services Administration”, and by striking out “in the Department of Commerce” and inserting in lieu thereof “within the Department of Commerce.”;
- (29) in subsections (a) and (f) of section 602 thereof, by striking out “Office” each place it appears therein and inserting in lieu thereof “Community Services Administration”;
- (30) in section 602(k) thereof, by striking out “titles III and IV of”;
- (31) in section 603(a) thereof, by striking out “(other than part C of title I)”;
- (32) in section 604(1) thereof, by striking out “I-B or”, and by striking out “prime sponsor or”;
- (33) in paragraphs (2) and (3) of section 604 thereof, by striking out “title I-B, II, and III-B” each place it appears therein and inserting in lieu thereof “title II and part B of title III”, and in paragraph (2) of such section, by striking out “123.”;
- (34) in section 608 thereof, by striking out “Office” and inserting in lieu thereof “Community Services Administration”;
- (35) in subsections (a) and (c) of section 610-1 thereof, by striking out “part A of title I or” each place it appears therein.
- (b) Title VII of the Act is amended—
- (1) in section 712(a)(2) thereof, by inserting “programs,” after “development”, and by inserting a comma after “activities”;
- (2) in the fourth sentence of section 714 thereof, by striking out “rights vest” and inserting in lieu thereof “vests”;
- (3) in the last sentence of section 714 thereof, by inserting “with grant funds shall” immediately after “assets purchased”;
- (4) in section 731(a) thereof, by striking out “bear the interest” and inserting in lieu thereof “bear interest”;

42 USC 2928l.

42 USC 2928n.

42 USC 2930e,
2930f.

42 USC 2941.

42 USC 2942.

42 USC 2943.

42 USC 2944.

42 USC 2948.

42 USC 2951.

42 USC 2982a.

42 USC 2982c.

42 USC 2984.

- 42 USC 2984. (5) in the first and second sentences of section 731(c)(3) thereof, by striking out "Secretary" and inserting in lieu thereof "Director", in the first sentence, by striking out "subchapter" and inserting in lieu thereof "title" and in the second sentence by striking out "part B of";
- 42 USC 2984a. (6) in section 732 thereof, by striking out "(d)" immediately before "Not later than" and inserting in lieu thereof "(b)";
- 42 USC 2985. (7) in section 741(b) thereof, by inserting "assistance or support," immediately after "legal";
- (8) in section 741(c) thereof, by striking out "subchapter" and inserting in lieu thereof "title";
- (9) by amending the heading for section 742 thereof to read as follows: "SMALL BUSINESS ADMINISTRATION AND DEPARTMENT OF COMMERCE PROGRAMS";
- 42 USC 2985a. (10) in section 742(a)(1) thereof—
- (A) by striking out "part" and inserting in lieu thereof "title";
- (B) by striking out "company or a local" and inserting in lieu thereof "company, local"; and
- (C) by inserting immediately after "limited small business investment company" the following: ", or small business investment company licensee under section 301(d) of the Small Business Investment Act of 1958";
- 15 USC 681. (11) in section 742(a)(2) thereof, by striking out "Secretary" and inserting in lieu thereof "Director" and by striking out "part" and inserting in lieu thereof "title";
- (12) in section 742(b)(2) thereof, by inserting "of Commerce" immediately after "Secretary";
- 42 USC 2985b. (13) in section 743 thereof, by striking out "this Act" and inserting in lieu thereof "this title";
- 42 USC 2985c. (14) in section 744(a)(1) thereof, by inserting "as amended," immediately after "Housing Act of 1949,";
- 42 USC 2985c-1. (15) in the first sentence of section 744(b) thereof, by striking out "Secretary" and inserting in lieu thereof "Director", by striking out "part" each place it appears therein and inserting in lieu thereof "title," and by striking out "subsection (a) of this section" and inserting in lieu thereof "sections 742, 743, and 744 of this title";
- 42 USC 2985d-2985g. (16) by redesignating sections 745 through 748 thereof as sections 746 through 749, respectively; and
- (17) in section 744 thereof—
- (A) by inserting immediately after subsection (a) the following new heading: "REPORT ON OTHER FEDERAL RESOURCES";
- (B) by striking out "(a)" immediately before "The Secretary of Agriculture"; and
- 42 USC 2985c-1. (C) by striking out "(b)" immediately before "On or before six months" and inserting in lieu thereof "SEC. 745.".
- 42 USC 2971f, 2971g. (c) The Act is amended by redesignating section 626 and section 627 as section 627 and section 628, respectively.

AMENDMENTS TO HEADSTART, ECONOMIC OPPORTUNITY, AND COMMUNITY PARTNERSHIP ACT OF 1974

- 42 USC 2813. SEC. 3. (a) Section 5(d)(2) of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 is amended by inserting "of such Act" immediately after "section 228(c)".
- 42 USC 2815. (b) Section 9 of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 is amended—
- 88 Stat. 2310.

- (1) in subsection (b) thereof, by striking out “subsection (c) of this section” and inserting in lieu thereof “section 601 of the Economic Opportunity Act of 1964, as amended by subsection (a) of this section”; and 42 USC 2942 note.
42 USC 2941.
- (2) in subsection (e) thereof, by striking out the quotation mark immediately before “(e) The Economic Opportunity Act of 1964” and by striking out “after section 625” and inserting in lieu thereof “after section 626”. 42 USC 2971f.
Ante, p. 806.
- (c) Section 14(b) of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 is amended by striking out “section 3(c)” and inserting in lieu thereof “section 8(c)”. 42 USC 2933.
- (d) (1) Section 15(a) (2) of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 is amended by inserting “of such Act” immediately after “section 221”. 42 USC 2707.
- (2) Section 15 of such Act is amended by adding at the end thereof the following:
- “(c) Any funds appropriated to carry out any program under the Community Services Act of 1974 which are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeeding fiscal year.”. 42 USC 2701 note.

Approved July 6, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-889 (Comm. on Education and Labor).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 15, considered and passed House.

June 23, considered and passed Senate.

Public Law 94-342
94th Congress

An Act

July 6, 1976

[H.R. 11439]

To amend title 5, United States Code, to restore eligibility for health benefits coverage to certain individuals whose survivor annuities are restored.

Federal
employees health
benefits.
Survivor
annuitants,
eligibility.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8908 of title 5, United States Code, is amended—

(1) by inserting “(a)” immediately before “An employee”;

(2) by adding at the end thereof the following new subsection:

“(b) A surviving spouse whose survivor annuity under this title was terminated because of remarriage and is later restored may, under such regulations as the Civil Service Commission may prescribe, enroll in a health benefits plan described by section 8903 of this title if such spouse was covered by any such plan immediately before such annuity was terminated.”; and

(3) in the section caption, by striking out “employee” and inserting in lieu thereof “employees and survivor annuitants”.

(b) The item relating to section 8908 appearing in the analysis of chapter 89 of title 5, United States Code, is amended to read as follows:

“8908. Coverage of restored employees and survivor annuitants.”.

Effective date.
5 USC 8908 note.

SEC. 2. The amendments made by the first section of this Act shall take effect on October 1, 1976, or on the date of the enactment of this Act, whichever date is later. Such amendments shall apply with respect to individuals whose survivor annuities are restored before, on, or after such date.

Approved July 6, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-815 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 94-829 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Mar. 1, considered and passed House.
June 22, considered and passed Senate.

Public Law 94-343
94th Congress

An Act

To amend the Central, Western, and South Pacific Fisheries Development Act to extend the appropriation authorization through fiscal year 1979, and for other purposes.

July 6, 1976

[H.R. 13380]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Central, Western, and South Pacific Fisheries Development Act (86 Stat. 744; 16 U.S.C. 758a note) is amended—

Central, Western,
and South Pacific
fisheries.
Appropriation
authorization.

- (1) by striking in section 2 the words “three-year”;
- (2) by striking in section 4 the words “June 30, 1976, a complete” and inserting in lieu thereof the words “January 30 of each year, an annual”; and
- (3) by inserting “, and for the period beginning July 1, 1976, and ending September 30, 1979, the sum of \$3,000,000,” in section 7.

Approved July 6, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1141 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 94-866 accompanying S. 2219 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 122 (1976):
May 18, considered and passed House.
May 21, considered and passed Senate, amended, in lieu of S. 2219.
June 17, House concurred in Senate amendment with an amendment.
June 22, Senate concurred in House amendment.

Public Law 94-344
94th Congress

Joint Resolution

July 7, 1976

[S.J. Res. 49]

To amend the joint resolution entitled "Joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America".

U.S. flag, display
and use.

36 USC 173.

4 USC 1 note.

Time and
occasions for
display.
36 USC 174.

Position and
manner of
display.
36 USC 175.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America", as amended (36 U.S.C. 171-178), is amended—

(1) by adding after the last sentence of section 1 the following: "The flag of the United States for the purpose of this chapter shall be defined according to title 4, United States Code, chapter 1, section 1 and section 2 and Executive Order 10834 issued pursuant thereto";

(2) by striking out the second sentence of section 2(a) and inserting in lieu thereof the following: "However, when a patriotic effect is desired, the flag may be displayed twenty-four hours a day if properly illuminated during the hours of darkness.";

(3) by inserting in section 2(c) before the period a comma and the following: "except when an all weather flag is displayed";

(4) by striking out section 2(d) and inserting in lieu thereof the following:

"(d) The flag should be displayed on all days, especially on New Year's Day, January 1; Inauguration Day, January 20; Lincoln's Birthday, February 12; Washington's Birthday, third Monday in February; Easter Sunday (variable); Mother's Day, second Sunday in May; Armed Forces Day, third Saturday in May; Memorial Day (half-staff until noon), the last Monday in May; Flag Day, June 14; Independence Day, July 4; Labor Day, first Monday in September; Constitution Day, September 17; Columbus Day, second Monday in October; Navy Day, October 27; Veterans Day, November 11; Thanksgiving Day, fourth Thursday in November; Christmas Day, December 25; and such other days as may be proclaimed by the President of the United States; the birthdays of States (date of admission); and on State holidays.";

(5) by striking out "weather permitting," in section 2(e);

(6) by striking out "radiator cap" in section 3(b) and inserting in lieu thereof "right fender";

(7) in the last sentence of section 3(f), by striking out "to the right of the flag of the United States." and inserting in lieu thereof the following: "to the United States flag's right.";

(8) by striking out section 3(i) and inserting in lieu thereof the following:

"(i) When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag's own right, that is, to the observer's left. When displayed in a window, the flag should be displayed in the same way, with the union or blue field to the left of the observer in the street.";

(9) by striking out section 3(k) and inserting in lieu thereof 36 USC 175.

the following:

“(k) When used on a speaker’s platform, the flag, if displayed flat, should be displayed above and behind the speaker. When displayed from a staff in a church or public auditorium, the flag of the United States of America should hold the position of superior prominence, in advance of the audience, and in the position of honor at the clergyman’s or speaker’s right as he faces the audience. Any other flag so displayed should be placed on the left of the clergyman or speaker or to the right of the audience.”;

(10) by striking out section 3(m) and inserting in lieu thereof the following:

Flag at half-staff.

“(m) The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day the flag should be displayed at half-staff until noon only, then raised to the top of the staff. By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of a State, territory, or possession, as a mark of respect to their memory. In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with law. In the event of the death of a present or former official of the government of any State, territory, or possession of the United States, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff. The flag shall be flown at half-staff thirty days from the death of the President or a former President; ten days from the day of death of the Vice President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives; from the day of death until interment of an Associate Justice of the Supreme Court, a Secretary of an executive or military department, a former Vice President, or the Governor of a State, territory, or possession; and on the day of death and the following day for a Member of Congress. As used in this subsection—

Definitions.

“(1) the term ‘half-staff’ means the position of the flag when it is one-half the distance between the top and bottom of the staff;

“(2) the term ‘executive or military department’ means any agency listed under sections 101 and 102 of title 5, United States Code; and

“(3) the term ‘Member of Congress’ means a Senator, a Representative, a Delegate, or the Resident Commissioner from Puerto Rico.”;

(11) by adding at the end of section 3, a new subsection as follows:

Display in building corridor or lobby.

“(o) When the flag is suspended across a corridor or lobby in a building with only one main entrance, it should be suspended vertically with the union of the flag to the observer’s left upon entering. If the building has more than one main entrance, the flag should be suspended vertically near the center of the corridor or lobby with the union to the north, when entrances are to the east and west or to the east when entrances are to the north and south. If there are entrances in more than two directions, the union should be to the east.”;

Respect for flag.
36 USC 176.

(12) by striking out section 4(a) and inserting in lieu thereof the following:

“(a) The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property.”;

Wearing apparel,
bedding, or
drapery,
prohibition.

(13) by striking out section 4(d) and inserting in lieu thereof the following:

“(d) The flag should never be used as wearing apparel, bedding, or drapery. It should never be festooned, drawn back, nor up, in folds, but always allowed to fall free. Bunting of blue, white, and red, always arranged with the blue above, the white in the middle, and the red below, should be used for covering a speaker's desk, draping the front of the platform, and for decoration in general.”;

(14) by striking out section 4(e) and inserting in lieu thereof the following:

“(e) The flag should never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.”;

Advertising
purposes,
prohibition.

(15) by striking out section 4(i) and inserting in lieu thereof the following:

“(i) The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. Advertising signs should not be fastened to a staff or halyard from which the flag is flown.”;

Costumes or
athletic uniforms,
prohibition.

(16) by redesignating section 4(j) as section 4(k) and by inserting after section 4(i) a new subsection as follows:

“(j) No part of the flag should ever be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firemen, policemen, and members of patriotic organizations. The flag represents a living country and is itself considered a living thing. Therefore, the lapel flag pin being a replica, should be worn on the left lapel near the heart.”;

Hoisting,
lowering, and
passing of flag.
36 USC 177.

(17) by striking out section 5 and inserting in lieu thereof the following:

“SEC. 5. During the ceremony of hoisting or lowering the flag or when the flag is passing in a parade or in review, all persons present except those in uniform should face the flag and stand at attention with the right hand over the heart. Those present in uniform should render the military salute. When not in uniform, men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Aliens should stand at attention. The salute to the flag in a moving column should be rendered at the moment the flag passes.”;

National anthem,
conduct during
playing.
36 USC 171.

(18) by striking out section 6 and inserting in lieu thereof the following:

“SEC. 6. During rendition of the national anthem when the flag is displayed, all present except those in uniform should stand at attention facing the flag with the right hand over the heart. Men not in uniform should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should render the military salute at the first note of the anthem and retain this position until the last note. When the flag is not displayed, those present should face toward the music and act in the same manner they would if the flag were displayed there.”;

(19) by striking out section 7 and inserting in lieu thereof the following:

"SEC. 7. The Pledge of Allegiance to the Flag, 'I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all,' should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute."; and

Pledge of
Allegiance to the
Flag.
36 USC 172.

(20) by striking out section 8 and inserting in lieu thereof the following:

"SEC. 8. Any rule or custom pertaining to the display of the flag of the United States of America, set forth herein, may be altered, modified, or repealed, or additional rules with respect thereto may be prescribed, by the Commander in Chief of the Armed Forces of the United States, whenever he deems it to be appropriate or desirable; and any such alteration or additional rule shall be set forth in a proclamation."

Rules and
customs,
modification.
36 USC 178.

Approved July 7, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-797 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):

May 10, considered and passed Senate.

June 21, considered and passed House, amended.

June 22, Senate concurred in House amendments.

Public Law 94-345
94th Congress

An Act

July 8, 1976

[H.R. 8471]

To authorize the President to prescribe regulations relating to the purchase, possession, consumption, use, and transportation of alcoholic beverages in the Canal Zone.

Canal Zone.
Alcoholic
beverages,
regulations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 731 of title 2, Canal Zone Code (76A Stat. 29), is revised to read as follows:

“§ 731. Regulation of manufacture, sale, et cetera

“The President shall prescribe, and from time to time may amend, regulations relating to the:

“(1) manufacture, distribution, and sale of alcoholic beverages in the Canal Zone, and licenses and fees therefor;

“(2) importation of alcoholic beverages into, and exportation thereof from, the Canal Zone; and

“(3) purchase, possession, consumption, use, and transportation of alcoholic beverages by individuals under eighteen years of age.”.

SEC. 2. Section 732 of title 2, Canal Zone Code (76A Stat. 29) is revised to read as follows:

“§ 732. Penalties for violation

“(a) Whoever violates a regulation issued pursuant to paragraphs (1) and (2) of section 731 of this title shall be fined not more than \$500 or imprisoned in jail not more than six months, or both, and, in addition, his license may be revoked or suspended as the President may prescribe by the regulations as issued. (76A Stat. 29.)

“(b) Whoever violates a regulation issued pursuant to paragraph (3) of section 731 of this title shall be fined not more than \$100 or imprisoned in jail not more than thirty days, or both.”.

SEC. 3. The amendments made in sections 1 and 2 of this Act shall take effect on the ninetieth day after the date of enactment of this Act.

Approved July 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1140 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 18, considered and passed House.

June 24, considered and passed Senate.

Public Law 94-346
94th Congress

An Act

To amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations.

July 8, 1976
[H.R. 9291]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

“SEC. 121. There are authorized to be appropriated for the purpose of carrying out this Act, not to exceed \$13,000,000 for the transition period July 1, 1976, through September 30, 1976, \$60,000,000 for the fiscal year ending September 30, 1977, and \$60,000,000 for the fiscal year ending September 30, 1978.”

SEC. 2. Section 103(i) (1) (B) of such Act is amended by striking out “the expiration of the nine-month period which begins on the date of promulgation of such safety standards” and inserting in lieu thereof “April 1, 1977”.

SEC. 3. Section 103(i) of such Act is amended by adding at the end thereof the following new paragraph:

“(3) Not later than six months after the date of enactment of this section, the Secretary shall conduct a study and report to Congress on (A) the factors relating to the schoolbus vehicle which contribute to the occurrence of schoolbus accidents and resultant injuries, and (B) actions which can be taken to reduce the likelihood of occurrence of such accidents and severity of such injuries. Such study shall consider, among other things, the extent to which injuries may be reduced through the use of seat belts and other occupant restraint systems in schoolbus accidents, and an examination of the extent to which the age of schoolbuses increases the likelihood of accidents and resultant injuries.”

Approved July 8, 1976.

National Traffic and Motor Vehicle Safety Act, amendment. Appropriation authorization.

Schoolbus equipment safety standards. 15 USC 1392.

Study; report to Congress.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1148 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 94-854 accompanying S. 2323 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 122 (1976):

June 11, considered and passed House.

June 24, considered and passed Senate, amended, in lieu of S. 2323.

June 29, House concurred in Senate amendment.

Public Law 94-348
94th Congress

An Act

To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

July 8, 1976
[H.R. 11804]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Federal Railroad
Safety
Authorization Act
of 1976.

45 USC 421 note.

SECTION 1. This Act may be cited as the "Federal Railroad Safety Authorization Act of 1976".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. (a) Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$35,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$35,000,000 for the fiscal year ending September 30, 1978.

"(b) Except as provided in subsection (c) of this section, amounts appropriated under subsection (a) of this section for any fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) 500 safety inspectors, (B) 45 signal and train control inspectors, and (C) 110 clerical personnel, not to exceed \$18,000,000 in any fiscal year.

"(2) To carry out the provisions of section 206(d) of this Act, relating to State safety programs, not to exceed \$3,500,000 in any fiscal year.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed \$3,500,000 in any fiscal year.

"(4) For conducting research and development activities under this Act, not to exceed \$10,000,000 in any fiscal year.

"(c) (1) The aggregate of the amounts obligated and expended for research and development activities under this Act in any fiscal year shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders, and standards under this Act in the same fiscal year. For purposes of this paragraph and paragraph (4) of subsection (b) of this section, amounts made available under paragraph (2) of this subsection for expenditure for research and development activities under this Act in any fiscal year following the fiscal year in which such amounts were originally appropriated shall be considered to have been obligated and expended for such activities during the fiscal year in which such amounts were originally appropriated.

"(2) Of amounts appropriated under subsection (a) of this section and available for expenditure for conducting research and development activities under subsection (b) (4) of this section, not to exceed

\$5,000,000 of amounts so appropriated and made available for fiscal year 1977, and not to exceed \$7,000,000 of amounts so appropriated and made available for fiscal year 1978, are authorized to remain available until expended for conducting research and development activities under this Act.”.

PENALTIES

SEC. 3. (a) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6), is amended by striking out “two hundred and fifty dollars” and inserting in lieu thereof “not less than \$250 and not more than \$2,500”.

(b) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13), is amended by striking out “two hundred and fifty dollars” and inserting in lieu thereof “not less than \$250 and not more than \$2,500”.

(c) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34), is amended by striking out “two hundred and fifty dollars” and inserting in lieu thereof “not less than \$250 and not more than \$2,500”.

(d) Section 25(h) of the Interstate Commerce Act (49 U.S.C. 26(h)) is amended by striking out “\$100 for each such violation and \$100” and inserting in lieu thereof “not less than \$250 and not more than \$2,500 for each such violation and not less than \$250 and not more than \$2,500”.

31 USC 952 note.

(e) Notwithstanding any provision of the Federal Claims Collection Act of 1966 (31 U.S.C. 951-953), no penalty arising under a statute amended by this section shall be compromised by the Secretary for an amount less than \$250.

HOURS OF SERVICE

SEC. 4. (a) Section 2(a) of the Act of March 4, 1907 (45 U.S.C. 62(a)), commonly referred to as the Hours of Service Act, is amended—

(1) by striking out “or” at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

“(3) to provide sleeping quarters for employees (including crew quarters, camp or bunk cars, and trailers) which do not afford such employees an opportunity for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters; or

“(4) to begin construction or reconstruction of any sleeping quarters referred to in paragraph (3), on or after the date of enactment of this paragraph, within or in the immediate vicinity (as determined in accordance with rules prescribed by the Secretary) of any area where railroad switching or humping operations are performed.”.

(b) Section 2 of such Act (45 U.S.C. 62) is amended by striking out subsection (c), relating to the exemption of crews of wreck or relief trains from limitations on employees hours of service, and inserting in lieu thereof the following new subsection:

“(c) Notwithstanding subsection (a) of this section, the crew of a wreck or relief train may be permitted to be or remain on duty for not to exceed 4 additional hours in any period of 24 consecutive hours whenever an actual emergency exists and work of the crew is related to such emergency. For purposes of this subsection, an emergency ceases to exist when the track is cleared and the line is open for traffic.”.

(c) Subsection (b) (2) of the first section of such Act (45 U.S.C. 61(b) (2)), relating to the definition of the term “employee”, is amended

by inserting immediately before the period at the end thereof the following: “, including hostlers”.

(d) The Act of March 4, 1907 (45 U.S.C. 61-64b) is further amended by adding a new section 3A to read as follows:

“SEC. 3A. (a) It shall be unlawful for any common carrier, its officers or agents, subject to this Act— 45 USC 63a.

“(1) to require or permit an individual employed by the carrier who is engaged in installing, repairing or maintaining signal systems, in case such individual shall have been continuously on duty for twelve hours, to continue on duty or to go on duty until he has had at least ten consecutive hours off duty; or

“(2) to require or permit an individual described in paragraph (1) to continue on duty or to go on duty when he has not had at least eight consecutive hours off duty during the preceding twenty-four hours.

“(b) In determining for the purposes of subsection (a) the number of hours an individual is on duty, there shall be counted, in addition to the time such individual is actually engaged in installing, repairing or maintaining signal systems, all time on duty in other service performed for the common carrier during the twenty-four hour period involved.

“(c) For purposes of this section, time on duty shall commence when an individual reports for duty and terminate when the individual is finally released from duty.

“(d) As used in sections 2(a) (3), 4, and 5 of this Act, the term ‘employee’ shall be deemed to include an individual employed by the carrier who is engaged in installing, repairing or maintaining signal systems. *Ante*, p. 818.
45 USC 64, 64a.

“(e) The provisions of this section shall not apply to an individual during such period of time as the provisions of section 3 apply to his duty and off-duty periods. 45 USC 63.

“(f) Notwithstanding subsection (a) of this section, an individual engaged in installing, repairing, or maintaining signal systems may be permitted to be or remain on duty for not to exceed four additional hours in any period of twenty-four consecutive hours whenever an actual emergency exists and work of the individual is related to such emergency. For purposes of this subsection with respect to the on-duty time of an individual engaged in installing, repairing, or maintaining signal systems, an emergency ceases to exist when the signal systems are restored to service.”

(e) Section 5(a) of such Act (45 U.S.C. 64a(a)) is amended by deleting the words “section 2 or section 3 of this Act” and by inserting in lieu thereof the following: “section 2, section 3 or section 3A of this Act”.

SAFETY REGULATIONS

SEC. 5. (a) Section 202(d) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(d)) is amended to read as follows:

“(d) In prescribing rules, regulations, orders, and standards under this section, the Secretary shall consider relevant existing safety data and standards and shall, within 180 days after the date of enactment of the Federal Railroad Safety Authorization Act of 1976, take such action as may be necessary to develop and publish rules of practice applicable to all proceedings under this Act. Such rules of practice shall take into consideration the varying nature of proceedings under this Act and shall include specific time limits upon the disposition of all proceedings initiated under this Act. In no event shall the time *Ante*, p. 817.

limit for any such proceeding extend for more than 12 months after the date such proceeding is initiated.”.

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following new subsection:

“(g) The Secretary shall, within 180 days after the date of enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to require that—

“(1) in any case in which activities of railroad employees (other than train or yard crews) assigned to inspect, test, repair, or service rolling equipment require such employees to work on, under, or between such equipment, each manually operated switch, including any crossover switch, providing access to the track on which such equipment is located must be lined against movement to that track and secured by an effective locking device which may not be removed except by the class or craft of employees performing such inspection, testing, repair, or servicing.

“(2) the rear car of all passenger and commuter trains shall have one or more highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility; and

“(3) the rear car of all freight trains shall have highly visible markers during periods of darkness or whenever weather conditions restrict clear visibility.

Notwithstanding the provisions of section 205 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 434), nothing in paragraphs (2) and (3) of this subsection shall prohibit a State from continuing in force any law, rule, regulation, order or standard in effect on the date of enactment of the Federal Railroad Safety Authorization Act of 1976 relating to lighted markers on the rear car of freight trains except to the extent that such law, rule, regulation, order, or standard would cause such cars to be in violation of this section.”.

Ante, p. 817.

REGIONAL ORGANIZATION OF FEDERAL RAILROAD ADMINISTRATION

49 USC 1652a.

SEC. 6. The Federal Railroad Administration shall be divided on a geographical basis into not less than 8 safety offices for purposes of administering and enforcing all Federal railroad safety laws. The Secretary shall retain full and final responsibility for all acts taken pursuant to Federal railroad safety laws and for the establishment of all policies with respect to implementation of such laws, and shall be responsible for insuring that all such laws are administered and enforced uniformly among such offices.

EVALUATION OF THE FEDERAL RAILROAD SAFETY PROGRAM

Study.
45 USC 421 note.

SEC. 7. (a) The Office of Technology Assessment shall conduct a study of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.) and related Federal laws to evaluate their effectiveness in improving the safety of our Nation's railroads. Such study and evaluation shall include, but shall not be limited to—

(1) a cost-benefit analysis of the railroad safety research and development activities under the Federal Railroad Safety Act of 1970 and related Federal laws;

(2) an evaluation of trends with respect to railroad employee injuries and casualties, injuries and casualties to other persons, accidents by type and cause, and such other data as the Office of Technology Assessment considers necessary to determine any

significant statistical relationship between safety practices, expenditures, penalties for violation of Federal railroad safety laws and regulations, and accident rates;

(3) a statistical comparison of railroad accidents reported by each railroad for the 10-year period preceding the date of enactment of this Act;

(4) the cost-benefit and effectiveness of accident prevention resulting from the methodology used and practices employed by Federal and State railroad safety inspectors under Federal railroad safety laws and regulations;

(5) an evaluation of safety inspection activities conducted by the railroad industry;

(6) an evaluation and analysis of industry research and development relating to railroad safety and accident prevention;

(7) a cost-benefit analysis of the various Federal laws and regulations relating to railroad safety; and

(8) the need for additional Federal expenditures for improvements in railroad safety.

(b) The Office of Technology Assessment shall, within 18 months after the date of enactment of this Act, submit a report to the Congress containing the results of the study conducted pursuant to this section, together with recommendations for such legislative or other action as such Office considers appropriate.

Report to Congress.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Appropriation authorization.

UNIFORMITY OF JUDICIAL REVIEW

SEC. 8. Section 4(c) of the Department of Transportation Act (49 U.S.C. 1653(c)) is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to functions, powers, and duties transferred to the Secretary from the Interstate Commerce Commission under sections 6(e) (1) through (4) and section 6(e) (6) (A) of this Act."

49 USC 1655.

Approved July 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1166 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-855 accompanying S. 3119 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 9, 11, considered and passed House.

June 24, considered and passed Senate, amended, in lieu of S. 3119.

June 25, House concurred in Senate amendments.

Public Law 94-349
94th Congress

An Act

July 8, 1976

[H.R. 13899]

To delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the United States Supreme Court.

Federal Rules of
Procedure.
Certain proposed
amendments,
delay of effective
date.
18 USC 3771
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of sections 3771 and 3772 of title 18 of the United States Code, the amendments to rules 6(e), 23, 24, 40.1 and 41(c)(2) of the Rules of Criminal Procedure for the United States district courts which are embraced by the order entered by the United States Supreme Court on April 26, 1976, and which were transmitted to the Congress on or about April 26, 1976, shall not take effect until August 1, 1977, or until and to the extent approved by Act of Congress, whichever is earlier. The remainder of the proposed amendments to the Federal Rules of Criminal Procedure shall become effective August 1, 1976, pursuant to law.

28 USC 2071
note.

SEC. 2. That, notwithstanding the provisions of section 2072 of title 28 of the United States Code, the rules and forms governing section 2254 cases in the United States district courts and the rules and forms governing section 2255 proceedings in the United States district courts which are embraced by the order entered by the United States Supreme Court on April 26, 1976, and which were transmitted to the Congress on or about April 26, 1976, shall not take effect until thirty days after the adjournment sine die of the 94th Congress, or until and to the extent approved by Act of Congress, whichever is earlier.

Approved July 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1204 (Comm. on the Judiciary).
SENATE REPORT No. 94-990 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):

June 7, considered and passed House.
June 29, considered and passed Senate, amended.
June 30, House agreed to Senate amendment.

Public Law 94-350
94th Congress

An Act

To authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

July 12, 1976

[S. 3168]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1977".

Foreign Relations
Authorization
Act, Fiscal Year
1977.
22 USC 2689
note.

TITLE I—STATE DEPARTMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) There are authorized to be appropriated for the Department of State for fiscal year 1977, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

- (1) For the "Administration of Foreign Affairs", \$552,455,000.
- (2) For "International Organizations and Conferences", \$342,460,453.
- (3) For "International Commissions", \$17,069,000.
- (4) For "Educational Exchange", \$68,500,000.
- (5) For "Migration and Refugee Assistance", \$10,000,000.
- (6) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

(b) Amounts appropriated under this section are authorized to remain available until expended.

TRANSFER AUTHORITY

SEC. 102. Funds authorized to be appropriated for fiscal year 1977 by any paragraph of section 101(a) (other than paragraph (6)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (6)), except that the total amount appropriated for a purpose described in any paragraph of section 101(a) (other than paragraph (6)) may not exceed the amount specifically authorized for such purpose by section 101(a) by more than 10 per centum.

CONTRIBUTION TO THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

SEC. 103. Notwithstanding the limitation contained in the proviso in the paragraph under the subheading "Contributions to International Organizations" in title I of the Act of October 25, 1972 (86 Stat. 1110), and notwithstanding the requirements of section 302(h) of the Foreign Assistance Act of 1961, \$3,545,453 of the amount authorized to be appropriated by section 101(a)(2) of this Act may be used to complete the fiscal year 1975 United States contribution to the United Nations Educational, Scientific, and Cultural Organization.

22 USC 2222.

INTERNATIONAL JOINT COMMISSION

SEC. 104. The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended by adding at the end thereof the following new section:

22 USC 2689.

"SEC. 19. Each fiscal year (beginning with fiscal year 1977), the Secretary of State may use not to exceed \$1,500 of the funds appropriated for the American Sections, International Joint Commission, United States and Canada, for representation expenses and official entertainment within the United States for such American Sections."

RUSSIAN REFUGEE ASSISTANCE

SEC. 105. In addition to amounts otherwise available, there are authorized to be appropriated to the Secretary of State for fiscal year 1977 not to exceed \$20,000,000 to carry out the provisions of section 101(b) of the Foreign Relations Authorizations Act of 1972 (relating to Russian refugee assistance) and to furnish similar assistance to refugees from Communist countries in Eastern Europe. None of the funds appropriated under this section may be used to resettle refugees in any country other than Israel. Amounts appropriated under this section are authorized to remain available until expended.

86 Stat. 489.

UNITED STATES PASSPORT OFFICE

SEC. 106. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for fiscal year 1977, \$1,000,000, to be used for miniaturization of the files of the United States Passport Office. Amounts appropriated under this section are authorized to remain available until expended.

NORTH ATLANTIC ASSEMBLY

SEC. 107. The joint resolution entitled "Joint resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization", approved July 11, 1956, is amended by adding at the end thereof the following new section:

22 USC 1928e.
22 USC 1928b.

"SEC. 5. In addition to the amounts authorized by section 2, there is authorized to be appropriated \$50,000 for fiscal year 1977 to meet the expenses incurred by the United States group in hosting the twenty-second annual meeting of the North Atlantic Assembly. Amounts appropriated under this section are authorized to remain available until expended."

PAYMENT TO LADY CATHERINE HELEN SHAW

SEC. 108. Of the amount appropriated under paragraph (1) of section 101(a) of this Act for salaries and expenses, \$10,000 shall be available for payment ex gratia to Lady Catherine Helen Shaw, wife of the former Australian Ambassador to the United States, as an expression of the concern of the United States Government for the injuries which she sustained as a result of an attack on her in the District of Columbia.

FOREIGN SERVICE BUILDINGS AUTHORIZATION

22 USC 295.

SEC. 109. Section 4 of the Foreign Service Buildings Act, 1926, is amended—

(1) in paragraph (2) of subsection (h) by striking out “\$71,600,000” and inserting in lieu thereof “\$73,058,000”; and

(2) by adding the following new subsection at the end of the section:

“(j) For the purpose of carrying into effect the provisions of this Act in the Union of Soviet Socialist Republics, there is authorized to be appropriated, in addition to amounts authorized prior to the enactment of this subsection, \$30,000,000, which amount is authorized to remain available until expended.”.

PAN AMERICAN GAMES

SEC. 110. (a) The Congress finds that—

(1) the Eighth Pan American Games to be held in San Juan, Puerto Rico, in 1979 will provide an opportunity for more than six thousand young men and women, representing thirty-three countries in the Western Hemisphere, to participate in friendly athletic competition;

(2) international sporting events such as the Eighth Pan American Games make a unique contribution in promoting common understanding and mutual respect among people of different cultural backgrounds; and

(3) the President has the authority under the Mutual Educational and Cultural Exchange Act of 1961 to provide financing, when he considers that it would strengthen international cooperative relations, for (A) tours abroad by American athletes, (B) United States representation in international sports competitions, and (C) participation by groups and individuals from other countries in tours and in sports competitions in the United States.

(b) In order to strengthen international cooperative relations and promote the purposes of the Mutual Educational and Cultural Exchange Act of 1961, the Secretary of State shall use funds appropriated to carry out this section to provide financial assistance for the Eighth Pan American Games to be held in Puerto Rico in 1979. Such funds shall be transferred by the Secretary to the Recreational Development Company of Puerto Rico (a government corporation of the Commonwealth of Puerto Rico) for expenses directly related to the Eighth Pan American Games, including expenses for—

(1) promoting, organizing, and conducting such games;

(2) constructing new and repairing existing athletic and recreational facilities;

(3) providing lodging, food, and transportation for participants in such games and for related personnel; and

(4) acquiring necessary material and equipment for such games.

Such expenditures shall be subject to such controls and audits as the Comptroller General may prescribe.

(c) To carry out this section, there is authorized to be appropriated to the Secretary of State \$12,000,000.

22 USC 2451
note.

PARTICIPATION BY FEDERAL EMPLOYEES IN CULTURAL EXCHANGE PROGRAMS

SEC. 111. The Mutual Educational and Cultural Exchange Act of 1961 is amended by adding immediately after section 108 the following new section:

“SEC. 108A. (a) (1) Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a

22 USC 2458a.

foreign government to facilitate the participation of such Federal employee in a cultural exchange—

22 USC 2452. “(A) which is of the type described in section 102(a)(2)(i) of this Act,

22 USC 2451. “(B) which is conducted for a purpose comparable to the purpose stated in section 101 of this Act, and

“ (C) which is specifically approved by the Secretary of State for purposes of this section;

but the Congress does not consent to the acceptance by any Federal employee of any portion of any such grant or other form of assistance which provides assistance with respect to any expenses incurred by or for any member of the family or household of such Federal employee.

“Federal employee.”

“(2) For purposes of this section, the term ‘Federal employee’ means any employee as defined in subparagraphs (A) through (E) of section 7342(a)(1) of title 5 of the United States Code, but does not include a person described in subparagraph (F) of such section.

“(b) The grants and other forms of assistance with respect to which the consent of Congress is given in subsection (a) of this section shall not constitute gifts for purposes of section 7342 of title 5 of the United States Code.

Regulations.

“(c) The Secretary of State is authorized to promulgate regulations for purposes of this section.”

ANNUITY INCREASES FOR ALIEN EMPLOYEES

22 USC 889. SEC. 112. Section 444(a) of the Foreign Service Act of 1946 is amended—

(1) by inserting “(1)” immediately after “(a)”; and

(2) by inserting the following new paragraph at the end thereof:

Regulations.

“(2) The Secretary may, under such regulations as he may prescribe, make supplemental payments, out of funds appropriated after the date of enactment of this subparagraph for salaries and expenses, to any civil service annuitant who is a former alien employee of the Service (or is a survivor of a former alien employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on (A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar, and (B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by those who have retired from competitive local organizations are superior to the local currency value of civil service annuities plus any other retirement benefits payable to alien employees who have retired during similar time periods and after comparable careers with the United States Government.”

MEMBERSHIP AUTHORITY FOR INTERNATIONAL ORGANIZATIONS

SEC. 113. The President is authorized to maintain United States membership in the International Cotton Advisory Committee, the International Lead and Zinc Study Group, the International Rubber Study Group, and the International Seed Testing Association.

PANAMA CANAL

SEC. 114. Any new Panama Canal treaty or agreement negotiated with funds appropriated under this title must protect the vital interests

of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal.

INTERNATIONAL JOINT COMMISSION

SEC. 115. After the date of enactment of this Act, any commissioner of the International Joint Commission appointed on the part of the United States, pursuant to article VII of the treaty between the United States and Great Britain relating to boundary waters between the United States and Canada, signed at Washington on January 11, 1909 (36 Stat. 2448; TS 548; III Redmond 2607), shall be appointed by the President by and with the advice and consent of the Senate.

Commissioner,
appointment.

FOREIGN GIFTS

SEC. 116. (a) The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended by section 104 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 20. Any expenditure for any gift for any person of any foreign country which involves any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Comptroller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such expenditure and necessary to facilitate the audit."

22 USC 2690.

STATE DEPARTMENT/UNITED STATES INFORMATION AGENCY PERSONNEL SYSTEM

SEC. 117. It is the sense of Congress that the proliferation of personnel categories within the State Department and the United States Information Agency (the several categories being characterized by various standards for hiring, tenure, and pay) has resulted in a personnel system susceptible to inefficiency, inequity, and abuse. Therefore, within one hundred and eighty days of the enactment of this Act, the Secretary of State shall transmit to Congress a comprehensive plan for the improvement and simplification of this system, such plan to include a reduction in the number of personnel categories, and proposed legislation if necessary.

Comprehensive
plan, transmittal
to Congress.

PARLIAMENTARY CONFERENCES

SEC. 118. (a) Section 2 of the Act of June 11, 1959 (Public Law 86-42; 73 Stat. 72), is amended by striking out "\$30,000" and inserting in lieu thereof "\$50,000", and by striking out "\$15,000" each time it appears and inserting in lieu thereof "25,000".

22 USC 276e.

(b) Section 2 of the Act of April 9, 1960 (Public Law 86-420; 74 Stat. 40), is amended by striking out "\$30,000" and inserting in lieu thereof "\$50,000", and by striking out "\$15,000" each time it appears and inserting in lieu thereof "\$25,000".

22 USC 276i.

MEDICAL MALPRACTICE PROTECTION

SEC. 119. Title X of the Foreign Service Act of 1946 is amended by adding at the end thereof the following new part:

"PART J—MALPRACTICE PROTECTION

22 USC 817.

"SEC. 1091. (a) The remedy—

"(1) against the United States provided by sections 1346(b) and 2672 of title 28 of the United States Code, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under such sections,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist, or paramedical (including medical and dental assistants and technicians, nursing assistants, and therapists) or other supporting personnel of the Department of State (including the Agency for International Development) in furnishing medical care or related services, including the conducting of clinical studies or investigations, while in the exercise of his or her duties in or for the Department of State or any other Federal department, agency, or instrumentality shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his or her estate) whose act or omission gave rise to such claim.

Civil action.

"(b) The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or her or an attested true copy thereof to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

Certification.

"(c) Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency, or instrumentality at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 of the United States Code and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court except that where such remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

28 USC 1 *et seq.*

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in

section 2677 of title 28 of the United States Code and with the same effect.

“(e) For purposes of this section, the provisions of section 2680(h) of title 28 of the United States Code shall not apply to any tort enumerated therein arising out of negligence in the furnishing of medical care or related services, including the conducting of clinical studies or investigations.

“(f) The Secretary may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of subsection (a) of this section apply, for damages for personal injury, including death, negligently caused by any such person while acting within the scope of his or her office or employment and as a result of the furnishing of medical care or related services, including the conducting of clinical studies or investigations, if such person is assigned to a foreign area or detailed for service with other than a Federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States provided by sections 1346(b) and 2672 of title 28 of the United States Code, for such damage or injury.

Liability
insurance.

“(g) For purposes of this section, any medical care or related service covered by this section and performed abroad by a covered person at the direction or with the approval of the United States Ambassador or other principal representative of the United States in the area shall be deemed to be within the scope of employment of the individual performing the service.”.

Medical care.

APPOINTMENT OF AMBASSADORS

SEC. 120. It is the sense of the Congress that a greater number of positions of ambassador should be occupied by career personnel in the Foreign Service.

DISCRIMINATION

SEC. 121. Information should not be disseminated about opportunities for, and there should be no participation or other assistance by any officer or employee of the Department of State (including the Agency for International Development) in, the negotiation of any contract or arrangement with a foreign country, individual, or entity, if—

22 USC 2661a.

(1) any United States person (as defined in section 7701(a) (30) of the Internal Revenue Code of 1954) is prohibited from entering into such contract or arrangement, or

26 USC 7701.

(2) such contract or arrangement requires that any such person be excluded from participating in the implementation of such contract or arrangement,

on account of the race, religion, national origin, or sex of such person in the case of an individual or, in the case of a partnership, corporation, association, or other entity, any officer, employee, agent, director, or owner thereof.

TITLE II—UNITED STATES INFORMATION AGENCY

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1977, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization

22 USC 1431
note.
22 USC 2451
note.

22 USC 1461
note.

Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) For "Salaries and Expenses" and "Salary and Expenses (special foreign currency program)", \$255,925,000.

(2) For "Special International Exhibitions", \$4,841,000.

(3) For "Acquisition and Construction of Radio Facilities", \$2,142,000.

(4) Such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, or other nondiscretionary costs.

(b) Amounts appropriated under this section are authorized to remain available until expended.

TRANSFER AUTHORITY

SEC. 202. Funds authorized to be appropriated for fiscal year 1977 by any paragraph of section 201(a) (other than paragraph (4)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (4)), except that the total amount appropriated for a purpose described in any paragraph of section 201(a) (other than paragraph (4)) may not exceed the amount specifically authorized for such purpose by section 201(a) by more than 10 per centum.

PURCHASE OF UNIFORMS

22 USC 1474. SEC. 203. Section 804 of the United States Information and Educational Exchange Act of 1948 is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding immediately after paragraph (13) the following new paragraph:

"(14) purchase uniforms, when funds are appropriated therefor."

REPLACEMENT OF PASSENGER MOTOR VEHICLES

SEC. 204. Title VIII of the United States Information and Educational Exchange Act of 1948 is amended by adding at the end thereof the following new section:

"REPLACEMENT OF PASSENGER MOTOR VEHICLES

22 USC 1475a.

"SEC. 806. The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles used abroad for purposes of this Act or the Mutual Educational and Cultural Exchange Act of 1961 are authorized to be made available without fiscal year limitation for replacement of an equal number of such vehicles in accordance with section 201(c) of the Federal Property and Administrative Services Act of 1949."

22 USC 2451
note.

40 USC 481.

BICENTENNIAL DISTRIBUTION OF CERTAIN ITEMS PREPARED BY THE UNITED STATES INFORMATION AGENCY

22 USC 1461.

SEC. 205. (a) Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948, the Director of the United States Information Agency shall make available to the Administrator of General Services, for deposit

in the National Archives of the United States, a master copy of each of the films described in subsection (b) and 150 copies of the exhibit described in subsection (c) and the Administrator shall provide for the distribution of copies of such films and such exhibit for public viewing within the United States in conjunction with the commemoration of the American Revolution Bicentennial.

(b) The films referred to in subsection (a) are the following films which were prepared by the United States Information Agency: Films.

(1) "Echoes", a film sketching the aspirations of American democracy as evoked by heroes and leaders of the past.

(2) "Santa Fe", a film dealing with the historical and social development of Santa Fe, New Mexico, and the surrounding countryside, and with the influence of Spanish, Indian, and Mexican culture on life in the United States Southwest.

(3) "The Numbers Start With the River", a film depicting the quality of life in a small midwestern American town as seen through the eyes of two elderly, lifelong residents of the town.

(4) "The Copland Portrait", a film depicting the life, work, and music of American composer Aaron Copland, including his early student years and early interest in music, his current work with young composers, and his still energetic public performance schedule.

(5) "200", an impressionistic animated cartoon tracing the past two centuries of the development of America.

(6) "Rendezvous", a film portraying the frontier life of American fur trappers.

(7) "Century III—The Gift of Life", a film describing the advances that have been made in the United States, and the prospects for future such advances, in medical techniques such as organ transplants, prosthesis, and immunology.

(c) The exhibit referred to in subsection (a) is the exhibit, prepared by the United States Information Agency, entitled "Life, Liberty, and the Pursuit of Happiness". Such exhibit is a collection of pictures and captions, derived primarily from documents contemporaneous with the events represented, depicting early cultural life in the United States and tracing the early economic growth of the United States, the expansion westward, the development of the democratic spirit, and the establishment of American government and legal institutions.

VOICE OF AMERICA BROADCASTS

SEC. 206. Title V of the United States Information and Educational Exchange Act of 1948 is amended by adding the following new section:

"SEC. 503. The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America (the Broadcasting Service of the United States Information Agency) must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts: 22 USC 1463.

"(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

"(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

“(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussion and opinion on these policies.”.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

AUTHORIZATION OF APPROPRIATIONS

22 USC 2877. SEC. 301. Section 8 of the Board of International Broadcasting Act of 1973 is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 8. (a) There are authorized to be appropriated to carry out the purposes of this Act for fiscal year 1977—

“(1) \$58,385,000, of which \$5,000,000 shall be available only to the extent that the Director of the Office of Management and Budget determines (and so certifies to the Congress) is necessary, because of downward fluctuations in foreign currency exchange rates in order to maintain the budgeted level of operation for Radio Free Europe and Radio Liberty; and

“(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

Amounts appropriated under this section are authorized to remain available until expended.

“(b) The Director of the Office of Management and Budget shall place in reserve and inform the Congress of any amount appropriated under this section which, because of upward fluctuations in foreign currency exchange rates, is in excess of the amount necessary to maintain the budgeted level of operation for Radio Free Europe and Radio Liberty.”.

22 USC 2872. SEC. 302. (a) Section 3(b) of the Board for International Broadcasting Act of 1973 is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking out “seven members, two of whom shall be ex officio members” and inserting in lieu thereof “six members, one of whom shall be an ex officio member”, and

(B) in the fourth sentence, by striking out “the chief operating executive of Radio Liberty shall be ex officio members” and inserting in lieu thereof “Radio Liberty shall be an ex officio member”;

(2) by amending paragraph (4) to read as follows:

“(4) TERM OF OFFICE OF THE EX OFFICIO MEMBER.—The ex officio member of the Board shall serve on the Board during his term of service as chief operating executive of Radio Free Europe and Radio Liberty.”; and

(3) in the third sentence of paragraph (5), by striking out “Ex officio members” and inserting in lieu thereof “The ex officio member”.

(b) Section 3 of such Act is further amended by adding at the end thereof the following new subsection:

“(c) The Board may, to the extent it deems necessary to carry out its functions under this Act, procure supplies, services, and other personal property, including specialized electronic equipment.”.

Supplies, services
and personal
property,
procurement.

- (c) Paragraph (8) of section 4(a) of such Act is amended—
- (1) by striking out “30th day of October” and inserting in lieu thereof “31st day of January”; and
 - (2) by striking out “June” and inserting in lieu thereof “September”.

22 USC 2873.

TITLE IV—MISCELLANEOUS

JAPAN-UNITED STATES FRIENDSHIP ACT

SEC. 401 The Japan-United States Friendship Act (Public Law 94-118) is amended—

22 USC 2901

(1) in paragraph (10) of section 6 by striking out “from the Secretary of State, on a reimbursable basis,”;

note.

22 USC 2905.

(2) in section 3(d) by striking out the period at the end thereof and inserting in lieu thereof “, including interest and proceeds accruing to the Fund from such funds in accordance with sections 6(4) and 7 of this Act.”;

22 USC 2902.

(3) (A) in section 3(e) (1) by striking out the period at the end thereof and inserting in lieu thereof “and interest and proceeds accruing to the Fund from such funds in accordance with sections 6(4) and 7 of this Act.”; and

(B) in section 7(b) by inserting “of amounts authorized to be appropriated under section 3(d) of this Act” immediately after “investment” in the second sentence.

22 USC 2906.

FOREIGN CURRENCY REPORTS

SEC. 402. Section 502(b) of the Mutual Security Act of 1954 is amended by adding at the end thereof the following new sentence: “Each such consolidated report shall be published in the Congressional Record within ten legislative days after it is forwarded pursuant to this subsection.”.

22 USC 1754.

REPORT ON INTERNATIONAL BROADCASTING

SEC. 403. Not later than January 31, 1977, the President shall submit to the Congress a report—

Report to Congress.

22 USC 2871

note.

(1) recommending steps to be taken to utilize more effectively the transmission facilities for international broadcasting, both existing and planned, of the United States Government;

(2) examining the feasibility of greater cooperation with foreign countries to insure mutually efficient use of nationally owned and nationally funded transmission facilities for international broadcasting;

(3) containing a comprehensive outline of projected needs for United States international broadcasting operations based on anticipated language requirements and anticipated cooperation among various agencies of the United States Government, United States Government-funded organizations, and foreign governments involved in international broadcasting; and

(4) recommending steps which should be taken to extend broadcasting operations similar to those carried out under the Board for International Broadcasting Act of 1973 to additional countries where access to information is restricted by the policies of the governments of such countries.

22 USC 2871
note.

Foreign Service
Retirement
Amendments of
1976.

TITLE V—FOREIGN SERVICE RETIREMENT

SHORT TITLE

22 USC 801 note.

SEC. 500. This title may be cited as the “Foreign Service Retirement Amendments of 1976”.

FOREIGN SERVICE STAFF PARTICIPATION

22 USC 1063.

SEC. 501. (a) Section 803 of the Foreign Service Act of 1946 is amended by adding the following paragraph at the end of subsection (a) thereof:

“(4) All Foreign Service staff officers and employees appointed by the Secretary of State or the Director of the United States Information Agency with unlimited appointments.”.

(b) Section 803 of such Act is further amended by changing the reference at the end of subsection (b) (2) from “852(b)” to “811”.

(c) Section 803 of such Act is further amended by striking out subsection (c) thereof.

DEFINITIONS

22 USC 1064.

SEC. 502. (a) The caption of section 804 of such Act is amended to read “DEFINITIONS”.

(b) Section 804 of such Act is amended by striking out all of such section except paragraphs (4), (5), and (6) of subsection (b) and inserting in lieu thereof the following:

“When used in this title unless otherwise specified, the term—

“(1) ‘Annuitant’ means any person including a former participant or survivor who meets all requirements for an annuity from the Fund under the provisions of this or any other Act and who has filed claim therefor.

“(2) ‘Surviving spouse’ means the surviving wife or husband of a participant or annuitant who, in the case of a death in Service or marriage after retirement, was married to the participant or annuitant for at least two years immediately preceding his or her death or is the parent of a child born of the marriage.

22 USC 1086.
Post, p. 840.

“(3) ‘Child’, except in section 841, means an unmarried child, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support. In addition to the offspring of the participant, such term includes (A) an adopted child, (B) a stepchild or recognized natural child who received more than one-half support from the participant, and (C) a child who lived with and for whom a petition of adoption was filed by a participant, and who is adopted by the surviving spouse of the participant after the latter’s death. Such term also includes an unmarried student below the age of twenty-two years. For this purpose a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while a student is deemed to have become twenty-two years of age on the first day of July after that birthday.

“(4) ‘Student’ means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. A child who is a student shall not be deemed to have ceased to be a student during any interim between school years, semesters, or terms if the interim or other period of nonattendance does not exceed five calendar months and if the child shows to the satisfaction of the Secretary that he or

she has a bona fide intention of continuing to pursue such course during the school year, semester, or term immediately following the interim.

“(5) ‘Military and naval service’ means honorable active service—

“(A) in the Armed Forces of the United States;

“(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960; or

“(C) as a commissioned officer of the National Oceanic and Atmospheric Administration or predecessor organization after June 30, 1961;

but does not include service in the National Guard except when ordered to active duty in the service of the United States.

“(6) ‘Foreign Service normal cost’ means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military service.”

(c) Section 804 of such Act is further amended by redesignating present paragraphs (4), (5), and (6) of subsection (b) as paragraphs (7), (8), and (9), respectively. 22 USC 1064.

CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

SEC. 503. Immediately after section 804 of such Act, insert the following new section:

“AUTHORITY TO MAINTAIN EXISTING AREAS OF CONFORMITY BETWEEN CIVIL SERVICE AND FOREIGN SERVICE RETIREMENT SYSTEMS

“SEC. 805. (a) In order to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System, whenever (subsequent to January 1, 1974) a law is enacted which affects a provision of general applicability in the Civil Service Retirement and Disability System (subchapter III, chapter 83, title 5, United States Code) or otherwise affects current or former participants, annuitants, or survivors under that System which, immediately prior to the enactment of such law, had been substantially identical to a corresponding provision of law affecting participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System, such new provision of law shall be deemed to extend to the latter System so that it applies in like manner with respect to such Foreign Service Retirement and Disability System participants, former participants, annuitants, or survivors. The President is authorized by Executive order to prescribe regulations to implement this section and to make such extension retroactive to a date no earlier than the effective date of such provision for the Civil Service Retirement and Disability System. 22 USC 1065.

5 USC 8331.

Regulations.

“(b) Any provisions of an Executive order issued under the authority of this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

“(1) all provisions of law enacted prior to the effective date of the provision of such Executive order, and

“(2) any prior provision of an Executive order issued under authority of this section.”

CONTRIBUTIONS

SEC. 504. (a) The heading of part B of title VIII of such Act is amended to read "CONTRIBUTIONS TO THE FUND".

22 USC 1071. (b) Section 811 of such Act is amended by adding the following at the end thereof:

Transfer.

"(c) (1) If an officer or employee under another retirement system for Government employees becomes a participant in the system by direct transfer, such officer or employee's total contributions and deposits that would otherwise be refundable on separation including interest accrued thereon, except voluntary contributions, shall be transferred to the Fund effective as of the date such officer or employee becomes a participant in the System. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered prior to becoming a participant in the system.

"(2) No officer or employee, whose contributions are transferred to the Fund in accordance with the provisions of subsection (c) (1) of this section, shall be required to make contributions in addition to those transferred, for periods of service for which required contributions were made to the other Government retirement fund, nor shall any refund be made to any such officer or employee on account of contributions made during any period to the other Government retirement fund, at a higher rate than that fixed by subsection (d) of this section.

Special contribution.

"(d) Any participant credited with civilian service after July 1, 1924 (1) for which no retirement contributions, deductions, or deposits have been made, or (2) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited, may make a special contribution to the Fund equal to the following percentages of basic salary received for such services:

Service:	Percent of basic salary
From July 1, 1921, to October 15, 1960, inclusive.....	5
From October 16, 1960, to December 31, 1969, inclusive.....	6½
On and after January 1, 1970.....	7

5 USC 8331.

Notwithstanding the foregoing, a special contribution for prior nondeposit service as a National Guard technician which would be creditable under subchapter III, chapter 83, title 5, of the United States Code toward civil service retirement and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the above schedule multiplied by the percentage of such service that is creditable under section 851. Special contributions shall include interest computed from the mid-point of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the rate of 4 per centum per annum to December 31, 1976, and at 3 per centum per annum thereafter. No interest shall be charged on special contributions made after the effective date of the Foreign Service Retirement Amendments of 1976 for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments when authorized by the Secretary.

Interest rate.

Ante, p. 834.

"(e) No contributions shall be required for any periods of military or naval service.

“(f) A participant or survivor may make a special contribution any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.”.

COMPUTATION OF ANNUITIES

SEC. 505. (a) The heading of part C of title VIII of such Act is amend to read “COMPUTATION AND PAYMENT OF ANNUITIES”.

(b) Subsection (a) of section 821 of such Act is amended (1) by striking out the phrase “for which full contributions have been made to the Fund” each time it appears and by striking out the commas immediately preceding and following such phrase the first time it appears, (2) by striking out “, 852”, and (3) by adding the following sentence at the end thereof: “The annuity shall be reduced by 10 per centum of any special contribution described in section 811(d) due for service for which no contributions were made and remaining unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.”.

22 USC 1076.

Ante, p. 836.

(c) Subsection (b) of section 821 of such Act is amended to read as follows:

“(b) (1) Unless elected in writing to the contrary at the time of retirement, any married participant shall receive a reduced annuity and provide a maximum survivor annuity for his or her spouse. Such a participant’s annuity or any portion thereof designated in writing by the participant as the base for the survivor benefit shall be reduced by 2½ per centum of the first \$3,600 plus 10 per centum of any amount over \$3,600. If an annuitant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 per centum of the full amount of the participant’s annuity computed under subsection (a) of this section, or by 55 per centum of any lesser amount the annuitant designated at the time of retirement as the base for the survivor benefit.

“(2) An annuity payable from the Fund to a surviving spouse shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the survivor’s (A) remarriage prior to attaining age sixty, or (B) death. If a survivor annuity is terminated because of remarriage under clause (A) above, it shall be restored at the same rate commencing on the date such remarriage is terminated provided any lump sum paid upon termination of the annuity is returned to the Fund.”.

(d) Subsection (d) of section 821 of such Act is amended by adding the following sentence at the end thereof: “If the annuity to a surviving child is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.”.

(e) Subsection (e) of section 821 of such Act is amended to read as follows:

“(e) The annuity payable to a child under subsection (c) or (d) of this section shall begin on the day after the participant dies or if the child is not then qualified, on the first day of the month in which the child becomes eligible. A child’s annuity shall terminate on the last day of the month which precedes the month in which eligibility ceases.”.

(f) Subsection (f) of section 821 of such Act is amended (1) by striking out “50” in the first sentence and inserting in lieu thereof “55”, and (2) by striking out the last two sentences and inserting in lieu thereof the following: “The annuity payable to a beneficiary under

the provisions of this subsection shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the survivor's death."

22 USC 1076.

(g) Section 821 of such Act is further amended by adding the following new subsections at the end thereof:

22 USC 1064.

"(g) An annuitant who was married at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing a reduced annuity with benefit to any surviving spouse who qualifies under section 804(2). Receipt by the Secretary of notice of an election under this subsection voids prospectively any election previously made under subsection (f). The reduction in annuity required by an election under this subsection shall be computed and the amount of the survivor annuity shall be determined as if the election were made under subsection (b)(1). The annuity reduction or recomputation shall be effective the first day of the month after notice of the election is received by the Secretary.

"(h) A surviving spouse shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees.

Post, p. 843.

"(i) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 871 shall, unless the annuitant elects in writing to the contrary at that time, have the supplemental annuity reduced by 10 per centum to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 per centum of the annuitant's supplemental annuity and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or to whom the annuitant had been married for at least two years at the time of death or who is the parent of a child born of the marriage."

PAYMENT OF ANNUITIES

SEC. 506. Part C of title VIII of such Act is further amended by adding the following new section at the end thereof:

"PAYMENT OF ANNUITY

22 USC 1076a.

"SEC. 822. (a) Except as otherwise provided, the annuity of a former participant who has met the eligibility requirements for annuity shall commence on the day after separation from the Service or on the day after pay ceases. The annuity of a former participant who is entitled to a deferred annuity under section 834 or under any other section of this Act shall begin on the day he or she reaches age sixty.

22 USC 1084.

Application.

"(b) The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application therefor supported by such proof of eligibility as the Secretary may require. If such application or proof of eligibility is not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate.

Waiver.

"(c) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

“(d) Recovery of overpayments under this title may not be made from an individual when, in the judgment of the Secretary, the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.”.

DISABILITY ANNUITIES

SEC. 507. Section 831 of such Act is amended—

22 USC 1081.

(1) in subsection (a) thereof by striking out “that is credited in accordance with provisions of section 851 or 852(a)(2)”;

(2) in subsection (c) thereof by striking out “(a)” following “section 841”;

(3) by amending subsection (d) thereof to read as follows:

“(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself or herself under subchapter I of chapter 81, title 5, United States Code, covering the same period of time except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under section 8107 of title 5, United States Code. This provision shall not bar the right of any claimant to the greater benefit conferred by either this Act or such subchapter for any part of the same period of time. Neither this provision nor any provision of such subchapter shall be so construed as to deny the right of any participant to receive an annuity under this Act and to receive concurrently any payment under such subchapter by reason of the death of any other person.”; and

5 USC 8101.

(4) in subsection (e) thereof by striking out “section 14 of the Act of September 16, 1916, as amended” and inserting in lieu thereof “section 8135 of title 5, United States Code”.

DEATH IN SERVICE

SEC. 508. (a) Section 832 of such Act is amended by amending subsections (a), (b), (c), and (d) to read as follows:

22 USC 1082.

“(a) If a participant dies and no claim for annuity is payable under the provisions of this Act, the lump-sum credit shall be paid in accordance with section 841.

Post, p. 840.

“(b) If a participant who has at least eighteen months of civilian service credit toward retirement under the system dies before separation or retirement from the Service and is survived by a spouse, such surviving spouse shall be entitled to an annuity equal to 55 per centum of the annuity computed in accordance with the provisions of subsection (e) of this section and of section 821(a) and if the participant had less than three years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

22 USC 1076.

“(c) If a participant who has at least eighteen months of civilian service credit toward retirement under the system dies before separation or retirement from the Service and is survived by a wife or a husband and a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(1) and (d) of section 821.

“(d) If a participant who has at least eighteen months of civilian service credit toward retirement under the system dies before separation or retirement from the Service and is not survived by a wife or husband, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(2) and (d) of section 821.”.

22 USC 1082.

(b) Section 832 of this Act is further amended by adding the following new subsections at the end:

22 USC 915.

Post, p. 843.

22 USC 1076.

“(f) If an annuitant who elected a reduced annuity dies in service after being recalled under section 520(b) and is survived by a spouse entitled to a survivor annuity based on such an election, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the deceased’s annuity had been resumed in accordance with section 871. If such a death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse, in addition to any other benefits, shall be entitled to elect, in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 821(i) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse may elect, in lieu of any other benefit under this title, to have the annuitant’s rights redetermined and to receive a survivor annuity computed under subsection (b) of this section on the basis of the annuitant’s total service.

“(g) Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with subsection (b) (2), (e), or (h) of section 821, as appropriate.”.

DISCONTINUED SERVICE—TECHNICAL CHANGE

22 USC 1084.

SEC. 509. Section 834 of such Act is amended (1) by striking out “(a)” immediately following “Sec. 834.”; (2) by striking out “that is credited in accordance with the provisions of section 851 or 852(a) (2)” in subsection (a) thereof; and (3) by striking out subsection (b) thereof.

LUMP-SUM PAYMENTS

SEC. 510. Part E of title VIII of such Act is amended to read as follows:

“PART E—LUMP-SUM PAYMENTS

“Lump-sum
credit.”
22 USC 1086.

“SEC. 841. (a) ‘Lump-sum credit’ as used in this title means the compulsory and special contributions to a participant’s or former participant’s credit in the Fund plus interest thereon compounded at 4 per centum per annum to the date of separation or December 31, 1976, whichever is earlier, and after such date for a participant who separates from the Service after completing at least one year of civilian service and before completing five years of such service, at the rate of 3 per centum per annum to the date of separation. Interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for recall service or other service performed after the date of separation which forms the basis for annuity.

“(b) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the lump-sum credit shall be paid to the participant.

Contributions
returned.

“(c) Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 871, the annuitant’s compulsory contributions to the Fund for such service together with

any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned.

“(d) If all annuity rights under this title based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid in the order of precedence shown in subsection (g) of this section.

“(e) If a participant or former participant dies and is not survived by a person eligible for an annuity under this title or by such a person or persons all of whose annuity rights terminate before a claim for survivor annuity is filed, the lump-sum credit shall be paid in accordance with subsection (g) of this section.

“(f) If an annuitant who was a former participant dies, annuity accrued and unpaid, shall be paid in accordance with subsection (g) of this section.

“(g) Payments authorized in subsections (d) through (f) of this section shall be paid in the following order of precedence to such person or persons surviving the participant and alive on the date entitlement to the payment arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

“(1) to the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing received by the Secretary prior to the participant's death, for which purpose a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;

“(2) if there be no such beneficiary, to the surviving wife or husband of such participant;

“(3) if none of the above, to the child or children of such participant (including adopted and natural children but not step-children) and descendants of deceased children by representation;

“(4) if none of the above, to the parents of such participant or the survivor of them;

“(5) if none of the above, to the duly appointed executor or administrator of the estate of such participant; and

“(6) if none of the above, to other next of kin of such participant as may be determined in the judgment of the Secretary to be legally entitled thereto, except that no payment shall be made pursuant to this paragraph (6) until after the expiration of thirty days from the death of the participant or annuitant.

“(h) Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person: First, to the duly appointed executor or administrator of the estate of the survivor annuitant; second, if there is no such executor or administrator, payment may be made, after the expiration of thirty days from the date of death of such survivor annuitant, to such person as may be determined by the Secretary to be entitled under the laws of the survivor annuitant's domicile at the time of death.

“(i) Amounts deducted and withheld from basic salary of a participant under section 811 from the beginning of the first pay period after the participant has completed thirty-five years of service computed under sections 851 and 853, but excluding service credit for unused sick leave under subsection (b) of section 851, together with interest on the amounts at the rate of 3 per centum a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under subsection (d)

22 USC 1071.

Post, p. 842.
22 USC 1093.

Ante, p. 836.

of section 811, and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in subsection (g) of this section.”.

CREDITABLE SERVICE

22 USC 1091.

SEC. 511. (a) The heading of section 851 of such Act is amended to read as follows: “CREDITABLE SERVICE”.

(b) Subsection (a) of section 851 of such Act is amended to read as follows:

“(a) Except as otherwise specified by law, all periods of civilian and military and naval service and periods of absence and separation therefrom completed by a participant through the date of final separation from the Service that would be creditable, as determined by the Secretary, under section 8332 of title 5, United States Code, toward retirement under the Civil Service Retirement and Disability System, if performed by an employee under that system, shall be creditable for purposes of this title. Conversely, any such service performed after December 31, 1976, that is not creditable under specified conditions under section 8332 of title 5, United States Code, shall be excluded under this title under the same conditions.”.

(c) Section 851 of such Act is further amended by adding the following new subsections at the end thereof:

“(c)(1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within sixty days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for such periods of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this subsection are not made for the periods of such leave without pay occurring after the effective date of this subsection, the participant may not receive any credit for such periods of leave without pay occurring after such date.

Special
contribution.

“(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving, before the effective date of this subsection, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate, and shall be computed in accordance with section 811. A participant who makes such a contribution shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to six months’ retirement credit shall be allowed for such periods of leave without pay each calendar year.

“(d) A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service pursuant to section 811. Credit may not be allowed for service covered by the refund unless the special contribution is made.

“(e) No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system for Government employees unless (1) the right to any annuity under the other system which is

based on such service is waived, and (2) a special contribution is made covering such service pursuant to section 811.

22 USC 1071.

“(f) A participant who during the period of a war, or of a national emergency as proclaimed by the President or declared by the Congress, leaves the Service to enter the military service is deemed, for the purpose of this title, as not separated from the Service unless the participant applies for and receives a lump-sum payment under section 841. However, the participant is deemed to be separated from the Service after the expiration of five years of such military service.”.

Ante, p. 840.

FUNDING NORMAL COST

SEC. 512. Section 865 of such Act is amended (1) by inserting “(a)” immediately after “SEC. 865.”, and (2) by adding the following new subsection at the end thereof:

22 USC 1105.

“(b) There is authorized to be appropriated to the Fund for each fiscal year an amount equal to the amount of the Foreign Service normal cost for that year which is not met by contributions to the Fund under section 811(a).”.

ANNUITY ADJUSTMENT FOR RECALL SERVICE

SEC. 513. Section 871 of such Act is amended to read as follows:

22 USC 1111.

“ANNUITY ADJUSTMENT FOR RECALL SERVICE

“SEC. 871. Any annuitant recalled to duty in the Service in accordance with the provisions of section 520(b) shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service, the recalled annuitant shall make contributions to the Fund in accordance with the provisions of section 811. On the day following termination of the recall service, the former annuity shall be resumed adjusted by any cost-of-living increases under section 882 that became effective during the recall period. If the recall service lasts less than one year, the annuitant's contributions to the Fund during recall service shall be refunded in accordance with section 841. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 821 on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least five years, the annuitant may elect to have his or her annuity determined anew under section 821 in lieu of any other benefits under this section. Any annuitant who is recalled under section 520(b) may, upon written application, count as recall service any prior service that is creditable under section 851 that was performed after the separation upon which his or her annuity is based.”.

Post, p. 845.

Post, p. 844.

Ante, p. 837.

VOLUNTARY CONTRIBUTIONS

SEC. 514. (a) Section 881(a) of such Act is amended by striking out that portion of such section which precedes paragraph (1) and inserting in lieu thereof the following:

22 USC 1116.

“(a) The Voluntary contribution account shall be the sum of unrefunded amounts heretofore voluntarily contributed by any participant or former participant under this section or under a prior corresponding provision of law, plus interest compounded at the rate of 3 per centum per annum to date of separation from the Service or in case of a participant or former participant separated with entitlement to

Interest rate.

a deferred annuity to the date the voluntary contribution account is claimed, or to the commencing date fixed for the deferred annuity or to the date of death, whichever is earlier. A participant's or former participant's account shall, effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the participant's election, be—".

22 USC 1116.

(b) Section 881 of such Act is further amended by striking out subsections (c) and (d) thereof and by inserting in lieu thereof the following:

Lump-sum
payment.

"(c) A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant provided application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity, or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 841(g)."

Ante, p. 840.

COST-OF-LIVING ADJUSTMENTS

22 USC 1121. SEC. 515. (a) Subsections (a), (b), and (c) of section 882 of such Act are amended to read as follows:

"(a) A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States Code. Each such increase shall be applied to each annuity payable from the Fund which has a commencing date not later than the effective date of the increase.

"(b) The first annuity increase under this section after the effective date of this paragraph shall equal the per centum rise in the price index, adjusted to the nearest one-tenth of 1 per centum, between the month last used to establish an increase under this section and the base month used to establish the concurrent increase under section 8340(b) of title 5, United States Code. Each subsequent annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code.

Eligibility.

"(c) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase except as follows:

"(1) An annuity, except a deferred annuity under section 834 or any other section of this Act, payable from the Fund to a participant who retires and receives an immediate annuity, or to a surviving spouse of a deceased participant who dies in service or who dies after being separated under the provisions of section 634(b) (2), which has a commencing date after the effective date of the then last preceding general annuity increase under this section shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of such last preceding increase. In the administration of this paragraph, the number of days of unused sick leave to an employee's or deceased employee's credit on the effective date of the then last preceding general annuity increase under this section shall be deemed to be equal to the number of days of unused sick leave to his or her credit on the day of separation from the Service.

22 USC 1004.

"(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor, except a child entitled

under section 821(c) or 832 (c) or (d), shall be increased by the total per centum increase the annuitant was receiving under this section at death. 22 USC 1076.
Ante, p. 839.

“(3) For purposes of computing or recomputing an annuity to a child under section 821 (c) or (d) or 832 (c) or (d), the items \$900, \$1,080, \$2,700 and \$3,240 appearing in section 821(c) shall be increased by the total per centum increases by which corresponding amounts are being increased under section 8340 of title 5, United States Code, on the date the child’s annuity becomes effective.”.

(b) Section 882 of such Act is further amended by adding the following new subsection at the end thereof: 22 USC 1121.

“(f) Effective the first day of the second month which begins after the effective date of the Foreign Service Retirement Amendments of 1976 or on the commencing date of an annuity, whichever is later, the annuity of each surviving spouse whose entitlement to annuity resulted from the death—
Ante, p. 834.

“(1) before the effective date of the Foreign Service Retirement Amendments of 1976, of (A) a participant, or (B) a former participant entitled to benefits under section 634(b); or

22 USC 1004.

“(2) of an annuitant who, prior to the effective date of the Foreign Service Retirement Amendments of 1976, elected a reduced annuity under this or any other Act in order to provide a spouse’s survivor annuity; shall be increased by 10 per centum.”.

REPEALS

SEC. 516. Sections 833, 852, and 854 of such Act are repealed. 22 USC 1083,
1092, 1094.

RECALL

SEC. 517. (a) The caption of section 520 of such Act is amended to read “REAPPOINTMENT AND RECALL”. 22 USC 915.

(b) Subsection (b) of section 520 of such Act is amended to read as follows:

“(b) Whenever the Secretary determines it to be in the public interest, any retired officer or employee of the Service may be recalled for active duty on a temporary or limited basis to any appropriate class in his or her former category, except that a retired Foreign Service officer may not be recalled to a class higher than he or she held at the time of retirement unless appointed to the higher class by the President by and with the advice and consent of the Senate.”.

RETIREMENT OF CAREER AMBASSADORS

SEC. 518. Section 631 and the heading thereto of such Act are amended to read as follows: 22 USC 1001.

“FOREIGN SERVICE OFFICERS WHO ARE CAREER AMBASSADORS

“SEC. 631. Any Foreign Service officer who is a career ambassador, other than one occupying a position as chief of mission or any other position to which appointed by the President, by and with the advice and consent of the Senate, shall be retired from the Service at the end of the month in which the officer reaches age sixty-five and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, such an officer may be retained on active service for a period

Ante, p. 837.

not to exceed five years. Any such officer who completes a period of authorized service after reaching age sixty-five shall be retired at the end of the month in which such service is completed.”

RETIREMENT OF PARTICIPANTS WHO ARE NOT CAREER AMBASSADORS

22 USC 1002.

SEC. 519. Section 632 of such Act is amended to read as follows:

“PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM WHO ARE NOT CAREER AMBASSADORS

Ante, p. 837.

“SEC. 632. Any participant in the Foreign Service Retirement and Disability System, other than one occupying a position as chief of mission or any other position to which appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador shall be retired from the Service at the end of the month in which the participant reaches age sixty and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, such a participant may be retained on active service for a period not to exceed five years. Any such participant who completes a period of authorized service after reaching age sixty shall be retired at the end of the month in which such service is completed.”

SELECTION-OUT BENEFITS

22 USC 1004.

SEC. 520. Section 634(b) (2) of such Act is amended by striking out—

- (1) “, with interest” after the words “Disability Fund” the first time the latter appears;
- (2) “(a)” after “section 841” the first time the latter appears;
- (3) “that is credited in accordance with the provisions of section 851 or 852(a)” after “naval service”;
- (4) “, with interest as provided in section 841(a)”, after “Disability Fund” the last time the latter appears; and
- (5) “(b)” after “section 841” the last time the latter appears.

SEPARATION FOR CAUSE

22 USC 1007.

SEC. 521. (a) Section 637 of such Act is amended by striking from the first sentence of subsection (b) thereof—

- (1) “, with interest” after “Disability Fund”;
- (2) “(a)” after “section 841”; and
- (3) “that is credited in accordance with the provisions of section 851 or 852(a)” after “naval service”.

(b) Such subsection (b) is further amended by striking out the last sentence thereof.

CONVERSION TO FOREIGN SERVICE RETIREMENT SYSTEM

22 USC 1063
note.

SEC. 522. (a) In accordance with such regulations as the President may prescribe, all Foreign Service staff officers and employees with unlimited appointments who (1) have been appointed by the Secretary of State or the Director, United States Information Agency, and (2) are participants in the Civil Service Retirement and Disability System on the effective date of this section, shall be transferred to the Foreign Service Retirement and Disability System effective on such date. Their retirement contributions shall be transferred in accordance with section 811 of the Foreign Service Act of 1946, as amended by this title.

Ante, p. 836.

(b) Mandatory retirement at age sixty as prescribed in section 632

of the Foreign Service Act of 1946, as amended by this title, shall not apply to any Foreign Service staff officer or employee who becomes a participant in the Foreign Service Retirement and Disability System pursuant to subsection (a) of this section until such officer or employee completes ten years of continuous service in the Foreign Service exclusive of military service, in the Department of State or ten years of such continuous service in the United States Information Agency.

Ante, p. 846.

(c) Any Foreign Service staff officer or employee who becomes a participant in the Foreign Service Retirement and Disability System pursuant to subsection (a) of this section who is age fifty-seven or over on the effective date of this section may retire voluntarily at any time prior to mandatory retirement and receive retirement benefits under section 821 of the Foreign Service Act of 1946, as amended by this title.

Ante, p. 837.

(d) Section 9(b) of the Act of August 20, 1968 (82 Stat. 812), is repealed on the effective date of this section.

Repeal.
22 USC 1229 and
note.

GRANTS TO CERTAIN WIDOWS AND SURVIVOR ANNUITY ELECTIONS

SEC. 523. (a) A Foreign Service annuitant who was married at the time of retirement, whose service terminated prior to October 16, 1960, and who has not elected any survivor benefit, may, within one hundred and twenty days after the effective date of this title, elect a reduction in his or her annuity of \$300 per annum and provide a survivor benefit of \$2,400 per annum payable to the annuitant's surviving spouse provided the marriage had been in effect for at least two years at the time of death or resulted in the birth of a child. The survivor annuity shall be treated in all respects as if it had been elected under section 821(b) of the Foreign Service Act of 1946, as amended by this title.

22 USC 1076
note.

(b) An annuitant who makes an election under subsection (a) of this section shall pay into the Foreign Service Retirement and Disability Fund an amount equal to \$25 times the number of full months between the commencing date of his or her annuity and the first of the month following receipt of notice of election by the Secretary of State. This amount may be paid into such Fund by deduction from annuity in multiples of \$25 per month. The annuity reduction under subsection (a) of this section and the deduction under this subsection shall commence effective the first of the month following receipt of notice of the election by the Secretary of State. The deduction under this subsection shall continue until the required amount has been paid into such Fund or until the annuitant's death, whichever occurs first; and if the latter, any remaining portion of such required amount shall be deemed to have been paid.

(c) If a Foreign Service annuitant who separated from the Foreign Service prior to October 16, 1960, died before the effective date of this title, or dies within one hundred and twenty days after such effective date leaving a spouse to whom married at retirement who is not entitled to receive a survivor annuity under the terms of section 8133 of title 5, United States Code, or any law authorizing payment from the Foreign Service Retirement and Disability Fund and who qualifies under section 821(h) of the Foreign Service Act of 1946, as amended by this title, the Secretary of State shall grant such surviving spouse, if not remarried prior to age sixty, an annuity, to be payable from such Fund in the amount of \$2,400 per annum adjusted by all cost-of-living increases received by widows granted annuities under section 4 of the Act of October 31, 1965 (79 Stat. 1130). An annuity to a surviving spouse who remarried prior to age sixty may be initiated or resumed under this subsection in accordance with the provisions of subsections

22 USC 1079o.

Ante, p. 837.

(b) and (h) of section 821 of the Foreign Service Act of 1946, as amended by this title, if such remarriage has terminated or terminates in the future.

EFFECTIVE DATES

22 USC 915 note.

SEC. 524. (a) Unless otherwise specified, this title shall be effective upon enactment or on October 1, 1976, whichever is later.

22 USC 1063
note.

Ante, pp. 846,
834, 843.

(b) Section 522 of this title and sections 803 and 881 of the Foreign Service Act of 1946, as amended by this title, shall be effective on the first day of the first pay period which begins more than ninety days after the effective date of this title.

22 USC 1076
note.

(c) Effective on the last day of the first month which ends after the effective date of this title, all Foreign Service survivor annuities, including those then in effect, shall terminate on the last day of a month in accordance with the provisions of subsections (b) (2) (B), (e), and (f) of section 821 of the Foreign Service Act of 1946, as amended by this title.

Ante, p. 837.

22 USC 1064
note.

Ante, p. 834.

(d) The amendment of section 804 of the Foreign Service Act of 1946 made by this title broadening eligibility for children's survivor annuities shall apply to all surviving children regardless of the date of death of the principal.

22 USC 1076
note.

(e) Subsection (g) of section 821 of the Foreign Service Act of 1946, as added by this title, shall apply to both present and future Foreign Service annuitants. Any annuitant unmarried at retirement who married after retirement but prior to the effective date of this title may make an election under such subsection (g) if notice of the election is received by the Secretary of State within one year after such effective date.

22 USC 1064
note.

(f) If an annuitant dies on or after January 8, 1971, who, prior to the effective date of this title, elected a reduced annuity with a benefit to a surviving spouse, and is survived by a spouse acquired after such election who qualifies under section 804(2) of the Foreign Service Act of 1946, as amended by this title, such surviving spouse shall be entitled to an annuity computed under the law in effect at the time of such election and in accordance with all other applicable statutes. Such an annuity shall be treated in all other respects in the same manner as an annuity payable under section 821(b) of the Foreign Service Act of 1946, as amended by this title. For purposes of section 882(c) (2) of the Foreign Service Act of 1946, as amended by this title, the death of an annuitant who has died before the effective date of this title shall be deemed to have occurred on such effective date.

Ante, p. 837.

22 USC 1076
note.

(g) the restrictions on payment of survivor annuities in subsection (b) (2) (A) and subsection (h) of section 821 of such Act shall not apply to a supplemental survivor annuity provided under subsection (i) of section 821 or subsection (f) of section 832 of such Act if the restrictions do not apply to a basic survivor annuity elected prior to commencement of the recall service.

Ante, p. 839.

(h) Subsection (a) of section 822 of the Foreign Service Act of 1946, as added by this title, shall be effective on the first day of the first month which begins on or after the effective date of this title.

22 USC 1076a
note.

Ante, p. 838.

22 USC 1086
note.

Ante, p. 840.

(i) Subsection (a) of section 841 of the Foreign Service Act of 1946, as amended by this title, shall not apply to participants separated from the Foreign Service prior to the effective date of this title nor to their survivors. All payments from the Foreign Service Retirement Fund that become due on and after such effective date shall be paid in the order of precedence specified in such section 841 irrespective of the date of separation.

(j) Subsection (c) of section 851 of the Foreign Service Act of 1946, as added by this title, shall be effective on the first day of the first pay period that begins more than thirty days after the effective date of this title. A participant who is on approved leave without pay and is serving as a full-time officer or employee of an organization composed primarily of Government employees on the effective date of such section shall have sixty days from such date to file an election under subsection (c) of said section 851. 22 USC 1091 note. *Ante*, p. 842.

(k) Subsection (f) of section 851 of the Foreign Service Act of 1946, as added by this title, shall apply, in addition to present participants, to former participants who separated from the Foreign Service to enter the Armed Forces within the five-year period immediately preceding the effective date of this title and who are members of the Armed Forces on such date. 22 USC 1091 note.

(l) The annuity of a survivor who becomes immediately eligible for an annuity under subsection (c) of section 523 of this title or subsection (d) or (f) of this section shall become effective the first day of the first month which begins on or after the effective date of this title. However, payment shall be made only after receipt by the Department of State of such application for annuity and such proof of eligibility as the Secretary may require. If such application and proof of eligibility are not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate. 22 USC 1064 note. *Ante*, p. 847.

(m) The amendment of subsections (a) and (b) of section 882 of the Foreign Service Act of 1946 made by this title shall be effective on the fifteenth day of the third month which begins after the effective date of this title. 22 USC 1121 note. *Ante*, p. 844.

(n) Annuities which commenced between— 22 USC 1121 note.

(A) the effective date of the last cost-of-living increase which became effective under section 882 of the Foreign Service Act of 1946 prior to the effective date of this title, and

(B) such effective date,

shall be recomputed and, if necessary, adjusted retroactively to their commencing dates to apply the provisions of new subsections (c) (1) of section 882 of the Foreign Service Act of 1946, as added by section 515 of this title.

(o) Any Foreign Service officer who is or becomes a career minister and who is not occupying a position to which appointed by the President, by and with the advice and consent of the Senate, shall be mandatorily retired for age in accordance with the schedule below and receive benefits under section 821 of the Foreign Service Act of 1946, unless the Secretary determines it to be in the public interest to extend such officer's service for a period not to exceed five years: Career ministers. 22 USC 1001 note.

Retirement Schedule

(1) Any career minister who reaches age sixty-five during the month this title becomes effective shall be retired at the end of such month.

(2) Other career ministers who are age sixty or over on such effective date shall be retired at the end of the month which contains the midpoint between the last day of the month of such effective date and the last day of the month during which the officer would reach age sixty-five, counting thirty days to the month.

(3) On the last day of the thirtieth month which ends after such effective date, all other career ministers who are age sixty or over shall be retired, and thereafter the amendments made by sections 518 and 519 shall be applicable in all cases.

(4) Any career minister who completes a period of authorized service after he reaches mandatory retirement age as provided in the above schedule shall be retired at the end of the month in which the officer completes such service.

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-881 accompanying H.R. 12262, No. 94-1083 accompanying H.R. 13179, and No. 94-1116 accompanying H.R. 13589 (Comm. on International Relations).

SENATE REPORT No. 94-703 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 29, considered and passed Senate.

June 18, considered and passed House, amended, in lieu of H.R. 13589,

H.R. 13179, and H.R. 12262.

June 29, House agreed to conference report.

June 30, Senate agreed to conference report.

Public Law 94-351
94th Congress

An Act

Making appropriations for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1977, and for other purposes.

July 12, 1976

[H.R. 14237]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1977, and for other purposes; namely:

Agriculture and related agencies. Appropriations for fiscal year 1977.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed \$5,000 for employment under 5 U.S.C. 3109, \$2,267,000: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558: *Provided further*, That not to exceed \$4,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

DEPARTMENTAL ADMINISTRATION

For Budget, Fiscal and Management, \$3,307,721; for General Operations, \$1,528,217; for ADP Systems, \$192,335; for Personnel Administration, \$2,012,127; for Equal Opportunity, \$2,420,600; for Information Services provided by the Office of Communication, including the dissemination of agricultural information and the coordination of informational work and programs authorized by Congress in the Department, \$4,684,000; making a total of \$14,145,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture, and for general administration of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, of which not to exceed \$10,000 for employment under 5 U.S.C. 3109 and, not to exceed \$1,269,000 may be used for farmers' bulletins and not less than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

ECONOMIC MANAGEMENT SUPPORT CENTER

For necessary expenses of the Economic Management Support Center to provide management support services to selected agencies of the Department of Agriculture, \$2,802,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$25,000 shall be available for employment under 5 U.S.C. 3109 (7 U.S.C. 2201-2202).

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$10,000, for employment under 5 U.S.C. 3109, \$18,434,000 and in addition, \$7,932,000 shall be derived by transfer from the appropriation, "Food Stamp Program" and merged with this appropriation.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses, including payment of fees or dues for the use of law libraries by attorneys in the field service, \$8,708,000.

AGRICULTURAL RESEARCH SERVICE

For expenses necessary to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100, except that the foregoing limitation shall not apply to the acquisition of lands for the U.S. Sugarcane Laboratory, Houma, Louisiana, at a cost not to exceed \$450,000; \$270,576,000: *Provided*, That appropriations hereunder shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only and for the acquisition without cost of not to exceed one to be obtained by transfer: *Provided further*, That of the appropriations hereunder, not less than \$10,526,600 shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250, for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building (except headhouses connecting greenhouses) shall not exceed \$57,500, except for six buildings to be constructed or improved at a cost not to exceed \$112,500 each, and the cost of altering any one building during the fiscal year shall not exceed \$21,500, or 22 per centum of the cost of the building, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to a total of \$100,000 for facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a).

7 USC 2254.

7 USC 2254.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at research installations in the field, not more than \$2,000,000 of the amount appropriated under this head for the previous fiscal year may be used by the Administrator of the Agricultural Research Service in departmental research programs in the current fiscal year, the amount so used to be transferred to and merged with the appropriation otherwise available under "Agricultural Research Service".

Special fund.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104 (b) (1) and for agricultural and forestry research and other functions related thereto authorized by section 104 (b) (3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (b) (1), (3)), \$7,500,000: *Provided*, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further*, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed, and can be used most effectively to carry out the purposes of this paragraph: *Provided further*, That not to exceed \$25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706 (a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c) necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to carry on services related to consumer protection; and to protect the environment, as authorized by law, \$403,667,000, of which \$2,500,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions and \$833,000 shall be for repayment to the Commodity Credit Corporation of advances (and interest thereon) made in accordance with authorities contained in the provisions of the appropriation items for the Animal and Plant Health Inspection Service in the Agriculture-Environmental and Consumer Protection Appropriation Act, 1975: *Provided*, That \$1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by any State of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706 (a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$60,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That this appropriation shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration,

88 Stat. 1322.

- and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed \$52,500, except for two buildings to be constructed or improved at a cost of not to exceed \$105,000 each, and the cost of altering any one building during the fiscal year shall not exceed \$20,000, or 20 per centum of the cost of the building, whichever is greater: *Provided further*, That \$3,800,000 shall remain available until expended for plans, construction and improvement of facilities without regard to limitations contained herein: *Provided further*, That this appropriation shall be available for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100: *Provided further*, That, in addition, in emergencies which threaten the livestock or poultry industries of the country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or other contagious or infectious diseases of animals, or European fowl pest and similar diseases in poultry, and for expenses in accordance with the Act of February 28, 1947, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.
- 21 USC 129.
- 21 USC 114b.

COOPERATIVE STATE RESEARCH SERVICE

- For payments to agricultural experiment stations, for grants for cooperative forestry and other research, for facilities, and for other expenses, including \$97,973,000 to carry into effect the provisions of the Hatch Act, approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended; \$8,212,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a-582a-7), as amended by Public Law 92-318 approved June 23, 1972; \$17,852,000, in addition to funds otherwise available for contracts and grants for scientific research under the Act of August 4, 1965 (7 U.S.C. 450i); \$1,500,000 for Rural Development Research as authorized under the Rural Development Act of 1972 (7 U.S.C. 2661-2668), including administrative expenses; and \$1,115,000 for necessary expenses of the Cooperative State Research Service, including administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$50,000 for employment under 5 U.S.C. 3109; in all \$126,652,000.
- 20 USC 1001
note.
D.C. Code
31-1701 note.
7 USC 361f.

EXTENSION SERVICE

- Payments to States, Puerto Rico, Guam, and the Virgin Islands: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), and section 506 of the Act of June 23, 1972, to be distributed under sections 3(b) and 3(c) of the Act, for retirement and employees' compensation costs for extension agents, and for costs of penalty mail
- 7 USC 343.

for cooperative extension agents and State extension directors, \$168,225,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, \$50,560,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee Institute under section 3(d) of the Act, \$8,400,000; payments for rural development work under section 3(d) of the Act, \$1,000,000; payments for the pest management program under section 3(d) of the Act, \$2,935,000; payments for the farm safety program under section 3(d) of the Act, \$1,020,000; and payments for extension work under section 208(c) of Public Law 93-471, \$910,000; and \$1,500,000 for Rural Development Education as authorized under the Rural Development Act of 1972 (7 U.S.C. 2661-2668); in all, \$234,550,000: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

7 USC 343.

D.C. Code
31-1718.7 USC 343.
86 Stat. 350.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), and section 506 of the Act of June 23, 1972, and section 208(d) of Public Law 93-471, and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possession, \$5,658,000.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, \$6,026,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed \$100,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

STATISTICAL REPORTING SERVICE

For necessary expenses of the Statistical Reporting Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, \$33,827,000: *Provided*, That no part of the funds herein appropriated shall be available for any expense incident to publishing estimates of apple production for other than the commercial crop: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$40,000 shall be available for employment under 5 U.S.C. 3109.

7 USC 411b.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and

population, and demand for farm products, use of resources in agriculture, adjustments, cost and returns in farming, and farm finance; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products; \$26,080,000, of which not less than \$200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said administrator, other agencies or before the courts: *Provided*, That not less than \$350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not less than \$145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For expenses necessary to carry on services related to consumer protection, agricultural marketing and distribution, and regulatory programs, other than Packers and Stockyards Act, as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$45,000 for employment under 5 U.S.C. 3109; \$52,734,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed \$7,500 or 7.5 per centum of the cost of the building, whichever is greater.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), \$1,600,000.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise pro-

vided in this Act; and (3) not more than \$4,250,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

7 USC 674 note.

7 USC 1911 note.

PACKERS AND STOCKYARDS ADMINISTRATION

For expenses necessary for administration of the Packers and Stockyards Act, as authorized by law, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$5,000 for employment under 5 U.S.C. 3109, \$5,226,000.

7 USC 181.

FARMER COOPERATIVE SERVICE

For necessary expenses to carry out the Act of July 2, 1926 (7 U.S.C. 451-457), and for conducting research relating to the economic and marketing aspects of farmer cooperatives, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), \$2,589,000.

FARM INCOME STABILIZATION

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); sections 7 to 15, 16(a), 16(b), 16(d), 16(e), 16(f), 16(i), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590q); sections 1001 to 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1510); the Water Bank Act (16 U.S.C. 1301-1311); and laws pertaining to the Commodity Credit Corporation, \$157,410,000: *Provided*, That, in addition, not to exceed \$74,958,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund (including not to exceed \$33,492,000 under the limitation on Commodity Credit Corporation administrative expenses): *Provided further*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this appropriation: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds appropriated or made available under this act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

16 USC 590h.

DAIRY AND BEEKEEPER INDEMNITY PROGRAMS

For necessary expenses involved in making indemnity payments to dairy farmers for milk cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and to beekeepers who through no fault of their own have suffered losses as a result of the use of economic poisons which had been registered and approved for use by the Federal Government, \$4,050,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government.

CORPORATIONS

15 USC
713a-10.

31 USC 849.

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, \$11,976,000.

FEDERAL CROP INSURANCE CORPORATION FUND

Not to exceed \$8,006,000 of administrative and operating expenses may be paid from premium income.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained in prior years, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), \$189,053,000.

LIMITATION ON ADMINISTRATIVE EXPENSES

15 USC
713a-10.

7 USC
1691-1736e.

Not to exceed \$41,220,000 shall be available for administrative expenses of the Commodity Credit Corporation: *Provided*, That \$3,133,000 of this authorization shall be available to support the position of Sales Manager who shall work to expand and strengthen sales of U.S. commodities in world markets (including those of the Corporation and those funded by Public Law 480) pursuant to existing authority (including that contained in the Corporation's charter and Public Law 480), and that such funds shall be used by such Sales Manager to form an agency to carry out the above activities. Such

Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. Such Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation and Public Law 480, including grade and quality as sold and as delivered and shall submit quarterly reports to the appropriate committees of Congress concerning such developments: *Provided further*, That not less than 7 per centum of this authorization shall be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That all necessary expenses (including legal and special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Corporation or in which it has an interest, including expenses of collections of pledged collateral, shall be considered as nonadministrative expenses for the purposes hereof.

Reports to congressional committees.

7 USC
1691-1736e.

31 USC 665.

TITLE II—RURAL DEVELOPMENT AND ASSISTANCE

RURAL DEVELOPMENT AND PROTECTION

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

For direct loans and related advances pursuant to section 517(m) of the Housing Act of 1949, as amended, \$15,000,000 shall be available from funds in the rural housing insurance fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, \$3,196,000,000 of which not less than \$2,023,000,000 shall be available for subsidized interest loans to low-income borrowers as determined by the Secretary: *Provided*, That unsubsidized interest guaranteed loans of not to exceed \$500,000,000 shall be in addition to these amounts.

42 USC 1487.

42 USC 1471.

For an additional amount to reimburse the rural housing insurance fund for losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487e, and 1490a(c)), including \$42,788,000 as authorized by section 521(c) of the Act, \$175,429,000, and such amounts as may be necessary to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

42 USC 1490a.

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount to reimburse the agricultural credit insurance fund for losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), \$141,189,000.

Loans may be insured, or made to be sold and insured, under this Fund in accordance with and subject to the provisions of 7 U.S.C. 1928-1929, as follows: real estate loans, \$520,000,000, including not less than \$450,000,000 for farm ownership loans; and not less than \$54,000,000 for water development, use, and conservation loans; operating loans, \$625,000,000; and emergency loans in amounts necessary to meet the needs resulting from natural disasters.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), \$200,000,000 to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

42 USC 1474. For grants to the elderly pursuant to section 504 of the Housing Act of 1949, as amended, \$5,000,000.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to public nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), \$7,500,000.

MUTUAL AND SELF-HELP HOUSING

For grants pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), \$9,000,000.

RURAL DEVELOPMENT INSURANCE FUND

For an additional amount to reimburse the rural development insurance fund for losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), \$47,484,000.

For loans to be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928 and 86 Stat. 661-664, as follows: water and sewer facility loans, \$600,000,000; industrial development loans, \$350,000,000; and community facility loans, \$200,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 404 of the Rural Development Act of 1972, as amended (7 U.S.C. 2654), \$3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipment for rural volunteer fire departments.

SALARIES AND EXPENSES

42 USC 2841. For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1992), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490g); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title IIIA of the Economic Opportunity Act of 1964 (Public Law 88-452, approved August 20, 1964), as amended, and such other programs for which Farmers Home Administration has the responsibility for administering, \$170,000,000, together with not more than \$5,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as

7 USC 1929.
42 USC 1487.

amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided*, That, in addition, not to exceed \$500,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further*, That not to exceed \$1,000,000 of this appropriation may be used for employment under 5 U.S.C. 3109. 42 USC 1472.

RURAL DEVELOPMENT GRANTS

For grants pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932), \$10,000,000.

RURAL DEVELOPMENT SERVICE

For necessary expenses, not otherwise provided for, of the Rural Development Service in providing leadership, coordination, and related services in carrying out the rural development activities of the Department of Agriculture and for carrying out the responsibilities of the Secretary of Agriculture under section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), \$1,433,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$3,000 shall be available for employment under 5 U.S.C. 3109.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than \$750,000,000, nor more than \$900,000,000, and rural telephone loans, not less than \$250,000,000, to remain available until expended: *Provided*, That loans made pursuant to section 306 of that Act are in addition to these amounts. 7 USC 936.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, \$30,000,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. 31 USC 849.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), includ-

ing not to exceed \$500 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$150,000 for employment under 5 U.S.C. 3109, \$21,350,000.

CONSERVATION

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant material centers; classification and mapping of soil; dissemination of information; purchase and erection or alteration of permanent buildings; and operation and maintenance of aircraft, to remain available until expended, \$214,423,000: *Provided*, That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed \$5,000, except for one building to be constructed at a cost not to exceed \$50,000 and eight buildings to be constructed or improved at a cost not to exceed \$30,000 per building and except that alterations or improvements to other existing permanent buildings costing \$5,000 or more may be made in any fiscal year in an amount not to exceed \$1,000 per building: *Provided further*, That no part of this appropriation shall be available for the construction of any such building on land not owned by the Government: *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed \$25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act, approved August 4, 1954, as amended (16 U.S.C. 1006-1009), to remain available until expended, \$14,745,000: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), to remain available until expended, \$11,196,000: *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act, approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1008), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, \$146,199,000 (of which \$25,872,000 shall be available for the watersheds authorized under the Flood Control Act, approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That \$23,400,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663).

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development, and for sound land use, pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), \$29,972,000: *Provided*, That \$3,600,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663): *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p), \$21,379,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act, approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), and 590q), and sections 1001-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1508, and 1510), and including not to exceed \$15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, \$105,000,000, for compliance with the programs of soil-building and soil- and water-conserving practices authorized under this head in the Agriculture and Related Agencies Appropriation Act, 1976, entered into during the period July 1, 1975, to December 31, 1976, inclusive: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetland Types 3(III), 4(IV), and 5(V) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That necessary amounts shall be available for administrative expenses in connection with the formulation and administration of the 1977 program of soil-building and soil- and water-conserving practices, including related wildlife conserving practices, and pollution abatement practices, under the Act of February 29, 1936, as amended (amounting to \$190,000,000, excluding administration, except that no participant in the Agricultural Conservation Program shall receive more than \$2,500, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community): *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation material, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved 1970 farming practices to be selected by the county committees under programs provided for herein: *Provided further*, That no part of the funds in this Act may be used to obtain or require submission of information from participants in this program not required in carrying out the 1970 program: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program \$2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be

89 Stat. 641.

16 USC 590g.

used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913, to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

53 Stat. 1147.

FORESTRY INCENTIVES PROGRAM

For necessary expenses not otherwise provided for, to carry out the program of forestry incentives, as authorized in sections 1009 and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1509-1510) including technical assistance and related expenses, \$15,000,000.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), \$10,000,000, to remain available until expended.

EMERGENCY CONSERVATION MEASURES

For emergency conservation measures, to be used for the same purposes and subject to the same conditions as funds appropriated under this head in the Third Supplemental Appropriations Act, 1957, \$10,000,000, with which shall be merged the unexpended balances of funds heretofore appropriated for emergency conservation measures.

71 Stat. 176.

TITLE III—DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

For necessary expenses to carry out the provisions of the National School Lunch Act, as amended (42 U.S.C. 1751-1761); Public Law 91-248 and the applicable provisions other than section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773-1785); \$2,751,032,000 of which \$959,000,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That of the foregoing total amount there shall be available \$28,000,000 for the nonfood assistance program, and \$13,675,000 for the State administrative expenses: *Provided further*, That funds provided herein shall remain available until expended in accordance with section 3 of the National School Lunch Act, as amended: *Provided further*, That an additional \$80,000,000 shall be transferred to this appropriation from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), for purchase and distribution of agricultural commodities and other foods pursuant to section 6 of the National School Lunch Act, as amended: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act

84 Stat. 207.

42 USC 1772.

42 USC 1752.

42 USC 1755.

of 1944 (7 U.S.C. 2225), and not to exceed \$75,000 shall be available for employment under 5 U.S.C. 3109.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the provisions of the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772), \$155,000,000.

SPECIAL SUPPLEMENTAL FOOD PROGRAM (WIC)

42 USC 1752.

For necessary expenses to carry out the provisions of the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786), \$250,000,000: *Provided*, That funds provided herein shall remain available until expended in accordance with section 3 of the National School Lunch Act, as amended: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$75,000 shall be available for employment under 5 U.S.C. 3109.

FOOD STAMP PROGRAM

7 USC 2011 note.

7 USC 2025.

For necessary expenses of the food stamp program pursuant to the Food Stamp Act of 1964, as amended, \$4,794,400,000: *Provided*, That funds provided herein shall remain available until expended in accordance with section 16 of the Food Stamp Act of 1964, as amended: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds appropriated by this Act shall be used during the fiscal year ending September 30, 1977, to make food stamps available to any household, to the extent that the entitlement otherwise available to such household is attributable to an individual who: (i) has reached his eighteenth birthday; (ii) is enrolled in an institution of higher education; and (iii) is properly claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household: *Provided further*, That funds provided herein shall be expended in accordance with section 15(b) of the Food Stamp Act of 1964, as amended.

7 USC 2024.

FOOD DONATIONS PROGRAM

For necessary expenses to carry out the provisions of section 4(a) of the Agriculture and Consumer Protection Act of 1973, as amended (7 U.S.C. 612c (note)), \$23,166,000, of which \$17,000,000 shall be available for the Commodity Supplemental Food Program without regard to whether an area is under the Food Stamp Program.

ELDERLY FEEDING PROGRAM

For necessary expenses to carry out the provisions of Section 707(a) of the Older Americans Act of 1965, as amended, (42 U.S.C. 3045f), \$22,000,000.

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses for the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed \$45,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), \$39,099,000: *Provided*, That not less than \$255,000 of the funds contained in this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

PUBLIC LAW 480

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1701-1710, 1721-1725, 1731-1736d), as follows: (1) sale of agricultural commodities for foreign currencies and for dollars on credit terms pursuant to title I of said Act, \$680,465,000 and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, \$488,790,000.

7 USC 1701.

7 USC 1721.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Food and Drug Administration; for payment of salaries and expenses for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; for rental of special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed \$10,000; \$241,977,000.

5 USC 5332 note.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, \$3,125,000.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry into effect the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.) and Public Law 93-463, approved October 23, 1974; including the purchase and hire of passenger motor vehicles; the rental of space in the District of Columbia and elsewhere; and not to exceed \$125,000 for employ-

7 USC 4a note.

ment under 5 U.S.C. 3109, \$12,615,000: *Provided*, That not to exceed \$1,000 shall be available for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$8,429,000 (from assessments collected from farm credit agencies) shall be obligated during the current fiscal year for administrative expenses, including the hire of one passenger motor vehicle.

TITLE VI—GENERAL PROVISIONS

Passenger motor
vehicles.

SEC. 601. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1977 under this Act shall be available for the purchase in addition to those specifically provided for, of not to exceed eight hundred and fifty-four (854) passenger motor vehicles, of which six hundred and twenty-one (621) shall be for replacement only, and for the hire of such vehicles.

SEC. 602. Funds available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

7 USC 1623a.

SEC. 603. Not less than \$1,500,000 of the appropriations of the Department of Agriculture for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621-1629; 42 U.S.C. 1891-1893), shall be available for contracting in accordance with said Acts.

Marihuana.

SEC. 604. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations who harvest or knowingly permit to be harvested for illegal use, marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

Advancement of
funds.

SEC. 605. Advances of money from any appropriation for the Department of Agriculture may be made by authority of the Secretary of Agriculture to chiefs of field parties.

7 USC 2119.

SEC. 606. None of the funds provided by this Act shall be used to pay the salaries of any person or persons who carry out the provisions of section 610 of the Agricultural Act of 1970, which provides for the transfer of funds to Cotton Incorporated.

SEC. 607. Obligations chargeable against the Working Capital Fund during the period October 1, 1976, through September 30, 1977, shall not exceed \$50,000,000: *Provided*, That no funds appropriated to an agency of the Department shall be transferred to the Working Capital Fund except upon the approval of the agency administrator.

68 Stat. 454.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Scientific Activities Overseas (Special Foreign Currency Program); Public Law 480; Rural Housing for Domestic Farm Labor; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Forestry Incentives Program; Emergency Conservation Measures; Buildings and Facilities, Food and Drug Administration; and the appropriation to liquidate contract authorizations for the Agricultural Conservation Program.

SEC. 609. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on permanent positions below the level set herein for the following agencies: Farmers Home Administration, 7,400; Agricultural Stabilization and Conservation Service, 2,473; and Soil Conservation Service, 13,955.

SEC. 610. None of the funds contained in this Act shall be used by any State Committee to prevent any County Committee from authorizing the use of any funds for any nationally authorized program of the Agricultural Conservation Program.

SEC. 611. No part of any appropriation contained in this Act shall remain available for obligations beyond the current fiscal year unless expressly so provided herein.

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1224 (Comm. on Appropriations) and No. 94-1303 (Comm. of Conference).

SENATE REPORT No. 94-968 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 15, 16, considered and passed House.

June 23, considered and passed Senate, amended.

June 29, House agreed to conference report; receded and concurred in Senate amendments; Senate agreed to conference report.

Public Law 94-352

94th Congress

An Act

July 12, 1976
[S. 268]

To designate the Eagles Nest Wilderness, Arapaho and White River National Forests, in the State of Colorado.

Eagles Nest
Wilderness, Colo.
Designation.
16 USC 1132
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132(b)), the area classified as the Gore Range-Eagles Nest Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Eagles Nest Wilderness—Proposed", dated June 1976, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the "Eagles Nest Wilderness" within and as part of the Arapaho and White River National Forests comprising an area of approximately one hundred thirty-three thousand nine hundred ten acres.

Map and
description, filing
with
congressional
committees.
16 USC 1132
note.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Eagles Nest Wilderness with the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and description may be made.

Administration.
16 USC 1132
note.
16 USC 1131
note.

SEC. 3. The Eagles Nest Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

16 USC 1132
note.

SEC. 4. The previous classification of the Gore Range-Eagles Nest Primitive Area is hereby abolished.

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-939 accompanying H.R. 3863 (Comm. on Interior and Insular Affairs) and No. 94-1308 (Comm. of Conference).

SENATE REPORT No. 94-172 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 5, considered and passed Senate.

Vol. 122 (1976): Apr. 6, considered and passed House, amended, in lieu of H.R. 3863.

June 29, House agreed to conference report.

June 30, Senate agreed to conference report.

Public Law 94-353
94th Congress

An Act

To amend the Airport and Airway Development Act of 1970.

July 12, 1976

[H.R. 9771]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Airport and Airway Development Act Amendments of 1976".

Airport and
Airway
Development Act
Amendments of
1976.
49 USC 1701
note.

TITLE I—AIRPORT AND AIRWAY DEVELOPMENT ACT
AMENDMENTS

DECLARATION OF POLICY

SEC. 2. Section 2 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701) is amended by striking out "June 30, 1980," the first place it appears and inserting in lieu thereof "September 30, 1980," and by striking out everything after "\$250,000,000."

DEFINITIONS

SEC. 3. (a) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended as follows:

(1) Paragraph (2) is amended by—

(A) striking out "and (B)" and inserting in lieu thereof "and including snow removal equipment, and including the purchase of noise suppressing equipment, the construction of physical barriers, and landscaping for the purpose of diminishing the effect of aircraft noise on any area adjacent to a public airport, (B)"; and

(B) striking out the period at the end thereof and inserting in lieu thereof "and (C) any acquisition of land or of any interest therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of a public airport."

(2) Paragraph (4) is amended by adding after "feasibility studies," the following: "including the potential use and development of land surrounding an actual or potential airport site,".

(3) Before paragraph (1), add the following new paragraph:

"(1) 'Air carrier airport' means an existing public airport regularly served, or a new public airport which the Secretary determines will be regularly served, by an air carrier certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 (other than a supplemental air carrier), and a commuter service airport." 49 USC 1371.

(4) After paragraph (5), add the following new paragraphs:

"(6) 'Commuter service airport' means an air carrier airport which is not served by an air carrier certificated under section 401 of the Federal Aviation Act of 1958 and which is regularly served by one or more air carriers operating under exemption granted by the Civil Aeronautics Board from section 401(a) of the Federal Aviation Act of 1958 at which not less than two thousand five hundred passengers

were enplaned in the aggregate by all such air carriers from such airport during the preceding calendar year.

“(7) ‘General aviation airport’ means a public airport which is not an air carrier airport.”.

(5) After paragraph (12), add the following new paragraph:

“(13) ‘Reliever airport’ means a general aviation airport designated by the Secretary as having the primary function of relieving congestion at an air carrier airport by diverting from such airport general aviation traffic.”.

49 USC 1711.

(b) Section 11 of the Airport and Airway Development Act of 1970 is amended by renumbering the paragraphs of such section as paragraphs (1) through (21), respectively, and renumbering all references to such paragraphs accordingly.

REVISED NATIONAL AIRPORT SYSTEM PLAN

SEC. 4. Section 12 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1712) is amended by adding at the end thereof the following new subsection:

“(i) REVISED SYSTEM PLAN.—No later than January 1, 1978, the Secretary shall consult with the Civil Aeronautics Board and with each State and airport sponsor, and, in accordance with this section, prepare and publish a revised national airport system plan for the development of public airports in the United States. Estimated costs contained in such revised plan shall be sufficiently accurate so as to be capable of being used for future year apportionments. In addition to the information required by subsection (a), the revised plan shall include an identification of the levels of public service and the uses made of each public airport in the plan, and the projected airport development which the Secretary deems necessary to fulfill the levels of service and use of such airports during the succeeding ten-year period.”.

PLANNING GRANTS

SEC. 5. Section 13(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713) is amended as follows:

(1) The side heading is amended by striking out “APPORTIONMENT” and inserting in lieu thereof “LIMITATION”.

(2) Paragraph (1) is amended by striking out “\$75,000,000 and” and inserting in lieu thereof “\$150,000,000.”.

(3) Paragraph (2) is amended to read as follows:

“(2) The United States share of any airport master planning grant under this section shall be that per centum for which a project for airport development at that airport would be eligible under section 17 of this Act. In the case of any airport system planning grant under this section, the United States share shall be 75 per centum.”.

Post, p. 877.

(4) Paragraph (3) is amended by striking out “7.5” and inserting in lieu thereof “10”.

AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

SEC. 6. (a) Section 14(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by adding at the end thereof the following new paragraphs:

“(3) For the purpose of developing air carrier airports in the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin

Islands, \$435,000,000 for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, \$440,000,000 for fiscal year 1977, \$465,000,000 for fiscal year 1978, \$495,000,000 for fiscal year 1979, and \$525,000,000 for fiscal year 1980.

“(4) For the purpose of developing general aviation airports in the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, \$65,000,000 for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, \$70,000,000 for fiscal year 1977, \$75,000,000 for fiscal year 1978, \$80,000,000 for fiscal year 1979, and \$85,000,000 for fiscal year 1980.”.

(b)(1) Section 14(b) of such Act is amended—

49 USC 1714.

(A) by inserting “(1)” immediately before the first sentence;

and

(B) in the second, third, and fourth sentences, by striking out “subsection” and inserting in lieu thereof “paragraph”.

(2) Section 14(b) of such Act is further amended by adding at the end thereof the following new paragraph:

“(2) The Secretary is authorized to incur obligations to make grants for airport development from funds made available under paragraphs (3) and (4) of subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 15(a) of this title. No obligation shall be incurred under this paragraph after September 30, 1980. The Secretary shall not incur more than one obligation under this paragraph with respect to any single project for airport development. Notwithstanding any other provision of this title, no part of any of the funds authorized, or authorized to be obligated, for fiscal year 1980 at the discretion of the Secretary under paragraphs (3) (B) and (4) (C) of section 15(a), and no part of the discretionary funds for reliever airports under such paragraph (4), shall be obligated or otherwise expended except in accordance with a statute enacted after the date of enactment of this sentence.”.

Grants.

Post, p. 874.

(c) Section 14(c) of such Act is amended by striking out the period at the end thereof and by inserting in lieu thereof a comma and the following: “not less than \$312,500,000 for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, and not less than \$250,000,000 per fiscal year for the fiscal years 1977 through 1980.”.

(d) Section 14(e) of such Act is redesignated as section 14(f) and the following is inserted in section 14 as a new subsection (e):

“(e) OTHER EXPENSES.—The balance of the moneys available in the Airport and Airway Trust Fund may be appropriated for (1) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (2) direct costs incurred by the Secretary to flight check and maintain air navigation facilities referred to in subsection (c) of this section in a safe and efficient condition. Eligible maintenance expenses are limited to costs incurred in the field and exclude the costs of engineering support and planning, direction, and evaluation activities. The amounts appropriated from the Airport and Airway Trust Fund for the purposes of clauses (1) and (2) may not exceed \$250,000,000 for fiscal year 1977, \$275,000,000 for fiscal year 1978, \$300,000,000 for fiscal year 1979, and \$325,000,000 for fiscal year 1980. The amounts appropriated in any fiscal year under this subsection may not exceed, when added to the minimum amounts authorized for that year under subsections (a),

49 USC 1742.

(c), and (d) of this section, the amounts transferred to the Airport and Airway Trust Fund for that year under subsection 208(b) of the Airport and Airway Revenue Act of 1970. No part of the amount appropriated from the Airport and Airway Trust Fund in any fiscal year for obligation or expenditure under clause (2) of this subsection shall be obligated or expended which exceeds that amount which bears the same ratio to the maximum amount which may be appropriated under clauses (1) and (2) of this subsection for such fiscal year as the total amount obligated in that fiscal year under paragraphs (3) and (4) of subsection (a) of this section bears to the aggregate of the minimum amount made available for obligation under each such paragraph for such fiscal year.”.

49 USC 1714.

(e) Paragraph (1) of subsection (f) (as redesignated by this section) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out “subsections (c) and (d) of this section, as amended” and by inserting in lieu thereof “this section”.

(f) Paragraph (2) of subsection (f) (as redesignated by this section) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out “subsections (a) and (c)” and inserting in lieu thereof “subsections (a), (c), (d) and the third sentence of subsection (e)”.

(g) Paragraph (3) of subsection (f) (as redesignated by this section) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out “subsection (d).” and inserting “subsection (e).”.

DISTRIBUTION OF FUNDS

SEC. 7. (a) Section 15(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715) is amended by renumbering paragraphs (3) and (4) as (5) and (6), respectively, and by inserting immediately following paragraph (2) the following new paragraphs:

“(3) As soon as possible after the date of enactment of this paragraph for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, and on the first day of each fiscal year which begins on or after October 1, 1976, for which any amount is authorized to be obligated for the purposes of paragraph (3) of section 14(a) of this part, the amount made available for that year shall be apportioned by the Secretary as follows:

Ante, p. 872.

“(A) To each sponsor of an air carrier airport (other than a commuter service airport) as follows:

“(i) \$6.00 for each of the first fifty thousand passengers enplaned at that airport.

“(ii) \$4.00 for each of the next fifty thousand passengers enplaned at that airport.

“(iii) \$2.00 for each of the next four hundred thousand passengers enplaned at that airport.

“(iv) \$0.50 for each passenger enplaned at that airport over five hundred thousand.

No air carrier airport (other than a commuter service airport)—

“(I) served by air carrier aircraft heavier than 12,500 pounds maximum certificated gross takeoff weight, or previously served, on or after September 30, 1968, by air carrier aircraft heavier than 12,500 pounds maximum certificated gross takeoff weight and presently served by air carrier aircraft 12,500 pounds or less maximum certificated gross takeoff weight, shall receive under this subparagraph less than \$187,500 or more than \$12,500,000 for fiscal year 1976, includ-

ing the period July 1, 1976 through September 30, 1976, and less than \$150,000 or more than \$10,000,000 per fiscal year for fiscal years 1977 through 1980; and

“(II) served by air carrier aircraft 12,500 pounds or less maximum certificated gross takeoff weight which, since September 29, 1968, has never been regularly served by air carrier aircraft heavier than 12,500 pounds maximum certificated gross takeoff weight shall receive under this subparagraph less than \$62,500 or more than \$12,500,000 for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, and less than \$50,000 or more than \$10,000,000 per fiscal year for fiscal years 1977 through 1980.

In no event shall the total amount of all apportionments under this subparagraph (A) for any fiscal year exceed two-thirds of the amount authorized to be obligated for the purposes of paragraph (3) of section 14(a) of this part for such fiscal year. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an air carrier airport proportionately so that such two-thirds amount is achieved.

“(B) Any amount not apportioned under subparagraph (A) of this paragraph shall be distributed at the discretion of the Secretary as follows:

“(i) \$18,750,000 for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, and \$15,000,000 per fiscal year for the fiscal years 1977 through 1980, to commuter service airports.

“(ii) The remainder of such amount to air carrier airports.

“(4) As soon as possible after the date of enactment of this paragraph for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, and on the first day of each fiscal year which begins on or after October 1, 1976, for which any amount is authorized to be obligated for the purposes of paragraph (4) of section 14(a) of this part, the amount made available minus \$18,750,000 in the case of fiscal year 1976, including such period, and minus \$15,000,000 in the case of each of the fiscal years 1977 through 1980, shall be apportioned by the Secretary as follows:

Ante, p. 872.

“(A) 75 per centum for the several States, one-half in the proportion which the population of each State bears to the total population of all the States, and one-half in the proportion which the area of each State bears to the total area of all the States.

“(B) 1 per centum for the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands to be distributed at the discretion of the Secretary.

“(C) 24 per centum to be distributed at the discretion of the Secretary to general aviation airports.

\$18,750,000 of the amount made available for fiscal year 1976, including such period, and \$15,000,000 of the amount made available for each of the other fiscal years shall be distributed at the discretion of the Secretary to reliever airports.”.

(b) Paragraph (5) of such section 15(a) (as renumbered by this section) is amended by inserting after “(2)(A)” the following “or (4)(A)”, by inserting after “(1)(B)” the following “or (3)(A)”, and by adding at the end thereof the following new sentence: “For 49 USC 1715.

purposes of this paragraph funds apportioned pursuant to this section for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, shall be available for obligation for the same period of time as if such funds were apportioned for fiscal year 1976 exclusive of such period.”

49 USC 1715.

(c) Section 15(b) (2) of the Airport and Airway Development Act of 1970 is amended by striking out “(3)” and inserting in lieu thereof “(5)”.

(d) The first sentence of subsection (c) of section 15 of the Airport and Airway Development Act of 1970 is amended to read as follows: “The Secretary shall inform each air carrier airport sponsor and the Governor of each State, or the chief executive officer of the equivalent jurisdiction, as the case may be, on April 1 of each year of the estimated amount of the apportionment to be made on October 1 of that year.”

Enplanements.
49 USC 1715
note.
Ante, p. 874.

(e) In making the apportionment for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, under section 15(a) (3) (A) of the Airport and Airway Development Act of 1970, the Secretary of Transportation shall increase the number of enplanements at each airport by 25 percent.

PROJECT APPROVAL

SEC. 8. (a) The first sentence of subsection (a) of section 16 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1716) is amended by inserting after “project application” the following “for one or more projects”. The second sentence of subsection (a) of section 16 of the Airport and Airway Development Act of 1970 is amended by striking out “No” and inserting in lieu thereof “Until July 1, 1975, no”. Such section 16(a) is further amended by adding at the end thereof the following new sentences: “After June 30, 1975, no project application shall propose airport development except in connection with the following airports included in the current revision of the national airport system plan formulated by the Secretary under section 12 of this Act: (1) air carrier airports, (2) commuter service airports, (3) reliever airports, and (4) general aviation airports (A) which are regularly served by aircraft transporting United States mail, or (B) which are regularly used by aircraft of a unit of the Air National Guard or of a Reserve component of the Armed Forces of the United States, or (C) which the Secretary determines have a significant national interest. Except as provided in subsection (g), all proposed development shall be in accordance with standards established by the Secretary, including standards for site location, airport layout, grading, drainage, seeding, paving, lighting, and safety of approaches.”

Ante, p. 872.

(b) Section 16 of the Airport and Airway Development Act of 1970 is amended by adding at the end thereof the following new subsections:

“(g) STATE STANDARDS.—

Grants.

“(1) The Secretary is authorized to make grants to any State, upon application therefor, for not to exceed 75 per centum of the cost of developing standards for airport development at general aviation airports in such State, other than standards for safety of approaches. The aggregate of all grants made to any State under this paragraph shall not exceed \$25,000.

“(2) The Secretary is authorized to approve standards established by a State for airport development at general aviation airports in such State, other than standards for safety of approaches, and upon such approval such State standards shall be the standards applicable to such general aviation airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised, from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

“(3) There is authorized to be appropriated out of the Airport and Airway Trust Fund not to exceed \$1,275,000 to carry out this subsection.

Appropriation
authorization.

“(h) The Secretary is authorized in connection with any project to accept a certification from a sponsor or a planning agency that such sponsor or agency will comply with all of the statutory and administrative requirements imposed on such sponsor or agency under this Act in connection with such project. Acceptance by the Secretary of a certification from a sponsor or agency may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do so. Nothing in this subsection shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).”

49 USC 1653.
42 USC 2000d.

(c) Section 12(a) of the Airport and Airway Development Act of 1970 is amended by adding at the end thereof the following new sentence: “After June 30, 1975, the Secretary shall not include in the national airport system plan any airport which is not eligible for airport development grants under the next to the last sentence of section 16(a) of this title, except that nothing in this sentence shall require the Secretary to remove from the national airport system plan any airport in such plan on June 30, 1975.”

49 USC 1712.

Ante, p. 876.

UNITED STATES SHARE

SEC. 9. (a) Section 17(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717) is amended by striking out everything after “section 16” and inserting in lieu thereof the following: “of this part—

“(1) may not exceed 50 per centum of the allowable project costs in the case of grants made from funds for fiscal years 1971, 1972, and 1973, and may not exceed 50 per centum for sponsors whose airports enplane not less than 1 per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board, and may not exceed 75 per centum for sponsors whose airports enplane less than 1 per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board and for sponsors of general aviation or reliever airports, in the case of grants made from funds for fiscal years 1974 and 1975; and

“(2) (A) shall be 90 per centum of the allowable project costs in the case of grants from funds for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, and for fiscal years 1977 and 1978, and shall be 80 per centum of the allowable

Ante, p. 874.

project costs in the case of grants from funds for fiscal years 1979 and 1980, (i) for each air carrier airport (other than a commuter service airport) which enplanes less than one-quarter of 1 per centum of the total annual passengers enplaned as determined for purposes of making the latest annual apportionment under section 15(a)(3) of this Act, (ii) for each commuter service airport, and (iii) for each general aviation airport; and

“(B) shall be 75 per centum of the allowable project costs in the case of all other airports.”

(b) Section 17(b) of such Act (49 U.S.C. 1717) is amended by adding at the end thereof the following new sentence: “In no event shall such United States share, as increased by this subsection, exceed the greater of (1) the percentage share determined under subsection (a) of this section, or (2) the percentage share applying on June 30, 1975, as determined under this subsection.”

(c) Section 17(c) is amended by striking out “The” and inserting in lieu thereof “For fiscal years 1971 through 1975, the”.

(d) Section 17(d) of such Act is amended by striking out everything after “share” and inserting in lieu thereof “shall be the same percentage as is otherwise applicable to such project.”

Repeal.

(e) Section 17(e) of such Act is hereby repealed.

PROJECT SPONSORSHIP

SEC. 10. (a) Section 18 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1718) is amended by inserting “(a) SPONSORSHIP.—” immediately before “As a condition precedent”, by striking out “section.” at the end of such section and inserting in lieu thereof “subsection.”, and by adding at the end thereof the following new subsection:

“(b) CONSULTATION.—In making a decision to undertake any project under this title, any sponsor of an air carrier airport shall consult with air carriers using the airport at which such airport development project is proposed and any sponsor of a general aviation airport shall consult with fixed-base operators using the airport at which such airport development project is proposed.”

(b) Paragraph (8) of subsection (a) of section 18 of the Airport and Airway Development Act of 1970 (as redesignated by subsection (a) of this section) is amended by striking out the semicolon and inserting in lieu thereof the following: “, except that no part of the Federal share of an airport development project for which a grant is made under this title or under the Federal Airport Act (49 U.S.C. 1101 et seq.) shall be included in the rate base in establishing fees, rates, and charges for users of that airport;”.

49 USC 1371,
1372.

(c) Paragraph (1) of section 18(a) of the Airport and Airway Development Act of 1970 (as redesignated by subsection (a) of this section) is amended by striking out the semicolon and inserting in lieu thereof the following: “, including the requirement that (A) each air carrier, authorized to engage directly in air transportation pursuant to section 401 or 402 of the Federal Aviation Act of 1958, using such airport shall be subject to nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status

as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator using a general aviation airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities;”.

(d) The amendment made to section 18(a)(1)(A) of the Airport and Airway Development Act of 1970 (as amended by subsection (c) of this section) shall not require the reformation of any lease or other contract entered into by an airport before the date of enactment of this Act. The amendment made to section 18(a)(1)(B) of the Airport and Airway Development Act of 1970 (as amended by subsection (c) of this section) shall not require the reformation of any lease or other contract entered into by an airport before July 1, 1975.

Leases,
reformation.
49 USC 1718
note.

MULTIYEAR PROJECTS

SEC. 11. Section 19 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1719) is amended by inserting immediately after the third sentence the following new sentence: “In any case where the Secretary approves an application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 15(a)(3)(A) of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project.”.

Ante, p. 874.

TERMINAL DEVELOPMENT PROJECT COSTS

SEC. 12. (a) Section 20 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720) is amended by redesignating subsection (b) as subsection (c) and inserting immediately after subsection (a) the following new subsection:

“(b) TERMINAL DEVELOPMENT.—

“(1) Notwithstanding any other provision of this title, upon certification by the sponsor of any air carrier airport that such airport has, on the date of submittal of the project application, all the safety and security equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft other than air carrier aircraft, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue producing public-use areas which are directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

49 USC 1432.

“(2) Only sums apportioned under section 15(a)(3)(A) to the sponsor of an air carrier airport shall be obligated for project costs allowable under paragraph (1) of this subsection in connection with airport development at such airport, and no more than 60 per centum of such sums apportioned for any fiscal year shall be obligated for such costs.

Ante, p. 874.

"(3) Sums apportioned under section 15(a)(3)(A) to the sponsor of an air carrier airport at which terminal development was carried out on or after July 1, 1970, and before the date of enactment of this paragraph shall be available, subject to the limitations contained in paragraph (2) of this subsection, for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which is allowable under paragraph (1) of this subsection subject to the following conditions:

"(A) That such sponsor submits the certification required under paragraph (1) of this subsection.

"(B) That the Secretary determines that no project for airport development at such airport outside the terminal area will be deferred if such sums are used for such retirement.

"(C) That no funds available for airport development under this Act shall be obligated for any project for additional terminal development at such airport for a period of three years beginning on the date any such sums are used for such retirement.

Ante, p. 877.

"(4) Notwithstanding section 17, the United States share of project costs allowable under paragraph (1) of this subsection shall be 50 per centum.

"(5) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States."

49 USC 1720.

(b) Subsection (c) of such section 20 (as relettered by this section) is amended by striking out "The" and inserting in lieu thereof the following: "Except as provided in subsection (b) of this section, the".

STATE DEMONSTRATION PROGRAMS

SEC. 13. The Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) is amended by inserting immediately after section 27 the following new section:

49 USC 1728.

"SEC. 28. STATE DEMONSTRATION PROGRAMS.

"(a) DEMONSTRATION PROGRAMS.—If the Secretary determines, after review of the certification required by subsection (b) of this section, that a State is capable of managing a demonstration program for administering United States grants for general aviation airports in that State, the Secretary may make a grant for such purpose to such State of funds apportioned to it under section 15(a)(4)(A) of this Act and of any part of the discretionary funds available under section 15(a)(4)(C) of this Act. Such a grant shall be conditioned on a requirement that such State grant funds to airport sponsors in the same manner and subject to the same conditions as the Secretary imposes in making grants to such sponsors under this title.

"(b) CERTIFICATION REQUIREMENTS.—If a State wishes to manage a demonstration program for administering United States grants for general aviation airports, the Governor or the chief executive officer of such State shall certify to the Secretary, in the form and manner prescribed by the Secretary, that—

"(1) the State complies with all eligibility requirements and criteria established by this section and by the Secretary;

"(2) such State's participation in the demonstration program has been specifically authorized by an action of such State's legislature duly taken after the date of enactment of this section, or if such State's legislature is not in regular session on such date and

will not meet again in regular session before January 1, 1977, such participation has been authorized by such State's Governor or chief executive officer; and

"(3) such State's legislature has authorized the appropriation of State funds for the development of general aviation airports in such State during the period for which funds are sought under this section.

"(c) **RESTRICTIONS.**—The Secretary shall not, pursuant to this section—

"(1) enter into demonstration projects in more than four States;

"(2) allow any funds granted to States to be used to pay costs incurred by the States in administering the demonstration programs;

"(3) initiate any demonstration program after January 1, 1977; and

"(4) make a grant to any State after September 30, 1978.

"(d) **REPORT.**—The Secretary shall evaluate and report to Congress, not later than March 31, 1978, on the results of any demonstration programs assisted under this section."

AIR CARRIER AIRPORT DESIGNATION AND CIVIL RIGHTS

SEC. 14. The Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.) is amended by inserting immediately after section 28 (as added by the preceding section of this Act) the following new sections:

"SEC. 29. AIR CARRIER AIRPORT DESIGNATION.

49 USC 1729.

"Notwithstanding any other provision of this title, in the case of any public airport at which (A) an air carrier was or is certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) to serve a city served through such airport, and (B) either (i) service to such city by every such certificated air carrier has been suspended as authorized by the Civil Aeronautics Board, or (ii) authority to serve such city has been deleted from the certificates of every such air carrier by the Civil Aeronautics Board after the date of enactment of this section, and (C) such airport is served by an intrastate air carrier operating in intrastate air transportation within the meaning of sections 101(22) and 101(23) of the Federal Aviation Act of 1958 (49 U.S.C. 1301), such airport shall be deemed to be an air carrier airport (other than a commuter service airport) for the purposes of this title.

"SEC. 30. CIVIL RIGHTS.

49 USC 1730.

"The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as he deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964."

Rules.

42 USC 2000d.

LIMITING CHARGES FOR GOVERNMENT INSPECTION OF PERSONS AND
PROPERTY

SEC. 15. (a) Section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741) is amended by adding at the end thereof the following new subsection:

“(e) The cost of any inspection or quarantine service which is required to be performed by the Federal Government or any agency thereof at airports of entry or other places of inspection as a consequence of the operation of aircraft, and which is performed during regularly established hours of service on Sundays or holidays shall be reimbursed by the owners or operators of such aircraft only to the same extent as if such service had been performed during regularly established hours of service on weekdays. Notwithstanding any other provision of law, administrative overhead costs associated with any inspection or quarantine service required to be performed by the United States Government, or any agency thereof, at airports of entry as a result of the operation of aircraft, shall not be assessed against the owners or operators thereof.”.

Effective date.
49 USC 1741
note.

(b) The amendment made by subsection (a) of this section shall take effect January 1, 1977.

PURCHASE REPORTS

SEC. 16. Section 303(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1344) is amended by striking out “Interstate and Foreign Commerce” and inserting in lieu thereof “Public Works and Transportation”.

AIRPORT SECURITY IN ALASKA

SEC. 17. (a) The Federal Aviation Act of 1958 (49 U.S.C. 1432 et seq.) is amended by adding at the end of title III thereof the following new section:

“AIRPORT SECURITY IN ALASKA

49 USC 1358.
49 USC 1356,
1357.

49 USC 1371.

“SEC. 317. The Administrator is authorized to exempt from the provisions of sections 315 and 316 of this Act those airports in Alaska which receive service only from air carriers operating under certificates granted by the Civil Aeronautics Board under section 401 of this Act, which operate aircraft having a maximum certificated gross takeoff weight of less than 12,500 pounds, and which do not enplane any passenger, or any property intended to be carried in the aircraft cabin, which passenger or property is moving in air transportation and will not be subject to screening in accordance with such section 315 at an airport in Alaska before such passenger or property is enplaned for any point outside Alaska.”.

(b) That portion of the table of contents contained in the first section of such Act which appears under the center heading

“TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF
ADMINISTRATOR”

is amended by adding at the end thereof the following new sideheading:

“Sec. 317. Airport security in Alaska.”.

AIR TRANSPORTATION OF PERSONS OR PROPERTY

SEC. 18. (a) Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by adding at the end thereof the following new subsection:

“(o) (1) Except as provided in paragraph (2) of this subsection, transportation of persons or property by transport category aircraft in interstate air transportation procured by the Department of Defense, including military departments within such Department, through contracts of more than 30 days duration for airlift service within the United States, shall be provided only by carriers which (1) have aircraft in the civil reserve air fleet or offer to place aircraft in such fleet, and (2) hold certificates under this section. Applications for certification under subsection (a) of this section for the purpose of providing the service referred to in this subsection shall be acted on expeditiously by the Board.

“(2) In any case in which the Secretary of Defense determines that no air carrier certificated under subsection (a) of this section is capable of providing and willing to provide the type of service described in paragraph (1) of this subsection, he may contract with an air carrier which does not hold a certificate under this section.”.

(b) That portion of the table of contents contained in the first section of such Act which appears under the side heading

“Sec. 401. Certificate of Public Convenience and Necessity.”

is amended by adding at the end thereof the following:

“(o) Air transportation of persons or property.”.

ISSUANCE OF AIRPORT OPERATING CERTIFICATES

SEC. 19. (a) Section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) is amended by adding at the end thereof the following new subsection:

“EXEMPTION

“(c) The Administrator may exempt any operator of an air carrier airport enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all air carrier airports from the requirements imposed by subsection (b) of this section relating to firefighting and rescue equipment if he finds that such requirements are, or would be, unreasonably costly, burdensome, or impractical.”.

(b) That portion of the table of contents contained in the first section of such Act which appears under the side heading

“Sec. 612. Airport operating certificates.”

is amended by adding at the end thereof the following:

“(c) Exemption.”.

AIRPORT STUDY

SEC. 20. The Secretary of Transportation shall conduct a study of airports in areas where land requirements, local taxes, or a low revenue return per acre may close such airports. This study, the results of which shall be reported to Congress by January 1, 1978, shall include the identification of those locations which may be converted to non-aviation uses and recommendations concerning methods for preserving those airports which in the Secretary's judgment should be preserved in the public interest.

49 USC 1724
note.

Report to
Congress.

CIVIL AVIATION INFORMATION DISTRIBUTION PROGRAM

49 USC 1346a.

SEC. 21. In furtherance of his mandate to promote civil aviation, the Secretary of Transportation acting through the Administrator of the Federal Aviation Administration shall take such action as he may deem necessary, within available resources, to establish a civil aviation information distribution program within each region of the Federal Aviation Administration. Such program shall be designed so as to provide State and local school administrators, college and university officials, and officers of civil and other interested organizations, upon request, with informational materials and expertise on various aspects of civil aviation.

PROHIBITION OF FLIGHT SERVICE STATION CLOSURES

49 USC 1348
note.

SEC. 22. For the three year period beginning on the date of enactment of this Act, the Secretary of Transportation shall not close or operate by remote control any existing flight service station operated by the Federal Aviation Administration, except (A) for part-time operation by remote control during low-activity periods, and (B) for the purpose of demonstrating the quality and effectiveness of service at a consolidated flight service station facility, not more than five flight service stations, at the discretion of the Secretary, may be closed or operated by remote control from not more than one air route traffic control center. Nothing in this section shall preclude the physical separation of a combined flight service station and tower facility, the operation by remote control of the flight service station portion of a combined flight service station and tower facility from another flight service station, or the relocation of an existing flight service station at another site within the same flight service area if such flight service station continues to provide the same service to airmen without interruption.

DEMONSTRATION PROJECT

49 USC 1713
note.*Ante*, p. 872.

SEC. 23. (a) (1) The Secretary of Transportation is authorized to undertake demonstration projects related to ground transportation services to airports which he determines will assist the improvement of the Nation's airport and airway system, and consistent regional airport system plans funded pursuant to section 13(b) of the Airport and Airway Development Act of 1970, by improving ground access to air carrier airport terminals. He may undertake such projects independently or by grant or contract (including working agreements with other Federal departments and agencies).

(2) In determining projects to be undertaken under this subsection, the Secretary of Transportation shall give priority to those projects which (A) affect airports in areas with operating regional rapid transit systems with existing facilities within reasonable proximity to such airports, (B) include connection of the airport terminal facilities to such systems, (C) are consistent with and supportive of a regional airport system plan adopted by the planning agency for the region and submitted to the Secretary, and (D) will improve access for all persons residing or working within the region to air transport through the encouragement of an optimum balance of use of airports in the region.

(b)(1) The Secretary of Transportation is authorized to undertake a demonstration project at South Bend, Indiana, for a multimodal terminal building and facilities for the intermodal transfer of passengers and baggage between and among the interconnecting air, rail, and highway transportation routes and facilities. He may undertake such project independently or by grant or contract (including working agreements with other Federal departments and agencies).

(2) There is authorized to be appropriated to carry out this subsection not to exceed \$3,000,000.

Appropriation
authorization.

COMPENSATION FOR REQUIRED SECURITY MEASURES IN FOREIGN AIR TRANSPORTATION

SEC. 24. (a) The Secretary of Transportation shall compensate any air carrier certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) which requests such compensation for that portion of the amount expended by such air carrier for security screening facilities and procedures as required by section 315(a) of such Act (49 U.S.C. 1356(a)), and any regulation issued pursuant thereto, which is attributable to the screening of passengers moving in foreign air transportation. An air carrier shall have any compensation authorized to be paid it under this section reduced by the amount (if any) by which the revenue of such carrier which is attributable to the cost of security screening facilities and procedures used in intrastate, interstate, and overseas air transportation exceeds the actual cost to such carrier of such facilities. The Secretary may issue such regulations as he deems necessary to carry out the purpose of this section.

49 USC 1356a.

(b) The terms used in this section which are defined in the Federal Aviation Act of 1958 shall have the same meaning as such terms have in such Act.

49 USC 1301
note.

(c) There is authorized to be appropriated out of the Airport and Airway Trust Fund to carry out this section not to exceed \$3,750,000 for fiscal year 1976, including the period July 1, 1976, through September 30, 1976, and \$3,000,000 per fiscal year for the fiscal years 1977 and 1978.

Appropriation
authorization.

REDUCTION OF NONESSENTIAL EXPENDITURES

SEC. 25. The Secretary of Transportation shall, in accordance with this section, attempt to reduce, to the maximum extent practicable consistent with the highest degree of aviation safety, the capital, operating, maintenance, and administrative costs of the national airport and airway system. The Secretary shall, at least annually, consult with and give due consideration to the views of users of such system on methods of reducing nonessential Federal expenditures for aviation. The Secretary shall give particular attention to any recommendations which could reduce, without any adverse effects on safety, future Federal manpower requirements and costs which are required to be recouped from charges on such users.

49 USC 1704.

SPECIAL STUDIES

SEC. 26. The Secretary of Transportation shall conduct studies with respect to—

49 USC 1702
note.

(1) the feasibility, practicability, and cost of land bank planning and development for future and existing airports, to be carried out through Federal, State, or local government action;

(2) the establishment of new major public airports in the United States, including (A) identifying potential locations, (B) evaluating such locations, and (C) investigating alternative methods of financing the land acquisition and development costs necessary for such establishment; and

(3) the feasibility, practicability, and cost of the soundproofing of schools, hospitals, and public health facilities located near airports.

Consultation.

The Secretary shall consult with and solicit the views of such planning agencies, airport sponsors, other public agencies, airport users, and other interested persons or groups as he deems appropriate to the conduct of such studies. The Secretary shall report to the Congress on the results of such studies, including legislative recommendations, if any, within 1 year after the date of enactment of this section.

Report to
Congress.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES

AUTHORIZATION

SEC. 201. Subsection (d) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended to read as follows:

49 USC 1353.

“(d) RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312(c) of the Federal Aviation Act of 1958 such demonstration projects as he determines necessary in connection with research and development activities under such section 312(c). For research, development, and demonstration projects and activities under such section 312(c), there is authorized to be appropriated from the Trust Fund in the amount of \$109,350,000 for the fiscal year 1976, including the interim period beginning July 1, 1976, and ending September 30, 1976, \$85,400,000 for the fiscal year 1977, and not less than \$50,000,000 per fiscal year for fiscal years 1978 through 1980, to remain available until expended. The initial \$50,000,000 of any sums appropriated to the Trust Fund pursuant to subsection (d) of section 208 of the Airport and Airway Revenue Act of 1970 shall be allocated to such research, development, and demonstration activities.”.

49 USC 1742.

TITLE III—AIRPORT AND AIRWAY TRUST FUND

SEC. 301. AUTHORIZATION FOR EXPENDITURES FROM TRUST FUND.

(a) AMENDMENT OF 1970 ACT.—(1) Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742(f)(1)(A)) is amended to read as follows:

“(A) incurred under title I of this Act or of the Airport and Airway Development Act Amendments of 1976 (as such Acts were in effect on the date of the enactment of the Airport and Airway Development Act Amendments of 1976);”.

(2) Section 208(f) of such Act (49 U.S.C. 1742(f)) is amended by striking out "July 1, 1980" each time it appears and inserting in lieu thereof "October 1, 1980".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) (1) shall apply to obligations incurred on or after the date of the enactment of this Act. The amendments made by subsection (a) (2) shall be effective on the date of enactment of this Act.

49 USC 1742
note.

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-594 (Comm. on Public Works and Transportation) and No. 94-1292 (Comm. of Conference).

SENATE REPORTS: No. 94-643 accompanying S. 3015 (Comm. on Commerce) and No. 94-975 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 18, considered and passed House.

Vol. 122 (1976): Mar. 25, considered and passed Senate, amended, in lieu of S. 3015.

June 23, Senate agreed to conference report.

June 30, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 29 (1976): July 12, Presidential statement.

Public Law 94-354
94th Congress

An Act

July 12, 1976
[H.R. 13069]

To extend and increase the authorization for making loans to the unemployment fund of the Virgin Islands.

Virgin Islands.
Unemployment
fund loans,
extension.
26 USC 3304
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (d) of section 301 of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 is amended—

(1) by striking out “June 30, 1976” and inserting in lieu thereof “September 30, 1977”; and

(2) by striking out “\$5,000,000” and inserting in lieu thereof “\$15,000,000”.

(b) Subsection (c) of such section 301 is amended by striking out “January 1, 1978” each place it appears and inserting in lieu thereof “January 1, 1979”.

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1018 (Comm. on Ways and Means).

SENATE REPORT No. 94-819 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 13, considered and passed House.

June 16, considered and passed Senate, amended.

July 1, Senate receded from its amendments.

Public Law 94-355
94th Congress

An Act

July 12, 1976
[H.R. 14236]

Making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending September 30, 1977, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1977, for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions, and for other purposes, namely:

Public Works for
Water and Power
Development and
Energy Research
Appropriation
Act, 1977.

TITLE I—ENERGY RESEARCH AND DEVELOPMENT
ADMINISTRATION

OPERATING EXPENSES

For necessary operating expenses of the Administration in carrying out the purposes of the Energy Reorganization Act of 1974; hire, maintenance, and operation of aircraft; publication and dissemination of atomic and other energy information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed \$25,000); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles; \$4,147,563,000 and any moneys (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7)) received by the Energy Research and Development Administration, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), to remain available until expended: *Provided*, That from this appropriation transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That the amount appropriated in any other appropriation act for "Operating expenses" for the Energy Research and Development Administration for the fiscal year ending September 30, 1977, shall be merged, without limitation, with this appropriation: *Provided further*, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

42 USC 5801
note.

42 USC 2301
note;
50 USC 98 note.

PLANT AND CAPITAL EQUIPMENT

42 USC 5801
note.

For expenses of the Administration, as authorized by law, in connection with the purchase and construction of plant and the acquisition of capital equipment and other expenses incidental thereto necessary in carrying out the purposes of the Energy Reorganization Act of 1974, including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of not to exceed three hundred and thirty-eight for replacement only, and hire of passenger motor vehicles; purchase of not to exceed two, and hire of aircraft; \$1,572,410,000, to remain available until expended: *Provided*, That the amount appropriated in any other appropriation Act for "Plant and capital equipment" for the Energy Research and Development Administration for the fiscal year ending September 30, 1977, shall be merged, without limitation, with this appropriation: *Provided further*, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

30 USC 1101
note.

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development, and Demonstration Act of 1974, \$30,000,000, to remain available until expended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed shall not exceed the aggregate of \$200,000,000: *Provided further*, That after September 2, 1984, no part of this or any other appropriation for the purposes of the Loan Guarantee and Interest Assistance Program shall be available for obligation.

GENERAL PROVISION

Transfer of funds;
report to
congressional
committees

SEC. 101. Not to exceed 5 per centum of appropriations made available for the current fiscal year for "Operating expenses" and "Plant and capital equipment" may be transferred between such appropriations, but neither such appropriation, except as otherwise provided herein, shall be increased by more than 5 per centum by any such transfers, and any such transfers shall be reported promptly to the Appropriations Committees of the House and Senate.

TITLE II—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, and when authorized by law, surveys and studies of projects prior to authorization for construction, \$71,920,000, to remain available until expended: *Provided*, That \$2,000,000 of this appropriation shall be transferred

to the United States Fish and Wildlife Service for studies, investigations, and reports thereon as required by the Fish and Wildlife Coordination Act of 1958 (72 Stat. 563-565), to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water-resource development programs of the Department of the Army.

16 USC 661 note.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction): \$1,436,745,000, to remain available until expended: *Provided*, That no part of this appropriation shall be used for projects not authorized by law or which are authorized by law limiting the amount to be appropriated therefor, except as may be within the limits of the amount now or hereafter authorized to be appropriated: *Provided further*, That \$2,000,000 of this appropriation shall be transferred to the United States Fish and Wildlife Service for studies, investigations, and reports thereon as required by the Fish and Wildlife Coordination Act of 1958 (72 Stat. 563-565) to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water-resource development programs of the Department of the Army.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), \$231,497,000, to remain available until expended: *Provided*, That not less than \$250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District engineer and the State Conservationist.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; administration of laws pertaining to preservation of navigable waters; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation; \$648,900,000, to remain available until expended.

REVOLVING FUND

For the design and construction of hopper dredges, \$6,600,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

33 USC 701n. For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, \$22,140,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors and the Coastal Engineering Research Center; commercial statistics; and miscellaneous investigations; \$47,200,000.

SPECIAL RECREATION USE FEES

16 USC 460l-6a. For construction, operation, and maintenance of outdoor recreation facilities, including collection of special recreation use fees, to remain available until expended, \$2,000,000, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601): *Provided*, That not more than 40 per centum of the foregoing amount shall be available for the enhancement of the fee collection system established by section 4 of such Act, including the promotion and enforcement thereof.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by 5 U.S.C. 4110, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed \$10,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed one hundred and sixty-nine of which one hundred and sixty-seven shall be for replacement only), and hire of passenger motor vehicles: *Provided*, That the total capital of the revolving fund shall not exceed \$291,000,000.

TITLE III—DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

43 USC 371 and note. For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau, as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing

projects, to remain available until expended, \$24,762,000: *Provided*, That none of this appropriation shall be used for more than one-half of the cost of an investigation requested by a State, municipality, or other interest: *Provided further*, That \$554,000 of this appropriation shall be transferred to the United States Fish and Wildlife Service for studies, investigations, and reports thereon as required by the Fish and Wildlife Coordination Act of 1958 (72 Stat. 563-565) to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water-resource development programs of the Bureau of Reclamation.

16 USC 661 note.

CONSTRUCTION AND REHABILITATION

For construction and rehabilitation of authorized reclamation projects or parts thereof (including power transmission facilities) and for other related activities, as authorized by law, to remain available until expended, \$348,811,000, of which \$214,000,000 shall be derived from the reclamation fund: *Provided*, That no part of this appropriation shall be used to initiate the construction of transmission facilities within those areas covered by power wheeling service contracts which include provision for service to Federal establishments and preferred customers, except those transmission facilities for which construction funds have been heretofore appropriated, those facilities which are necessary to carry out the terms of such contracts or those facilities for which the Secretary of the Interior finds the wheeling agency is unable or unwilling to provide for the integration of Federal projects or for service to a Federal establishment or preferred customer: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

For an additional amount for "Construction and rehabilitation", to become available immediately upon enactment of this Act, to remain available until expended, \$200,000,000: *Provided*, That this additional amount may be made available without reimbursement: *Provided further*, That this appropriation is for the payment of claims for damages to or loss of property, personal injury, or death proximately resulting from the failure on June 5, 1976, of the Teton River Dam, in accordance with such rules and regulations of the Secretary of the Interior as may be necessary and proper for the purpose of administering such claims and of determining the amounts to be allowed pursuant to this appropriation and the persons entitled to receive the same: *Provided further*, That nothing herein shall be construed to impose any liability on the United States or to allow for payment of claims that are paid or payable from any other source, public or private: *Provided further*, That of funds available to the Bureau of Reclamation pursuant to Public Law 94-180 under this appropriation title, not to exceed \$300,000, to remain available until expended, may be transferred without reimbursement, with the approval of the Secretary of the Interior, to "Salaries and Expenses", Office of the Secretary, to provide for expenses related to investigations of the structure failure, the expenditure of which funds shall not be subject to the limitation on services as authorized by title 5, United States Code, section 3109, as contained in section 104 of Public Law 94-165.

89 Stat. 1039.

89 Stat. 990.

UPPER COLORADO RIVER STORAGE PROJECT

For the Upper Colorado River Storage Project, as authorized by the Act of April 11, 1956, as amended (43 U.S.C. 620d), to remain available until expended, \$59,331,000, of which \$55,200,000 shall be available for the "Upper Colorado River Basin Fund" authorized by section 5 of said Act of April 11, 1956, and \$4,131,000 shall be available for construction of recreational and fish and wildlife facilities authorized by section 8 thereof, and may be expended by bureaus of the Department through or in cooperation with State or other Federal agencies, and advances to such Federal agencies are hereby authorized: *Provided*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument.

43 USC 620d.

43 USC 620g.

COLORADO RIVER BASIN PROJECT

For advances to the Lower Colorado River Basin Development Fund, as authorized by section 403 of the Act of September 30, 1968 (82 Stat. 894), for the construction, operation, and maintenance of projects authorized by title III of said Act, to remain available until expended, \$94,020,000, of which \$20,600,000 is for liquidation of contract authority provided by section 303(b) of said Act.

43 USC 1543.

43 USC 1521.

43 USC 1523.

COLORADO RIVER BASIN SALINITY CONTROL PROJECTS

For construction, operation and maintenance of projects authorized by the Act of June 24, 1974, Public Law 93-320, to remain available until expended, \$44,680,000.

43 USC 1571
note.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, \$143,000,000, of which \$116,000,000 shall be derived from the reclamation fund and \$5,172,000 shall be derived from the Colorado River Dam fund: *Provided*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Act of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422k), including expenses necessary for carrying out the program, \$27,495,000, to remain available until expended: *Provided*, That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

43 USC 388.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (42 U.S.C. 502), to remain available until expended for the purposes specified in said Act, \$1,000,000 to be derived from the reclamation fund.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the offices of the Commissioner of Reclamation and in the regional offices of the Bureau of Reclamation, \$22,600,000, to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377) : *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

SPECIAL FUNDS

Sums herein referred to as being derived from the Reclamation fund, the Colorado River Dam fund, or the Colorado River development fund, are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391), the Act of December 21, 1928 (43 U.S.C. 617a), and the Act of July 19, 1940 (43 U.S.C. 618a) respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the heads "Operation and Maintenance" and "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed forty-four passenger motor vehicles of which twenty-one shall be for replacement only; purchase of one aircraft for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriation Act, 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Act of August 21, 1935 (16 U.S.C. 461-467) : *Provided*, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for reconnaissance, basin surveys, and general engineering and research under the head "General Investigations".

58 Stat. 487.

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665).

43 USC 377a.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

Not to exceed \$225,000 may be expended from the appropriation "Construction and Rehabilitation" for work by force account on any one project or Pick-Sloan Missouri Basin Program unit and then only when such work is unsuitable for contract or no acceptable bid has been received and, other than otherwise provided in this paragraph or as may be necessary to meet local emergencies, not to exceed 12 per centum of the construction allotment for any project from the appropriation "Construction and Rehabilitation" contained in this Act, shall be available for construction work by force account: *Provided*, That this paragraph shall not apply to work performed under the Rehabilitation and Betterment Act of 1949 (63 Stat. 724).

43 USC 504 and note.

ALASKA POWER ADMINISTRATION

GENERAL INVESTIGATIONS

For engineering and economic investigations to promote the development and utilization of the water, power, and related resources of Alaska, \$749,000, to remain available until expended: *Provided*, That \$20,000 of this appropriation shall be transferred to the United States Fish and Wildlife Service for studies, investigations, and reports thereon, as required by the Fish and Wildlife Coordination Act of 1958 (72 Stat. 563-565).

16 USC 661 note.

OPERATION AND MAINTENANCE

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, \$1,141,000.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are hereby specifically approved for purchase of one aircraft for replacement only and construction of the following major transmission facilities: facilities to provide system support to the Lost River-Salmon River area in south-east Idaho.

16 USC 838i.

SOUTHEASTERN POWER ADMINISTRATION

OPERATION AND MAINTENANCE

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$1,076,000.

SOUTHWESTERN POWER ADMINISTRATION

CONSTRUCTION

For construction and acquisition of transmission lines, substations, and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$896,000, to remain available until expended.

OPERATION AND MAINTENANCE

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, including purchase of not to exceed three passenger motor vehicles for replacement only, \$7,707,000.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 301. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Emergency
reconstruction.

SEC. 302. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

Fire prevention.

SEC. 303. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 686): *Provided*, That reimbursements for costs of supplies, materials, and equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

Warehouses,
garages.

SEC. 304. No part of any funds made available by this Act to the Southwestern Power Administration may be made available to any other agency, bureau, or office for any purposes other than for services rendered pursuant to law to the Southwestern Power Administration.

Southwestern
Power
Administration.

TITLE IV—INDEPENDENT OFFICES

APPALACHIAN REGIONAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Cochairman and his alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$1,897,000.

FUNDS APPROPRIATED TO THE PRESIDENT

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, except expenses authorized by section 105 of said Act, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, to remain available until expended, \$303,000,000, of which \$185,000,000 shall be available for the Appalachian Development Highway System, but no part of any appropriation in this Act shall be available for expenses in connection with commitments for contracts or grants for the Appalachian Development Highway System in excess of the total amount herein and heretofore appropriated.

40 USC app. 1.
40 USC app. 109.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), \$83,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), \$198,000.

FEDERAL POWER COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the work of the Commission, as authorized by law, including hire of passenger motor vehicles, hire of aircraft, services as authorized by 5 U.S.C. 3109, and not to exceed \$1,000 for official reception and representation expenses, \$41,582,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER
BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748),

as amended by the Act of September 25, 1970 (Public Law 91-407), 33 USC 567b-1. \$52,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed \$10,000); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; \$244,430,000, to remain available until expended: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, Moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

42 USC 5801
note.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1541), \$83,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), \$150,000.

TENNESSEE VALLEY AUTHORITY

PAYMENT TO TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C., ch. 12A), including hire, maintenance, and operation of aircraft, and hire of passenger motor vehicles, \$125,930,000, to remain available until expended: *Provided*, That this appropriation and other funds available to the Tennessee Valley Authority shall be available for the purchase of not to exceed three aircraft of which one is for replacement only, and the purchase of not to exceed two hundred passenger motor vehicles for replacement only.

16 USC 831.

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

For expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962—1962d-3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a-4(5), and hire of passenger motor vehicles (42 U.S.C.

1962a-4(6)), \$12,665,000, to remain available until expended, including \$1,648,000 for expenses in administering the Act (42 U.S.C. 1962d(b)), \$3,248,000 for preparation of assessments and plans (42 U.S.C. 1962d(c)), \$2,269,000 for preparation of plans (33 U.S.C. 1289), \$2,500,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), and \$3,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c(a)).

TITLE V—GENERAL PROVISION

Fiscal year
limitation.

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Short title.

This Act may be cited as the "Public Works for Water and Power Development and Energy Research Appropriation Act, 1977".

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1223 (Comm. on Appropriations) and No. 94-1297 (Comm. of Conference).

SENATE REPORT No. 94-960 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 15, considered and passed House.

June 23, considered and passed Senate, amended.

June 29, House agreed to conference report; receded and concurred in Senate amendments; Senate agreed to conference report.

Public Law 94-356
94th Congress

An Act

To amend title 37, United States Code, relating to special pay for nuclear qualified officers, and for other purposes.

July 12, 1976

[H.R. 10451]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Career Incentive Act of 1975".

SEC. 2. Section 312 of title 37, United States Code, is amended—

(1) by striking out "\$3,750" and "\$3,000" in subsection (a) and by inserting "\$5,000" and "\$4,000", respectively, in lieu thereof; and

(2) by striking out the date that appears in subsection (e) and by inserting "September 30, 1981" in lieu thereof.

SEC. 3. Chapter 5 of title 37, United States Code, is amended by inserting the following new sections after section 312a and by inserting corresponding items for those new sections in the chapter analysis:

"§ 312b. Special pay: nuclear career accession bonus

"(a) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who—

"(1) is entitled to basic pay;

"(2) has not completed five years of commissioned service; and

"(3) has, as a commissioned officer, received training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

may, upon successful completion of that training, in addition to all other compensation to which he is entitled, be paid a bonus in an amount not to exceed \$3,000.

"(b) The Secretary of the Navy shall make an annual report to the House and Senate Armed Services Committees containing data to monitor the effectiveness of the bonus authorized by subsection (a) of this section.

"(c) The provisions of this section shall be effective only in the case of officers who, on or before September 30, 1981, have been accepted for training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

"§ 312c. Special pay: nuclear career annual incentive bonus

"(a) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who—

"(1) is entitled to basic pay;

"(2) is not above the pay grade O-6;

"(3) has completed his initial obligated active service as an officer, but has completed less than twenty-six years of commissioned service;

"(4) has, as a commissioned officer, successfully completed training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

"(5) has the current technical qualifications for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

Nuclear Career Incentive Act of 1975.

37 USC 301 note. Nuclear-qualified submarine officers, special pay.

37 USC 301 et seq. 37 USC 312a.

37 USC 312b.

Report to congressional committees.

37 USC 312c.

Eligibility.

may, in addition to all other compensation to which he is entitled, be paid an annual bonus in an amount not to exceed \$4,000 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981. In order to be eligible for an annual bonus for any nuclear service year in accordance with this subsection, an otherwise qualified officer must have been on active duty on the last day of that nuclear service year. The amount of the annual bonus to which an officer would otherwise be entitled for a nuclear service year in accordance with this subsection shall be reduced on a pro rata basis for each day of that nuclear service year on which he was not on active duty; was not qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; was performing obligated service as the result of an active-service agreement executed under section 312 of this title; or was entitled to receive aviation career incentive pay in accordance with section 301a of this title: *Provided, That*—

37 USC 312.

37 USC 301a.

“(1) in the case of an officer with more than ten, but not more than eighteen, years of commissioned service, the amount of that annual bonus shall be further reduced on a pro rata basis for any other day or days in that nuclear service year which, when added to the immediately preceding days in and before that nuclear service year, total more than three consecutive years in an assignment other than an assignment to duty on a naval vessel; duty with a nuclear ship operational command staff; duty directly involving the training of others leading to their qualification for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; or duty in connection with a nuclear propulsion examining board;

“(2) in the case of an officer with more than eighteen, but not more than twenty-five, years of commissioned service, the amount of that annual bonus shall be further reduced on a pro rata basis for any other day or days in that nuclear service year on which he was not in an assignment involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants, except that in the case of an officer who, during that nuclear service year, completed his eighteenth year of commissioned service, the amount of that annual bonus shall not be reduced for any day before the end of that eighteenth year which would have been creditable for determining the amount of the annual bonus at the end of that nuclear service year for an officer with more than ten, but not more than eighteen, years of commissioned service; and

“(3) in the case of an officer with more than twenty-five, but not more than twenty-six, years of commissioned service, the amount of that annual bonus shall be further reduced on a pro rata basis for any other day or days in that nuclear service year on which he was not in an assignment with duties involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants, and for every day in that nuclear service year after the end of his twenty-fifth year of commissioned service.

“(b) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who—

“(1) is entitled to basic pay;

“(2) is not above the pay grade O-6;

“(3) has, as an enlisted member, received training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants; and

“(4) has the current technical qualifications for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants;

may, in addition to all other compensation to which he is entitled, be paid an annual bonus in an amount not to exceed \$2,400 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981. In order to be eligible for an annual bonus for any nuclear service year in accordance with this subsection, an otherwise qualified officer must have been on active duty on the last day of that nuclear service year. The amount of the annual bonus to which an officer would otherwise be entitled in accordance with this subsection shall be reduced on a pro rata basis for each day of that nuclear service year on which he was not in an assignment involving the direct supervision, operation, or maintenance of naval nuclear propulsion plants; was performing obligated service as the result of an active service agreement executed under section 312 of this title; or was entitled to receive aviation career incentive pay in accordance with section 301a of this title.

37 USC 312.

37 USC 301a.

“(c) Under regulations prescribed by the Secretary of the Navy, an officer of the naval service who is not on active duty on the last day of a nuclear service year or who, on or before the last day of a nuclear service year, loses his technical qualifications or advances from the pay grade of O-6 to a higher pay grade may be paid a bonus in accordance with subsection (a) or (b) of this section on a pro rata basis, if otherwise qualified, unless termination of active duty or loss of technical qualifications was voluntary or was the result of his own misconduct.

“(d) The Secretary of the Navy shall make an annual report to the House and Senate Armed Services Committees containing data to monitor the effectiveness of the bonuses authorized by subsections (a) and (b) of this section.

Report to congressional committees.

“(e) For the purposes of this section, a ‘nuclear service year’ is the one-year period from October 1, 1975, through September 30, 1976, or any fiscal year beginning after September 30, 1976, and before October 1, 1981.”

“Nuclear service year.”

SEC. 4. Notwithstanding any other provision of this Act or any other provision of law, and under regulations prescribed by the Secretary of the Navy, an officer of the naval service who, on or after the effective date of this Act, is, or will be, performing obligated service as the result of an active service agreement executed in accordance with section 312 of title 37, United States Code, as it existed at any time before the effective date of this Act, may be permitted—

37 USC 312 note.

(1) as of the last day of the first year of that obligated service, to cancel that active service agreement in exchange for a new active service agreement in accordance with section 312 of title 37, as amended by this Act; or

Ante, p. 901.

Effective date.
37 USC 312 note.

(2) as of the last day of any year, other than the last year, of that obligated service, to cancel that active service agreement in exchange for eligibility for the annual bonus authorized by section 312c of title 37, as added by this Act, and an agreement to remain on active duty for a period of time equal to the period of obligated service remaining under that active service agreement.

SEC. 5. This Act becomes effective on the first day of the first month after enactment, except that section 312c of title 37, United States Code, as added by this Act, is effective as of October 1, 1975.

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-644 accompanying S. 2114 and No. 94-1039 (Comm. on Armed Services).

SENATE REPORTS: No. 94-329 accompanying S. 2114 and No. 94-1008 (Comm. on Armed Services).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 26, S. 2114, considered and passed Senate.

Nov. 17, S. 2114 considered and passed House, amended.

Vol. 122 (1976): May 10, considered and passed House.

June 30, considered and passed Senate, in lieu of S. 2114.

Public Law 94-357
94th Congress

An Act

To designate the Alpine Lakes Wilderness, Mount Baker-Snoqualmie and Wenatchee National Forests, in the State of Washington.

July 12, 1976

[H.R. 7792]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alpine Lakes Area Management Act of 1976".

Alpine Lakes
Area
Management Act
of 1976.

16 USC 1132

note.

16 USC 1132

note.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that:

(1) The Cascade Mountains of the State of Washington between Stevens Pass and Snoqualmie Pass, commonly known as the Alpine Lakes region, comprise an environment of timbered valleys rising to rugged, snowcovered mountains, dotted with over seven hundred lakes, displaying unusual diversity of natural vegetation, and providing habitat for a variety of wildlife.

(2) This region is abundant in its multiple resources, including an abundant source of pure water, commercial forests, an outdoor laboratory for scientific research and educational activities, and opportunities for great diversity of recreational use and enjoyment during all seasons of the year, in particular for quality hunting, fishing, motorized recreation, skiing, picnicking, camping, rock collecting, nature study, backpacking, horseback riding, swimming, boating, mountain climbing, and many others, together with the opportunity for millions of persons traveling through the periphery of the area to enjoy its unique values.

(b) Purposes of this Act: In order to provide for public outdoor recreation and use and for economic utilization of commercial forest lands, geological features, lakes, streams and other resources in the Central Cascade Mountains of Washington State by present and future generations, there is hereby established, subject to valid existing rights an Alpine Lakes Area, including an Alpine Lakes Wilderness, an "Intended Wilderness" and a management unit, comprising approximately nine hundred and twenty thousand acres.

SEC. 3. (a) The Alpine Lakes Wilderness (hereinafter referred to as "the wilderness"), the "Intended Wilderness", and the peripheral area (hereinafter referred to as the "management unit"), shall comprise the areas so depicted on the map entitled "Alpine Lakes Area" and dated June 1976, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall, as soon as practicable after the enactment of this Act, publish in the Federal Register a detailed description and map showing the boundaries of the wilderness, "Intended Wilderness", and the management unit.

16 USC 1132
note.

Description and
map; publication
in Federal
Register.

(b) The Secretary shall administer the Federal lands in the management unit in accordance with the laws, rules, and regulations applicable to the national forests in such a manner as to provide for the management of all of the resources of the management unit.

Administration.

16 USC 1131
note.

Publication in
Federal Register.

(c) The Federal lands designated as the Alpine Lakes Wilderness shall be administered in accordance with the provisions of this Act and with the provisions of the Wilderness Act (78 Stat. 890), which ever is the more restrictive.

(d) Federal lands depicted on the map and legal description as "Intended Wilderness" shall become part of the Alpine Lakes Wilderness at such time as the adjacent non-Federal lands, interests or other property become wilderness according to the provisions of section 3(e) of this Act, at which times the Secretary shall file a map and legal description of such additions in the Federal Register.

(e) Non-Federal lands depicted on the map and legal description as "Wilderness" and "Intended Wilderness" shall become part of the Alpine Lakes Wilderness when acquired by the Federal Government in conformance with the acquisition program required by section 4 of this Act.

LAND ACQUISITION AND EXCHANGE

16 USC 1132
note.

SEC. 4. (a) Within the boundaries of the wilderness and "Intended Wilderness", the Secretary is authorized and directed to acquire with donated or appropriated funds, by gift, exchange, or otherwise, such non-Federal lands, interests, or any other property, in conformance with the provisions of section 4 of this Act: *Provided*, That any such lands, interests, or other property owned by or under the control of the State of Washington or any political subdivision thereof may be acquired only by donation or exchange. Nothing in this Act shall be construed to limit or diminish the existing authority of the Secretary to acquire lands and interests therein within the Alpine Lakes Area in accordance with established law. Notwithstanding any other provision of law, any Federal property located within the management unit may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act. The Secretary shall exercise caution in exchanging land so as not to impair substantially the programmed allowable timber harvest of the Mount Baker-Snoqualmie and Wenatchee National Forest. Amounts appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands and interest for the purposes of this Act.

(b) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within the wilderness and "Intended Wilderness", and convey to the owner of such property any national forest land within the State of Washington under the jurisdiction of the Secretary: *Provided*, That the Secretary may accept cash for or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged.

Publication in
Federal Register.

(c) (1) As non-Federal lands and interests in the wilderness and "Intended Wilderness" are acquired, and as they become protectable and administrable as wilderness, the lands shall become part of the Alpine Lakes Wilderness, and the Secretary shall publish from time to time a notice of such classification in the Federal Register. It is the intention of Congress that acquisition of the "Intended Wilderness" shall be completed no later than three years after the date of enactment of this Act. At any time after three years from the date of enactment

of this Act, an action may be instituted by an owner, all of whose lands within the boundaries of the "Intended Wilderness" have been managed in such a way so as not to become unsuitable or unmanageable as wilderness (except for disturbance affecting a minor land area and found by the Secretary to have resulted from strictly accidental and unintentional circumstances), against the United States in the district court for the district in which such lands are located, to require the Secretary to acquire immediately all of said owner's interest in such lands, interests and property and to pay in accordance with this section 4 just compensation for such lands, interest, and property the plaintiff may have which are not yet acquired pursuant to this section 4. By February 1 of each year, the Secretary shall report in writing to the Committees on Interior and Insular Affairs of the United States House of Representatives and the Senate, on the status of negotiations with private owners to effect exchanges and acquisition of non-Federal property.

Report to congressional committees.

(2) The United States will pay just compensation to the owner of any lands and interests acquired by and pursuant to this Act. Such compensation shall be paid either: (A) by the Secretary of the Treasury from money appropriated pursuant to this Act from the Land and Water Conservation Fund, or from any other funds available for such use, upon certification to him by the Secretary, of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 8 per centum per annum from the date of the acquisition of the property or the date of filing an action according to the provisions of section 4(c)(1) of this Act, whichever is earlier, to the date of payment therefor; or (B) by the Secretary, if the owner of the land concurs, with any federally owned property available to him for purposes of exchange pursuant to subsection 4(b); or (C) by the Secretary using any combination of such money or federally owned property.

Payments.

(3) Just compensation shall be the fair market value of the lands and interests acquired by and pursuant to this Act, and shall be determined as of the date of acquisition: *Provided, however*, That the fair market value of those lands acquired from owners who, from the time of enactment of this Act to the time of acquisition of any such lands, have managed all lands within the "Intended Wilderness" under their ownership so as not to make such lands unsuitable or unmanageable as wilderness (except for disturbance affecting a minor land area and found by the Secretary to have resulted from strictly accidental and unintentional circumstances), shall be the sum of (A) the value of such lands and interests at the date of acquisition, plus (B) any loss of value of timber from casualty, deterioration, disease, or other natural causes from January 1, 1976, to the date of acquisition, with all existing and lost or damaged timber valued at the highest of (i) its market value on the date of acquisition, (ii) its market value on January 1, 1976, or (iii) the mean average market value between those dates: *And provided further*, That nothing in this Act shall be deemed or construed to deny to owners of non-Federal lands, or to change their rights to access to such lands or to manage the same for any otherwise lawful purpose prior to acquisition thereof by the Secretary. For the purposes of this section, the owner of property is defined as the holder of fee title unless said property is subject to an agreement of sale entered into prior to April 1, 1976.

WILDERNESS MANAGEMENT PLAN

Enchantment
Area, study.
16 USC 1132
note.

SEC. 5. In conjunction with the preparation of a wilderness management plan for the wilderness designated by this Act, the Secretary shall prepare a special study of the Enchantment Area of the Alpine Lakes Wilderness, taking into consideration its especially fragile nature, its ease of accessibility, its unusual attractiveness, and its resultant heavy recreational usage. The study shall explore the feasibility and benefits of establishing special provisions for managing the Enchantment Area to protect its fragile beauty, while still maintaining the availability of the entire area for projected recreational demand.

MULTIPLE USE PLAN

16 USC 1132
note.

SEC. 6. (a) Within two years of the enactment of this Act, the Secretary shall, in accordance with the provisions of this Act and other applicable acts governing the administration of the National Forest system and with full public involvement required by this and other pertinent law, prepare, complete and begin to implement in accordance with the provision of subsection (b) a single multiple-use plan for the Federal lands in the management unit.

16 USC 528 note.

(b) The management of the renewable resources will be in accordance with the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528-531), with other applicable laws and regulations of the United States, and will be such to obtain multiple use and sustained yield of the several products and services obtained therefrom.

Publication in
Federal Register.
Transmittal to
President and
Congress.

(c) The Secretary shall publish a notice of such plan in the Federal Register and shall transmit it to the President and to the United States House of Representatives and to the Senate. The completed plan will take effect and will be implemented no earlier than ninety calendar days and no later than one hundred and fifty calendar days from the date of such transmittal.

(d) The resources of the management unit shall be managed in accordance with the provisions of the multiple-use plan until such time as the plan may be revised according to the provisions of this section.

(e) The Secretary shall review the multiple-use plan from time to time and, with full public involvement, shall make any changes he deems necessary to carry out the purposes of this Act.

(f) The Secretary shall permit and encourage the use of renewable resources within the management unit, and nothing in this Act shall be construed to prohibit the conduct of normal national forest programs during the formulation of, nor to prohibit inclusion of such programs in the multiple-use plan required by this section.

AUTHORITIES OF THE STATE OF WASHINGTON

Hunting and
fishing.
16 USC 1132
note.

SEC. 7. (a) The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction in accordance with applicable Federal and State laws. Except in emergencies, any regulations pursuant to this subsection shall be issued only after consultation with the fish and game departments of the State of Washington. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of these agencies.

(b) Nothing in this Act shall deprive the State of Washington or any political subdivisions thereof of its right to exercise civil and criminal jurisdiction within the area or of its right to tax persons, corporations, franchises, or other non-Federal property, in or on lands and waters within the area.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is hereby authorized to be appropriated for the acquisition of lands and interests to carry out the purposes of this Act, not more than \$20,000,000 in fiscal year 1977, \$17,000,000 in fiscal year 1978, and \$20,000,000 in fiscal year 1979, such sums to remain available until appropriated without fiscal year limitation. To prepare the multiple-use plan required by section 6 of this Act, there is authorized to be appropriated not more than \$500,000. Appropriation requests by the President to implement the multiple-use plan shall express in qualitative and quantitative terms the most rapid and judicious manner and methods to achieve the purposes of this Act. Amounts appropriated to carry out this Act shall be expended in accordance with the Budget Reform and Impoundment Control Act of 1974 (88 Stat. 297).

16 USC 1132
note.

31 USC 1301
note.

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1154 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-1002 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):

June 8, considered and passed House.

June 29, considered and passed Senate.

Public Law 94-358
94th Congress

An Act

July 12, 1976

[H.R. 10572]

To amend title 5 of the United States Code to provide that the provisions relating to the withholding of city income or employment taxes from Federal employees shall apply to taxes imposed by certain nonincorporated local governments.

Taxes.
Federal
employees, city
income or
employment
taxes.
"City."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (1) of section 5520(c) of title 5, United States Code, is amended to read as follows:

"(1) 'city' means any unit of general local government which—

"(A) is classified as a municipality by the Bureau of the Census, or

"(B) is a town or township which, in the determination of the Secretary of the Treasury—

"(i) possesses powers and performs functions comparable to those associated with municipalities,

"(ii) is closely settled, and

"(iii) contains within its boundaries no incorporated places, as defined by the Bureau of the Census, within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government; and".

Effective date.
5 USC 5520 note.

SEC. 2. The amendment made by the first section of this Act shall take effect on the date of the enactment of this Act.

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1008 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 122 (1976):

May 3, considered and passed House.

July 1, considered and passed Senate.

Public Law 94-359
94th Congress

An Act

To amend the Endangered Species Act of 1973 in order to permit the disposal of certain endangered species products and parts lawfully held within the United States on the effective date of such Act.

July 12, 1976
[S. 229]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 (f) (2) (B) (ii) of the Endangered Species Act of 1973 (16 U.S.C. 1533 (f) (2) (B) (ii)) is amended by striking out “subsection (b) (A), (B), and (C)” and inserting in lieu thereof subsection (b) (1) (A).”

Endangered
Species Act of
1973,
amendments.

SEC. 2. Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end thereof the following new subsections:

“(f) (1) As used in this subsection—

Definitions.

“(A) The term ‘pre-Act endangered species part’ means—

“(i) any sperm whale oil, including derivatives thereof, which was lawfully held within the United States on December 28, 1973, in the course of a commercial activity; or

“(ii) any finished scrimshaw product, if such product or the raw material for such product was lawfully held within the United States on December 28, 1973, in the course of a commercial activity.

“(B) The term ‘scrimshaw product’ means any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea.

“(2) The Secretary, pursuant to the provisions of this subsection, may exempt, if such exemption is not in violation of the Convention, any pre-Act endangered species part from one or more of the following prohibitions:

Exemption.

“(A) The prohibition on exportation from the United States set forth in section 9(a) (1) (A) of this Act.

16 USC 1538.

“(B) Any prohibition set forth in section 9(a) (1) (E) or (F) of this Act.

“(3) Any person seeking an exemption described in paragraph (2) of this subsection shall make application therefor to the Secretary in such form and manner as he shall prescribe, but no such application may be considered by the Secretary unless the application—

Application.

“(A) is received by the Secretary before the close of the one-year period beginning on the date on which regulations promulgated by the Secretary to carry out this subsection first take effect;

“(B) contains a complete and detailed inventory of all pre-Act endangered species parts for which the applicant seeks exemption;

“(C) is accompanied by such documentation as the Secretary may require to prove that any endangered species part or product claimed by the applicant to be a pre-Act endangered species part is in fact such a part; and

“(D) contains such other information as the Secretary deems necessary and appropriate to carry out the purposes of this subsection.

Exemption
certification.

“(4) If the Secretary approves any application for exemption made under this subsection, he shall issue to the applicant a certificate of exemption which shall specify—

16 USC 1538.

“(A) any prohibition in section 9(a) of this Act which is exempted;

“(B) the pre-Act endangered species parts to which the exemption applies;

“(C) the period of time during which the exemption is in effect, but no exemption made under this subsection shall have force and effect after the close of the three-year period beginning on the date of issuance of the certificate; and

“(D) any term or condition prescribed pursuant to paragraph (5) (A) or (B), or both, which the Secretary deems necessary or appropriate.

Regulations.

“(5) The Secretary shall prescribe such regulations as he deems necessary and appropriate to carry out the purposes of this subsection. Such regulations may set forth—

“(A) terms and conditions which may be imposed on applicants for exemptions under this subsection (including, but not limited to, requirements that applicants register inventories, keep complete sales records, permit duly authorized agents of the Secretary to inspect such inventories and records, and periodically file appropriate reports with the Secretary); and

“(B) terms and conditions which may be imposed on any subsequent purchaser of any pre-Act endangered species part covered by an exemption granted under this subsection;

to insure that any such part so exempted is adequately accounted for and not disposed of contrary to the provisions of this Act. No regulation prescribed by the Secretary to carry out the purposes of this subsection shall be subject to section 4(f)(2)(A)(i) of this Act.

16 USC 6533.

Pre-Act
endangered
species parts,
sales contract,
validity.

“(6) (A) Any contract for the sale of pre-Act endangered species parts which is entered into by the Administrator of General Services prior to the effective date of this subsection and pursuant to the notice published in the Federal Register on January 9, 1973, shall not be rendered invalid by virtue of the fact that fulfillment of such contract may be prohibited under section 9(a)(1)(F).

“(B) In the event that this paragraph is held invalid, the validity of the remainder of the Act, including the remainder of this subsection, shall not be affected.

“(7) Nothing in this subsection shall be construed to—

“(A) exonerate any person from any act committed in violation of paragraphs (1)(A), (1)(E), or (1)(F) of section 9(a) prior to the date of enactment of this subsection; or

“(B) immunize any person from prosecution for any such act.

“(g) In connection with any action alleging a violation of section 9, any person claiming the benefit of any exemption or permit under this Act shall have the burden of proving that the exemption or permit is applicable, has been granted, and was valid and in force at the time of the alleged violation.”.

SEC. 3. Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is further amended—

(1) by striking out “subsection” in the first sentence of subsection (c) thereof and inserting in lieu thereof “section”; and

(2) by striking out the period at the end of the second sentence of subsection (c) thereof and inserting in lieu thereof the following: “; except that such thirty-day period may be waived by

Waiver.

the Secretary in an emergency situation where the health or life of an endangered animal is threatened and no reasonable alternative is available to the applicant, but notice of any such waiver shall be published by the Secretary in the Federal Register within ten days following the issuance of the exemption or permit.”

Publication in
Federal Register.

SEC. 4. Section 11(e) (3) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e) (3)) is amended—

Enforcement.

(1) by inserting immediately before the words “execute and serve any arrest warrant,” in the second sentence thereof the following: “make arrests without a warrant for any violation of this Act if he has reasonable grounds to believe that the person to be arrested is committing the violation in his presence or view, and may”; and

(2) by striking out the period at the end thereof and inserting in lieu thereof the following: “, but upon forfeiture of any such property to the United States, or the abandonment or waiver of any claim to any such property, it shall be disposed of (other than by sale to the general public) by the Secretary in such a manner, consistent with the purposes of this Act, as the Secretary shall by regulation prescribe.”.

SEC. 5. Paragraph (1) of section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532(1)) is amended by striking the period and inserting in lieu thereof “: *Provided, however,* That it does not include exhibition of commodities by museums or similar cultural or historical organizations.”.

Approved July 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-823 accompanying H.R. 10229 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-63 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Apr. 14, considered and passed Senate.

Vol. 122 (1976): Feb. 17, considered and passed House, amended, in lieu of H.R. 10229.

June 24, Senate agreed to House amendment with amendments.

June 29, House concurred in Senate amendments.

Public Law 94-360
94th Congress

An Act

To revise and extend the Horse Protection Act of 1970.

July 13, 1976

[S. 811]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) This Act may be cited as the "Horse Protection Act Amendments of 1976".

(b) Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Horse Protection Act of 1970.

SEC. 2. The first section is amended by striking out "of 1970".

SEC. 3. Section 2 (15 U.S.C. 1821) is amended to read as follows:

"SEC. 2. As used in this Act unless the context otherwise requires:

"(1) The term 'management' means any person who organizes, exercises control over, or administers or who is responsible for organizing, directing, or administering.

"(2) The term 'Secretary' means the Secretary of Agriculture.

"(3) The term 'sore' when used to describe a horse means that—

"(A) an irritating or blistering agent has been applied, internally or externally, by a person to any limb of a horse,

"(B) any burn, cut, or laceration has been inflicted by a person on any limb of a horse,

"(C) any tack, nail, screw, or chemical agent has been injected by a person into or used by a person on any limb of a horse, or

"(D) any other substance or device has been used by a person on any limb of a horse or a person has engaged in a practice involving a horse,

and, as a result of such application, infliction, injection, use, or practice, such horse suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment was given.

"(4) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

SEC. 4. Section 3 (15 U.S.C. 1822) is amended to read as follows:

"SEC. 3. The Congress finds and declares that—

"(1) the soring of horses is cruel and inhumane;

"(2) horses shown or exhibited which are sore, where such soreness improves the performance of such horse, compete unfairly with horses which are not sore;

"(3) the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate and foreign commerce;

Horse Protection
Act Amendments
of 1976.

15 USC 1821
note.

15 USC 1821
note.

Definitions.

“(4) all horses which are subject to regulation under this Act are either in interstate or foreign commerce or substantially affect such commerce; and

“(5) regulation under this Act by the Secretary is appropriate to prevent and eliminate burdens upon commerce and to effectively regulate commerce.”.

SEC. 5. Section 4 (15 U.S.C. 1823) is amended to read as follows:

“SEC. 4. (a) The management of any horse show or horse exhibition shall disqualify any horse from being shown or exhibited (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) or by the Secretary that the horse is sore.

“(b) The management of any horse sale or auction shall prohibit the sale or auction or exhibition for the purpose of sale of any horse (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) or by the Secretary that the horse is sore.

Regulations.

“(c) The Secretary shall prescribe by regulation requirements for the appointment by the management of any horse show, horse exhibition, or horse sale or auction of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing this Act. Such requirements shall prohibit the appointment of persons who, after notice and opportunity for a hearing, have been disqualified by the Secretary to make such detection, diagnosis, or inspection. Appointment of a person in accordance with the requirements prescribed under this subsection shall not be construed as authorizing such person to conduct inspections in a manner other than that prescribed for inspections by the Secretary (or the Secretary's representative) under subsection (e).

Records.

“(d) The management of a horse show, horse exhibition, or horse sale or auction shall establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require for the purposes of implementing this Act or to determine compliance with this Act. Upon request of an officer or employee duly designated by the Secretary, such management shall permit entry at all reasonable times for the inspection and copying (on or off the premises) of records required to be maintained under this subsection.

Inspection.

“(e) For purposes of enforcement of this Act (including any regulation promulgated under this Act) the Secretary, or any representative of the Secretary duly designated by the Secretary, may inspect any horse show, horse exhibition, or horse sale or auction or any horse at any such show, exhibition, sale, or auction. Such an inspection may only be made upon presenting appropriate credentials. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted within reasonable limits and in a reasonable manner. An inspection under this subsection shall extend to all things (including records) bearing on whether the requirements of this Act have been complied with.”.

Prohibited conduct.

SEC. 6. Section 5 (15 U.S.C. 1824) is amended to read as follows:

“SEC. 5. The following conduct is prohibited:

“(1) The shipping, transporting, moving, delivering, or receiving of any horse which is sore with reason to believe that such horse while it is sore may be shown, exhibited, entered for the purpose of being shown or exhibited, sold, auctioned, or offered

for sale, in any horse show, horse exhibition, or horse sale or auction; except that this paragraph does not apply to the shipping, transporting, moving, delivering, or receiving of any horse by a common or contract carrier or an employee thereof in the usual course of the carrier's business or employee's employment unless the carrier or employee has reason to believe that such horse is sore.

"(2) The (A) showing or exhibiting, in any horse show or horse exhibition, of any horse which is sore, (B) entering for the purpose of showing or exhibiting in any horse show or horse exhibition, any horse which is sore, (C) selling, auctioning, or offering for sale, in any horse sale or auction, any horse which is sore, and (D) allowing any activity described in clause (A), (B), or (C) respecting a horse which is sore by the owner of such horse.

"(3) The failure by the management of any horse show or horse exhibition, which does not appoint and retain a person in accordance with section 4(c) of this Act, to disqualify from being shown or exhibited any horse which is sore. *Ante*, p. 916.

"(4) The failure by the management of any horse sale or auction, which does not appoint and retain a qualified person in accordance with section 4(c) of this Act, to prohibit the sale, offering for sale, or auction of any horse which is sore.

"(5) The failure by the management of any horse show or horse exhibition, which has appointed and retained a person in accordance with section 4(c) of this Act, to disqualify from being shown or exhibited any horse (A) which is sore, and (B) after having been notified by such person or the Secretary that the horse is sore or after otherwise having knowledge that the horse is sore.

"(6) The failure by the management of any horse sale or auction which has appointed and retained a person in accordance with section 4(c) of this Act, to prohibit the sale, offering for sale, or auction of any horse (A) which is sore, and (B) after having been notified by such person or the Secretary or after otherwise having knowledge that the horse is sore.

"(7) The showing or exhibiting at a horse show or horse exhibition; the selling or auctioning at a horse sale or auction; the allowing to be shown, exhibited, or sold at a horse show, horse exhibition, or horse sale or auction; the entering for the purpose of showing or exhibiting in any horse show or horse exhibition; or offering for sale at a horse sale or auction, any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary by regulation under section 9 prohibits to prevent the soring of horses. 15 USC 1829.

"(8) The failing to establish, maintain, or submit records, notices, reports, or other information required under section 4.

"(9) The failure or refusal to permit access to or copying of records, or the failure or refusal to permit entry or inspection, as required by section 4.

"(10) The removal of any marking required by the Secretary to identify a horse as being detained.

"(11) The failure or refusal to provide the Secretary with adequate space or facilities, as the Secretary may by regulation under section 9 prescribe, in which to conduct inspections or any other activity authorized to be performed by the Secretary under this Act."

Penalties.

SEC. 7. Section 6 (15 U.S.C. 1825) is amended to read as follows:

Ante, p. 916.

"SEC. 6. (a) (1) Except as provided in paragraph (2) of this subsection, any person who knowingly violates section 5 shall, upon conviction thereof, be fined not more than \$3,000, or imprisoned for not more than one year, or both.

"(2) (A) If any person knowingly violates section 5, after one or more prior convictions of such person for such a violation have become final, such person shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned for not more than two years, or both.

Ante, p. 916.

"(B) Any person who knowingly makes, or causes to be made, a false entry or statement in any report required under this Act; who knowingly makes, or causes to be made, any false entry in any account, record, or memorandum required to be established and maintained by any person or in any notification or other information required to be submitted to the Secretary under section 4 of this Act; who knowingly neglects or fails to make or cause to be made, full, true, and correct entries in such accounts, records, memoranda, notification, or other materials; who knowingly removes any such documentary evidence out of the jurisdiction of the United States; who knowingly mutilates, alters, or by any other means falsifies any such documentary evidence; or who knowingly refuses to submit any such documentary evidence to the Secretary for inspection and copying shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than \$5,000, or imprisoned for not more than three years, or both.

"(C) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than \$5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punishable as provided under sections 1111 and 1112 of title 18, United States Code.

Notice and hearing.

"(b) (1) Any person who violates section 5 of this Act shall be liable to the United States for a civil penalty of not more than \$2,000 for each violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The amount of such civil penalty shall be assessed by the Secretary by written order. In determining the amount of such penalty, the Secretary shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited conduct and, with respect to the person found to have engaged in such conduct, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

Notice of appeal.

"(2) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court

a certified copy of the record upon which such violation was found and such penalty assessed, as provided in section 2112 of title 28, United States Code. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence.

“(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

Referral to
Attorney
General.

“(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

“(c) In addition to any fine, imprisonment, or civil penalty authorized under this section, any person who was convicted under subsection (a) or who paid a civil penalty assessed under subsection (b) or is subject to a final order under such subsection assessing a civil penalty for any violation of any provision of this Act or any regulation issued under this Act may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of not less than one year for the first violation and not less than five years for any subsequent violation. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penalty of not more than \$3,000 for each violation. Any horse show, horse exhibition, or horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or horse sale or auction in violation of an order shall be subject to a civil penalty of not more than \$3,000 for each violation. The provisions of subsection (b) respecting the assessment, review, collection, and compromise, modification, and remission of a civil penalty apply with respect to civil penalties under this subsection.

“(d) (1) The Secretary may require by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under investigation or the subject of a proceeding. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Subpoena of
witnesses and
records.

Witness fees.

“(2) The attendance of witnesses, and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of disobedience to a subpoena the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any appropriate district court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this Act.

“(3) The Secretary may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation. Depositions may be taken

before any person designated by the Secretary who has power to administer oaths. The Secretary may also require the production of books, papers, and documents at the taking of depositions.

“(4) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as paid for like services in the courts of the United States or in other jurisdictions in which they may appear.

“(5) In any civil or criminal action to enforce this Act or any regulation under this Act a horse shall be presumed to be a horse which is sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs.

“(6) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act, and shall have jurisdiction in all other kinds of cases arising under this Act, except as provided in subsection (b) of this section.

Detention for
examination.

“(e)(1) The Secretary may detain (for a period not to exceed twenty-four hours) for examination, testing, or the taking of evidence, any horse at any horse show, horse exhibition, or horse sale or auction which is sore or which the Secretary has probable cause to believe is sore. The Secretary may require the temporary marking of any horse during the period of its detention for the purpose of identifying the horse as detained. A horse which is detained subject to this paragraph shall not be moved by any person from the place it is so detained except as authorized by the Secretary or until the expiration of the detention period applicable to the horse.

“(2) Any equipment, device, paraphernalia, or substance which was used in violation of any provision of this Act or any regulation issued under this Act or which contributed to the soreing of any horse at or prior to any horse show, horse exhibition, or horse sale or auction, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such equipment, device, paraphernalia, or substance, in any United States district court within the jurisdiction of which such equipment, device, paraphernalia, or substance is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.”

Technical and
other
nonfinancial
assistance.

SEC. 8. Section 8 (15 U.S.C. 1827) is amended by inserting “(a)” after “Sec. 8.” and by adding at the end of such section the following:

“(b) The Secretary may, upon request, provide technical and other nonfinancial assistance (including the lending of equipment on such terms and conditions as the Secretary determines is appropriate) to any State to assist it in administering and enforcing any law of such State designed to prohibit conduct described in section 5.”

Ante, p. 916.

SEC. 9. Section 11 (15 U.S.C. 1830) is amended by striking out “twenty-four calendar-month period” and inserting in lieu thereof “twelve calendar months”.

SEC. 10. Effective July 1, 1976, section 12 (15 U.S.C. 1831) is amended to read as follows:

“SEC. 12. There are authorized to be appropriated to carry out this Act \$125,000 for the period beginning July 1, 1976, and ending September 30, 1976; and for the fiscal year beginning October 1, 1976, and for each fiscal year thereafter there are authorized to be appropriated such sums, not to exceed \$500,000, as may be necessary to carry out this Act.”.

Appropriation
authorization.
Effective date.

Approved July 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1174 accompanying H.R. 13711 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-418 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 9, considered and passed Senate.

Vol. 122 (1976): June 21, considered and passed House, amended, in lieu of H.R. 13711.

June 24, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 29:

July 14, Presidential statement.

Public Law 94-361
94th Congress

An Act

To authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes.

July 14, 1976
[H.R. 12438]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of
Defense
Appropriation
Authorization
Act, 1977.

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated during the fiscal year 1977 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons in amounts as follows:

AIRCRAFT

For aircraft: for the Army, \$554,100,000; for the Navy and the Marine Corps, \$2,995,800,000, of which not more than \$104,100,000 shall be available only for the procurement of US-3A COD aircraft and of which \$65,800,000 shall be available only for the procurement of the A-6E aircraft; for the Air Force, \$6,143,800,000.

MISSILES

For missiles: for the Army, \$552,400,000; for the Navy, \$1,732,900,000, of which no funds may be expended on the Sparrow AIM-7F missile program until the Secretary of Defense certifies to the Committees on Armed Services of the Senate and the House of Representatives that he has reviewed the test and evaluation results for such missile and has determined, on the basis of such results, that such missile fulfills Navy and Air Force mission requirements and is combat-effective; for the Marine Corps, \$71,900,000; for the Air Force, \$1,883,100,000, of which \$317,000,000 shall be used only for the procurement of Minuteman III missiles.

NAVAL VESSELS

For naval vessels: for the Navy, \$6,655,000,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, \$1,056,500,000, of which \$65,200,000 shall be available for plant facilities expansion and modernization for future XM-1 tank production, but none of such funds may be obligated on a specific production site until such time as competitive testing between possible United States XM-1 tank contenders has been completed and a winning United States contractor designated; for the Marine Corps, \$29,700,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, \$236,800,000.

OTHER WEAPONS

For other weapons: for the Army, \$57,300,000; for the Navy, \$73,000,000; for the Marine Corps, \$3,500,000; for the Air Force, \$400,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND
EVALUATION

SEC. 201. Funds are hereby authorized to be appropriated during the fiscal year 1977 for the use of the Armed Forces of the United States for research, development, test, and evaluation in amounts as follows:

For the Army, \$2,281,491,000, except that none of the funds authorized by this Act may be used to initiate Phase 2 engineering development on the 30 millimeter gun for the Advance Attack Helicopter until (1) the Secretary of the Army has selected the ammunition for such gun and notified the Committees on Armed Services of the Senate and the House of Representatives of such selection, and (2) 30 days have expired following the day on which such committees received such notification.

For the Navy (including the Marine Corps), \$3,708,101,000; of which not to exceed \$2,000,000 shall be available for the completion by June 30, 1977, of the advanced development phase of the Sparrow AIM-7F monopulse missile; and of which \$15,000,000 shall be available for the engineering development phase of the AIM-7F monopulse missile, but only if (1) the missile flight test and evaluation results fully demonstrate the ability of such missile to perform in accordance with the specifications and requirements for the AIM-7F monopulse missile, and (2) not less than \$5,000,000 has been appropriated for the development of a new adverse weather medium range air-to-air missile and the Secretary of the Navy and Secretary of the Air Force have commenced development of such missile.

For the Air Force, \$3,749,530,000; and

For the Defense Agencies, \$687,880,000, of which \$30,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

SEC. 202. For the Director of Defense Research and Engineering, \$49,000,000 to be used only for research, development, test, and evaluation of the Trident missile system, including the continued design of the thrust termination system and the development of a backup propellant for such system.

TITLE III—ACTIVE FORCES

SEC. 301. For the fiscal year beginning October 1, 1976, the components of the Armed Forces are authorized end strengths for active duty personnel as follows:

- (1) The Army, 789,000;
- (2) The Navy, 540,600;
- (3) The Marine Corps, 192,000;
- (4) The Air Force, 571,000.

SEC. 302. Paragraph (3) of section 138(c) of title 10, United States Code, is amended by adding at the end thereof a new sentence as follows: "Such report shall also identify, define, and group by mission

and by region the types of military bases, installations, and facilities and shall provide an explanation and justification of the relationship between this base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce such costs.”

Sec. 303. (a) Clause (3) of section 1009(b) of title 37, United States Code, is amended by inserting “subject to subsection (c),” after “(3)”.

(b) Section 1009 of such title is further amended by adding at the end thereof the following new subsections:

“(c) Whenever the President determines such action to be in the best interest of the Government, he is authorized to allocate the overall average percentage of any increase described in subsection (b) (3) among the elements of compensation specified in subsection (a) on a percentage basis other than an equal percentage basis; however, the amount allocated to the element of monthly basic pay may not be less than 75 per centum of the amount that would have been allocated to the element of basic pay under subsection (b) (3).

Compensation
adjustments,
allocation.

“(d) Under regulations prescribed by the President, whenever the President exercises his authority under subsection (c) to allocate the elements of compensation specified in subsection (a) on a percentage basis other than an equal percentage basis, he may pay to each member without dependents who, under section 403 (b) or (c), is not entitled to receive a basic allowance for quarters, an amount equal to the difference between (1) the amount of such increase under subsection (c) in the amount of the basic allowance for quarters which, but for section 403 (b) or (c), such member would be entitled to receive, and (2) the amount by which such basic allowance for quarters would have been increased under subsection (b) (3) if the President had not exercised such authority.

“(e) Whenever the President plans to exercise his authority under subsection (c) with respect to any anticipated increase in the compensation of members of the uniformed services, he shall advise the Congress, at the earliest practicable time prior to the effective date of such increase, regarding the proposed allocation of such increase among the different elements of compensation.

Advice to
Congress.

“(f) The allocations of increases made under this section among the three elements of compensation shall be assessed in conjunction with the quadrennial review of military compensation required by section 1008(b), and a full report shall be made to the Congress summarizing the objectives and results of those allocations.”

Report to
Congress.

Sec. 304. (a) Subsection (a) of section 501 of title 37, United States Code, is amended by (1) striking out “In subsections (b)–(f) of this section—

Leave.

“(1) ‘discharge’ means—”

and inserting in lieu thereof “In this section, ‘discharge’ means—”; (2) redesignating subclauses (A), (B), and (C) of clause (1) as clauses (1), (2), and (3), respectively; and (3) striking out the semicolon at the end of clause (3), as redesignated, and inserting in lieu thereof a period.

(b) Subsection (a) of such section is further amended by striking out clauses (2), (3), and (4).

(c) Subsection (b) of such section is amended to read as follows:

“(b) (1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who has accrued leave to his credit at the time of his discharge, is entitled to be paid in cash or by a check on the Treasurer of the United States for such leave on the basis of the basic pay to which he was entitled on the date of discharge.

"(2) Payment may not be made under this subsection to a member who is discharged for the purpose of accepting an appointment or a warrant, or entering into an enlistment, in any uniformed service.

"(3) Payment may not be made to a member for any leave he elects to have carried over to a new enlistment in any uniformed service on the day after the date of his discharge; but payment may be made to a member for any leave he elects not to carry over to a new enlistment. However, the number of days of leave for which payment is made may not exceed sixty, less the number of days for which payment was previously made under this section after the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted.

Ante, p. 923.

"(4) A member to whom a payment may not be made under this subsection, or a member who reverts from officer to enlisted status, carries the accrued leave standing to his credit from the one status to the other within any uniformed service."

(d) The last sentence of subsection (d) of such section is amended to read as follows: "However, the number of days upon which payment is based is subject to subsection (f).".

(e) Subsection (e) of such section is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(f) Subsection (f) is amended to read as follows:

"(f) The number of days upon which payment under subsection (b), (d), or (g) is based may not exceed sixty, less the number of days for which payment has been previously made under such subsections after the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted. For the purposes of this subsection, the number of days upon which payment may be based shall be determined without regard to any break in service or change in status in the uniformed services."

(g) The second sentence of subsection (g) is amended to read as follows: "However, the number of days upon which the lump-sum payment is based is subject to subsection (f).".

37 USC 501 note.

(h) Notwithstanding the provisions of section 501(b)(1) of title 37, United States Code, as amended by subsection (c), and subject to the limitations prescribed in section 501(b)(3) of such title, as amended by subsection (c), any leave accrued by any member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration prior to the first day of the second calendar month following the month in which this section is enacted shall, at the option of such member, be paid for on the same basis such leave would have been paid for under the provisions of section 501(b) of title 37, United States Code, on the day prior to the first day of the second calendar month following the month in which this section is enacted.

37 USC 302 note.

SEC. 305. The second sentence of section 2 of Public Law 93-274 (88 Stat. 94) is amended by striking out that portion preceding "authority for" and inserting in lieu thereof "The".

TITLE IV—RESERVE FORCES

SEC. 401. (a) For the fiscal year beginning October 1, 1976, the Selected Reserves of the Reserve components of the Armed Forces shall be programed to attain average strengths of not less than the following:

- (1) The Army National Guard of the United States, 390,000;
- (2) The Army Reserve, 212,400;
- (3) The Naval Reserve, 96,500;
- (4) The Marine Corps Reserve, 33,500;
- (5) The Air National Guard of the United States, 93,300;
- (6) The Air Force Reserve, 52,000;
- (7) The Coast Guard Reserve, 11,700.

(b) The average strength prescribed by subsection (a) of this section for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during such fiscal year; and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during such fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

Reduction in strength.

TITLE V—CIVILIAN PERSONNEL

SEC. 501. (a) For the fiscal year beginning October 1, 1976, the Department of Defense is authorized an end strength for civilian personnel of 1,031,000.

(b) The end strength for civilian personnel prescribed in subsection (a) of this section shall be apportioned among the Department of the Army, the Department of the Navy, including the Marine Corps, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within 60 days after the date of enactment of this Act on the manner in which the allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

Report to Congress.

(c) In computing the authorized end strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Whenever a function, power, duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

Notice to
Congress.

(d) When the Secretary of Defense determines that such action is necessary in the national interest, he may authorize the employment of civilian personnel in excess of the number authorized by subsection (a) of this section but such additional number may not exceed one-half of 1 per centum of the total number of civilian personnel authorized for the Department of Defense by subsection (a) of this section. The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under the authority of this subsection.

TITLE VI—MILITARY TRAINING STUDENT LOADS

SEC. 601. (a) For the fiscal year beginning October 1, 1976, the components of the Armed Forces are authorized average military training student loads as follows:

- (1) The Army, 81,429;
- (2) The Navy, 66,914;
- (3) The Marine Corps, 25,501;
- (4) The Air Force, 49,610;
- (5) The Army National Guard of the United States, 12,804;
- (6) The Army Reserve, 7,023;
- (7) The Naval Reserve, 1,257;
- (8) The Marine Corps Reserve, 3,562;
- (9) The Air National Guard of the United States, 2,232; and
- (10) The Air Force Reserve, 1,107.

(b) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized by subsection (a) for the fiscal year beginning October 1, 1976, shall be adjusted consistent with the manpower strengths authorized by titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

SEC. 602. Chapter 901 of title 10, United States Code, is amended by adding at the end thereof the following new section and inserting a corresponding item in the analysis of such chapter:

10 USC 9315.

“§ 9315. Community College of the Air Force: associate degrees

“(a) There is in the Air Force a Community College of the Air Force. Such college, in cooperation with civilian colleges and universities, shall—

“(1) prescribe programs of higher education for enlisted members of the armed forces designed to improve the technical, managerial, and related skills of such members and to prepare such members for military jobs which require the utilization of such skills; and

“(2) monitor on a continuing basis the progress of members pursuing such programs.

“(b) Subject to subsection (c), the commander of the Air Training Command of the Air Force may confer an academic degree at the level of associate upon any enlisted member who has completed the program prescribed by the Community College of the Air Force.

“(c) No degree may be conferred upon any enlisted member under this section unless (1) the Community College of the Air Force certifies to the commander of the Air Force Training Command that such member has satisfied all the requirements prescribed for such degree, and (2) the Commissioner of Education of the Department of Health,

Education, and Welfare determines that the standards for the award of academic degrees in agencies of the United States have been met.”.

SEC. 603. (a) It is the policy of the United States that the United States Navy and the Merchant Marine of the United States work closely together to promote the maximum integration of the total sea-power forces of the Nation. In furtherance of this policy, it is necessary and desirable that special steps be taken to assure that Naval Reserve Officer Training Corps programs (for training future naval officers) be maintained at Federal and State merchant marine academies. 46 USC 1126-1.

(b) It is the sense of the Congress that the Secretary of the Navy should work with the Assistant Secretary of Commerce for Maritime Affairs and the administrators of the several merchant marine academies to assure that the training available at these academies is consistent with Navy standards and needs.

SEC. 604. The Act of November 24, 1951, Public Law 92-172 (85 Stat. 491), is amended by striking out “1976” and inserting in lieu thereof “1977”. 37 USC 209 note.

TITLE VII—SUPPLEMENTAL AUTHORIZATION OF FUNDS FOR THE NAVY FOR FISCAL YEAR 1976

SEC. 701. In addition to the funds authorized to be appropriated by the Department of Defense Appropriation Authorization Act, 1976, there is authorized to be appropriated to the Navy during the fiscal year 1976 for research, development, test, and evaluation, \$8,000,000. 89 Stat. 531.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. (a) The second sentence of section 1401a(b) of title 10, United States Code, is amended by striking out “the per centum obtained by adding 1 per centum and”.

(b) The second sentence of paragraph (2) of section 291(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is amended by striking out “1 per centum plus”.

(c) (1) The amendments made by subsections (a) and (b) shall not become effective unless legislation is enacted repealing the so-called 1 per centum add-on provision applicable to the cost-of-living adjustment of annuities paid under chapter 83 of title 5, United States Code. In the event such legislation is enacted, such amendments shall become effective with respect to the cost-of-living adjustment of the retired pay and retainer pay of members and former members of the Armed Forces and the cost-of-living adjustment of annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees at the same time the repeal of such 1 per centum add-on provision becomes effective with respect to such cost-of-living adjustment of annuities paid under such chapter 83. 10 USC 1401a note.
5 USC 8301 *et seq.*
50 USC 403 note.

(2) If any change other than the repeal of the so-called 1 per centum add-on provision referred to in paragraph (1) is made in the method of computing the cost-of-living adjustment of annuities paid under chapter 83 of title 5, United States Code, the President shall make the same change in the cost-of-living adjustment of retired pay and retainer pay of members and former members of the Armed Forces and the cost-of-living adjustment of annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees. Any change made under this paragraph shall have the same effective date as the

5 USC 8301
et seq.

effective date applicable to such change made in annuities under chapter 83 of title 5, United States Code.

(3) The provisions of paragraphs (1) and (2) relating to any change in the method of computing the cost-of-living adjustment of the retired pay or retainer pay of members and former members of the Armed Forces shall be applicable to the computation of cost-of-living adjustments of the retired pay of commissioned officers of the National Oceanic and Atmospheric Administration and the retired pay of commissioned officers of the Public Health Service.

89 Stat. 540.

SEC. 802. Section 814(a) of the Department of Defense Appropriation Authorization Act, 1976 (89 Stat. 544), is amended to read as follows:

Standardized or
interoperable
equipment.

“(a) (1) It is the policy of the United States that equipment procured for the use of personnel of the Armed Forces of the United States stationed in Europe under the terms of the North Atlantic Treaty should be standardized or at least interoperable with equipment of other members of the North Atlantic Treaty Organization. In carrying out such policy the Secretary of Defense shall, to the maximum feasible extent, initiate and carry out procurement procedures that provide for the acquisition of equipment which is standardized or interoperable with equipment of other members of the North Atlantic Treaty Organization whenever such equipment is to be used by personnel of the Armed Forces of the United States stationed in Europe under the terms of the North Atlantic Treaty. Such procedures shall also take into consideration the cost, functions, quality, and availability of the equipment to be procured. In any case in which equipment authorized to be procured under title I of this Act is utilized for the purpose of carrying out the foregoing policy, the Secretary of Defense shall report to Congress the full details of the nature and substance of any and all agreements entered into by the United States with any other member or members of the North Atlantic Treaty Organization providing for the acquisition of equipment manufactured outside the United States in exchange for, or as a part of, any other agreement by such member or members to acquire equipment manufactured in the United States. Such report shall be made by the Secretary within 30 days of the date of enactment of this Act.

Report to
Congress.
89 Stat. 531.

“(2) Whenever the Secretary of Defense determines that it is necessary, in order to carry out the policy expressed in paragraph (1) of this subsection, to procure equipment manufactured outside the United States, he is authorized to determine, for the purposes of section 2 of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a), that the acquisition of such equipment manufactured in the United States is inconsistent with the public interest.

Report to
Congress.

“(3) In any case in which the Secretary of Defense initiates procurement action on a new major system which is not standard or interoperable with equipment of other members of the North Atlantic Treaty Organization, he shall report that fact to the Congress in the annual report required under section 302(c) of Public Law 93-365, as amended, including a description of the system to be procured and the reasons for that choice.”

88 Stat. 402.

NATO members,
standardized or
interoperable
weapons and
equipment.

SEC. 803. (a) It is the sense of Congress that weapons systems being developed wholly or primarily for employment in the North Atlantic Treaty Organization theater shall conform to a common North Atlantic Treaty Organization requirement in order to proceed toward joint doctrine and planning and to facilitate maximum feasible standardization and interoperability of equipment. A common North

Atlantic Treaty Organization requirement shall be understood to include a common definition of the military threat to the North Atlantic Treaty Organization countries. The Secretary of Defense shall, in the reports required by section 302(c) of Public Law 93-365, as amended, identify those programs in research and development for United States forces in Europe and the common North Atlantic Treaty Organization requirements which such programs support. In the absence of such common requirement, the Secretary shall include a discussion of the actions taken within the North Atlantic Alliance in pursuit of a common requirement. The Secretary of Defense shall also report on efforts to establish a regular procedure and mechanism within the North Atlantic Treaty Organization for determining common military requirements.

88 Stat. 402.

(b) It is the sense of the Congress that progress toward the realization of the objectives of standardization and interoperability would be enhanced by expanded inter-Allied procurement of arms and equipment within the North Atlantic Treaty Organization. It is further the sense of the Congress that expanded inter-Allied procurement would be facilitated by greater reliance on licensing and coproduction agreements among the signatories of the North Atlantic Treaty. It is the Congress' considered judgment that such agreements, if properly constructed so as to preserve the efficiencies associated with economies of scale, could not only minimize potential economic hardship to parties to such agreements but also increase the survivability, in time of war, of the Alliance's armaments production base by dispersing manufacturing facilities. Accordingly, the Secretary of Defense, in conjunction with appropriate representatives of other members of the Alliance, shall attempt to the maximum extent feasible (1) to identify areas for such cooperative arrangements and (2) to negotiate such agreements pursuant to these ends. The Secretary of Defense shall include in the report to the Congress required by section 302(c) of Public Law 93-365, as amended, a discussion of the specific assessments made under the above provisions and the results achieved with the North Atlantic Treaty Organization allies.

(c) It is the sense of the Congress that standardization of weapons and equipment within the North Atlantic Alliance on the basis of a "two-way street" concept of cooperation in defense procurement between Europe and North America could only work in a realistic sense if the European nations operated on a united and collective basis. Accordingly, the Congress encourages the governments of Europe to accelerate their present efforts to achieve European armaments collaboration among all European members of the Alliance.

Sec. 804. (a) Section 2 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251) is amended by inserting after the third sentence thereof a new sentence as follows: "The Congress recognizes that the organizational structure established jointly by the Federal Government and the several States and their political subdivisions for civil defense purposes can be effectively utilized, without adversely affecting the basic civil defense objectives of this Act, to provide relief and assistance to people in areas of the United States struck by disasters other than disasters caused by enemy attack."

(b) Section 408 of such Act (50 U.S.C. App. 2260) is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act in the fiscal year ending September 30, 1977. No funds may be appropriated for any fiscal

year beginning after September 30, 1977, for carrying out the purpose of this Act, unless such funds have been authorized for such purpose by legislation enacted after the date of enactment of the Department of Defense Appropriations Authorization Act, 1977.”.

(c) Section 201 of such Act (50 U.S.C. App. 2281) is amended—

(1) by striking out in subsection (e) “*Provided further*, That the authority to pay travel and per diem expenses of students as authorized by this subsection shall terminate on June 30, 1976.”; and

(2) by striking out in the fourth proviso of subsection (h) “until June 30, 1976.”.

(d) Subsection (h) of section 205 of such Act (50 U.S.C. App. 2286(h)) is amended to read as follows:

Emergency
assistance.

“(h) Funds made available to the States under this Act may be used, to the extent and under such terms and conditions as shall be prescribed by the Administrator, for providing emergency assistance, including civil defense personnel, organizational equipment, materials, and facilities, in any area of the United States which suffers a disaster other than a disaster caused by an enemy attack.”.

Technical data
and computer
software
packages,
procurement.
10 USC 2306
note.

SEC. 805. (a) During the period beginning on October 1, 1976, and ending on September 30, 1978, each contract entered into by a military department for development or procurement of a major system shall, except as provided in subsection (b), include a deferred ordering clause giving the procuring authority for such system the option to purchase from the contractor involved technical data and computer software packages relating to such system. Such clause shall require such packages to be in sufficient detail to enable such procuring authority to reprocur such system, or a subsystem of such system, from a contractor other than the contractor involved in such contract.

Report to
congressional
committees.

(b) Any procuring authority to whom subsection (a) applies may exempt a particular contract for development or procurement of a major system from the requirements of such subsection, but, prior to the time any such contract without the deferred ordering clause required by such subsection is entered into, the procuring authority concerned shall report his intent to enter into such contract to the Committees on Armed Services and Appropriations of the Senate and House of Representatives with a detailed explanation for such exemption.

Definitions.

(c) For the purposes of this section:

(1) The term “major system” means a composite of equipment, skills, and techniques which is capable of performing, or supporting performance of, an operational role and which requires an investment in research, design, test, and evaluation of not less than \$50,000,000 or a total production investment of not less than \$200,000,000.

(2) The term “deferred ordering” means delaying the ordering of an item related to a contract until a need for such item is established and the requirements for such item can be specifically identified for delivery under such contract.

(3) The term “technical data” means, with respect to a major system, recorded data, regardless of form or characteristic, of a scientific or technical nature which is related to such system.

SEC. 806. The President shall include in the budget for fiscal year 1978 a request for funds sufficient to meet the total operation and maintenance costs of the Department of Defense for such year, including reasonably foreseeable increases in both the private and public sectors in the cost of labor, material, and other goods and services.

SEC. 807. Section 2031 (a) of title 10, United States Code, is amended by striking out "1,200" in the second sentence and inserting in lieu thereof "1,600" and by striking out the period at the end and inserting in lieu thereof a comma and the following: "except that more than one such unit may be established and maintained at any military institute."

SEC. 808. It is the sense of the Congress that the Secretary of the Navy shall not take action with respect to closing, disestablishing, or terminating any Naval Reserve Training Center or Facility which was in active use on March 1, 1976, until legislation providing funds for the Selected Reserve of the Naval Reserve for fiscal year 1977 has been enacted into law.

Naval Reserve
Training Centers
or Facilities.

SEC. 809. The Secretary of Defense shall conduct a study to determine whether greater utilization of civilian faculty may be desirable at the service academies and intermediate and senior war colleges. Such study shall identify those subjects in the curriculums of such academies and colleges which are classified as being in the general academic area. The results of such study shall be submitted to the Committees on Armed Services of the Senate and House of Representatives not later than February 28, 1977.

Civilian faculty,
utilization, study.

SEC. 810. Notwithstanding any other provision of law, the Secretary of the Navy is authorized to assign Rear Admiral J. Edward Snyder, Jr. (retired), to a command status as the Oceanographer of the Navy for a period not to exceed three years from the date of enactment of this Act.

Submittal to
congressional
committees.

Oceanographer of
the Navy.

SEC. 811. (a) (1) The Congress hereby finds and declares that—

10 USC 176 note.

(A) the Armed Forces Institute of Pathology offers unique pathologic support to national and international medicine;

(B) the Institute contains the Nation's most comprehensive collection of pathologic specimens for study and a staff of prestigious pathologists engaged in consultation, education, and research;

(C) the activities of the Institute are of unique and vital importance in support of the health care of the Armed Forces of the United States;

(D) the activities of the Institute are also of unique and vital importance in support of the civilian health care system of the United States;

(E) the Institute provides an important focus for the exchange of information between civilian and military medicine, to the benefit of both; and

(F) it is important to the health of the American people and of the members of the Armed Forces of the United States that the Institute continue its activities in serving both the military and civilian sectors in education, consultation, and research in the medical, dental, and veterinary sciences.

(2) The Congress further finds and declares that beneficial cooperative efforts between private individuals, professional societies, and other entities on the one hand and the Armed Forces Institute of Pathology on the other can be carried out most effectively through the establishment of a private corporation.

(b) Chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following new sections:

"§ 176. Armed Forces Institute of Pathology

10 USC 176.

"(a) (1) There is in the Department of Defense an Institute to be known as the Armed Forces Institute of Pathology (hereinafter in

Establishment.

this section referred to as the 'Institute'), which has the responsibilities, functions, authority, and relationships set forth in this section. The Institute shall be a joint entity of the three military departments, subject to the authority, direction, and control of the Secretary of Defense.

Membership.

"(2) The Institute shall consist of a Board of Governors, a Director, two Deputy Directors, and a staff of such professional, technical, and clerical personnel as may be required.

"(3) The Board of Governors shall consist of the Assistant Secretary of Defense for Health Affairs, who shall serve as chairman of the Board of Governors, the Assistant Secretary of Health, Education, and Welfare for Health, the Surgeons General of the Army, Navy, and Air Force, the Chief Medical Director of the Veterans' Administration, and a former Director of the Institute, as designated by the Secretary of Defense, or the designee of any of the foregoing.

"(4) The Director and the Deputy Directors shall be appointed by the Secretary of Defense.

**Contract
authority.**

"(b) (1) In carrying out the provisions of this section, the Institute is authorized to—

"(A) contract with the American Registry of Pathology (established under section 177) for cooperative enterprises in medical research, consultation, and education between the Institute and the civilian medical profession under such conditions as may be agreed upon between the Board of Governors and the American Registry of Pathology;

"(B) make available at no cost to the American Registry of Pathology such space, facilities, equipment, and support services within the Institute as the Board of Governors deems necessary for the accomplishment of their mutual cooperative enterprises; and

"(C) contract with the American Registry of Pathology for the services of such professional, technical, or clerical personnel as are necessary to fulfill their cooperative enterprises.

"(2) No contract may be entered into under paragraph (1) which obligates the Institute to make outlays in advance of the enactment of budget authority for such outlays.

"(c) The Director is authorized, with the approval of the Board of Governors, to enter into agreements with the American Registry of Pathology for the services at any time of not more than six distinguished pathologists or scientists of demonstrated ability and experience for the purpose of enhancing the activities of the Institute in education, consultation, and research. Such pathologists or scientists may be appointed by the Director to administrative positions within the components or subcomponents of the Institute and may be authorized by the Director to exercise any or all professional duties within the Institute, notwithstanding any other provision of law.

Regulations.

"(d) The Secretary of Defense shall promulgate such regulations as may be necessary to prescribe the organization, functions, and responsibilities of the Institute.

"§ 177. American Registry of Pathology

**10 USC 177.
Establishment
authorization.**

"(a) (1) There is authorized to be established a nonprofit corporation to be known as the American Registry of Pathology which shall not for any purpose be an agency or establishment of the United States Government. The American Registry of Pathology shall be subject to the provisions of this section and, to the extent not inconsistent with

this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1001 et seq.).

“(2) The American Registry of Pathology shall have a Board of Members (hereinafter in this section referred to as the ‘Board’) consisting of not less than eleven individuals who are representatives of those professional societies and organizations which sponsor individual registries of pathology at the Armed Forces Institute of Pathology, of whom one shall be elected annually by the Board to serve as chairman. Each such sponsor shall appoint one member to the Board for a term of four years.

Board of
Members.

“(3) The American Registry of Pathology shall have a Director, who shall be appointed by the Board with the concurrence of the Director of the Armed Forces Institute of Pathology, and such other officers as may be named and appointed by the Board. Such officers shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

“(4) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish under the District of Columbia Nonprofit Corporation Act the corporation authorized by paragraph (1).

“(5) The term of office of each member of the Board shall be four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment and to the maximum extent practicable, one fourth at the end of one year, one fourth at the end of two years, one fourth at the end of three years, and one fourth at the end of four years, and (C) a member whose term has expired may serve until his successor has qualified. No member shall be eligible to serve more than two consecutive terms of four years each.

Term.

“(6) Any vacancy in the Board shall not affect its powers, but such vacancy shall be filled in the manner in which the original appointment was made.

“(b) In order to carry out the purposes of this section, the American Registry of Pathology is authorized to—

Functions.

“(1) enter into contracts with the Armed Forces Institute of Pathology for the provision of such services and personnel as may be necessary to carry out their cooperative enterprises;

“(2) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of fascicles of tumor pathology, atlases, and other material;

“(3) accept gifts and grants from and enter into contracts with individuals, private foundations, professional societies, institutions, and governmental agencies;

“(4) enter into agreements with professional societies for the establishment and maintenance of Registries of Pathology; and

“(5) serve as a focus for the interchange between military and civilian pathology and encourage the participation of medical, dental, and veterinary sciences in pathology for the mutual benefit of military and civilian medicine.

“(c) In the performance of the functions set forth in subsection (b), the American Registry of Pathology is authorized to—

“(1) enter into such other contracts, leases, cooperative agreements, or other transactions as the Board deems appropriate to

conduct the activities of the American Registry of Pathology; and

“(2) charge such fees for professional services as the Board deems reasonable and appropriate.

“(d) The American Registry of Pathology may transmit to the Director and the Board of Governors of the Armed Forces Institute of Pathology and to the sponsors referred to in subsection (a) (2) annually, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments.”.

(c) The table of sections at the beginning of chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following:

“176. Armed Forces Institute of Pathology.

“177. American Registry of Pathology.”.

Short title.

SEC. 812. This Act may be cited as the “Department of Defense Appropriation Authorization Act, 1977”.

Approved July 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-967 (Comm. on Armed Services) and No. 94-1305 (Comm. of Conference).

SENATE REPORTS: No. 94-878 (Comm. on Armed Services) and No. 94-1004 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 8, 9, considered and passed House.

May 20, 24-26, considered and passed Senate, amended.

June 30, House agreed to conference report.

July 1, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 29:

July 14, Presidential statement.

Public Law 94-362
94th Congress

An Act

Making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

July 14, 1976

[H.R. 14239]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1977, and for other purposes, namely:

Departments of
State, Justice, and
Commerce, the
Judiciary, and
Related Agencies
Appropriation
Act, 1977.
Department of
State
Appropriation
Act, 1977.

TITLE I—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State, not otherwise provided for, including expenses authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-1158), and allowances as authorized by 5 U.S.C. 5921-5925; expenses of binational arbitrations arising under international air transport agreements; expenses necessary to meet the responsibilities and obligations of the United States in Germany (including those arising under the supreme authority assumed by the United States on June 5, 1945, and under contractual arrangements with the Federal Republic of Germany); hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others; expenses authorized by section 2 of the Act of August 1, 1956 (22 U.S.C. 2669), as amended; refund of fees erroneously charged and paid for passports; radio communications; payment in advance for subscriptions to commercial information, telephone and similar services abroad; care and transportation of prisoners and persons declared insane; expenses as authorized by law (18 U.S.C. 3192), of bringing to the United States from foreign countries persons charged with crime; expenses necessary to provide maximum physical security in Government-owned and leased properties abroad; and procurement by contract or otherwise, of services, supplies, and facilities, as follows: (1) translating, (2) analysis and tabulation of technical information, and (3) preparation of special maps, globes, and geographic aids; administrative and other expenses authorized by section 637(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2397(b)), and by section 305 of the Mutual Defense Assistance Control Act of 1951, as amended (22 U.S.C. 1613(d)); \$539,800,000: *Provided*, That passenger motor vehicles in possession of the Foreign Service abroad may be replaced in accordance with section 7 of the Act of August 1, 1956 (22 U.S.C. 2674), and the cost, including exchange allowance, of each such replacement shall not exceed \$6,500 in the case of the chief of mission automobile at each diplomatic mission (except that four such vehicles may be purchased at not to exceed \$9,000 each) and such amounts as may be otherwise

22 USC 1613d.

provided by law for all other such vehicles, except that right hand drive vehicles may be purchased without regard to any maximum price limitation otherwise established by law: *Provided further*, That in addition, this appropriation shall be available for the purchase (not to exceed thirty-three), replacement, rehabilitation, and modification of passenger motor vehicles for protective purposes without regard to any maximum price limitations otherwise established by law.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 901 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1131), \$2,000,000.

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses of carrying into effect the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 292-300), including personal services in the United States and abroad; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-1158); allowances as authorized by 5 U.S.C. 5921-5925; and services as authorized by 5 U.S.C. 3109; \$67,200,000, to remain available until expended: *Provided*, That not to exceed \$2,150,000 may be used for administrative expenses during the current fiscal year.

ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for the purposes authorized by section 4 of the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 295), to be credited to and expended under the appropriation account for "Acquisition, operation, and maintenance of buildings abroad", to remain available until expended, \$5,535,000.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, to be expended pursuant to the requirement of section 291 of the Revised Statutes (31 U.S.C. 107), \$2,100,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 1105-1106), \$8,055,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, \$277,545,453.

22 USC 269a,
269b, 269f,
269g-1, 269h,
272a, 273-276,
279a, 280b,
280i, 280k,
287e, 287r,
290b, 1928,
1928b, 2673,
notes.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of United Nations peacekeeping forces in the Middle East, \$40,000,000.

MISSIONS TO INTERNATIONAL ORGANIZATIONS

For expenses necessary for permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress, including expenses authorized by the pertinent Acts and conventions provided for such representation; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-1158); allowances, as authorized by 5 U.S.C. 5921-5925; and expenses authorized by section 2 (a) and (e) and section 17 of the Act of August 1, 1956, as amended (22 U.S.C. 2669); \$9,350,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses of participation by the United States, upon approval by the Secretary of State, in international activities which arise from time to time in the conduct of foreign affairs and for which specific appropriations have not been provided pursuant to treaties, conventions, or special Acts of Congress, including personal services without regard to civil service and classification laws; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-1158); allowances as authorized by 5 U.S.C. 5921-5925; hire of passenger motor vehicles; contributions for the share of the United States in expenses of international organizations; and expenses authorized by section 2(a) of the Act of August 1, 1956, as amended (22 U.S.C. 2669); \$7,035,000, of which not to exceed a total of \$145,000 may be expended for representation allowances as authorized by section 901 of the Act of August 13, 1946, as amended (22 U.S.C. 1131), and for official entertainment.

INTERNATIONAL TRADE NEGOTIATIONS

For necessary expenses of participation by the United States in international trade negotiations, including not to exceed \$15,000 for representation allowances, as authorized by section 901 of the Act of August 13, 1946, as amended (22 U.S.C. 1131), and for official entertainment, \$3,500,000: *Provided*, That this appropriation shall be available in accordance with the authority provided in the current appropriation for "International conferences and contingencies".

INTERNATIONAL COMMISSIONS

INTERNATIONAL BOUNDARY AND WATER COMMISSION,
UNITED STATES AND MEXICO

22 USC 277
notes.

For expenses necessary to enable the United States to meet its obligations under the treaties of 1889, 1906, 1933, 1944, 1963, and 1970 between the United States and Mexico, and to comply with the other laws applicable to the United States Section, International Boundary

26 Stat. 1512.
34 Stat. 2953.
48 Stat. 1621.
59 Stat. 1219.
15 UST 21.
21 UST 371.

and Water Commission, United States and Mexico, including operation and maintenance of the Rio Grande rectification, canalization, flood control, bank protection, water supply, power, irrigation, boundary demarcation, and sanitation projects; detailed plan preparation and construction (including surveys and operation and maintenance and protection during construction); Rio Grande emergency flood protection; expenditures for the purposes set forth in sections 101 through 104 of the Act of September 13, 1950 (22 U.S.C. 277d-1—277d-4); purchase of planographs and lithographs; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses not otherwise provided for, including examinations, preliminary surveys, and investigations, and operation and maintenance of projects or parts thereof, as enumerated above, including gaging stations, \$5,800,000: *Provided*, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

CONSTRUCTION

48 Stat. 1621.

22 USC
277d-32.
22 USC 277d-34
note.
59 STAT. 1219.

For detailed plan preparation and construction of projects authorized by the convention concluded February 1, 1933, between the United States and Mexico, the Acts approved August 19, 1935, as amended (22 U.S.C. 277-277f), August 29, 1935 (49 Stat. 961), June 4, 1936 (49 Stat. 1463), June 28, 1941 (22 U.S.C. 277f), September 13, 1950 (22 U.S.C. 277d-1-9), October 10, 1966 (80 Stat. 884), October 25, 1972 (86 Stat. 1161), and the project stipulated in the treaty between the United States and Mexico signed at Washington on February 3, 1944, to remain available until expended, \$3,919,000: *Provided*, That no expenditures shall be made for the Lower Rio Grande flood control project for construction on any land, site, or easement in connection with this project except such as has been acquired by donation and the title thereto has been approved by the Attorney General of the United States: *Provided further*, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

1 UST 694.

For expenses necessary to enable the President to perform the obligations of the United States pursuant to treaties between the United States and Great Britain, in respect to Canada, signed January 11, 1909 (36 Stat. 2448), and February 24, 1925 (44 Stat. 2102); and the treaty between the United States and Canada, signed February 27, 1950; including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; \$1,840,000, to be disbursed under the direction of the Secretary of State and to be available also for additional expenses of the American Sections, International Commissions, as hereinafter set forth:

International Joint Commission, United States and Canada, the salary of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of clerks and other employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses in attending hearings of the Commission at such places in the United States and Canada as the Commission or the American Commissioners shall determine to be necessary; not to exceed \$1,500 for representation expenses, in accordance with such regulations as the President may prescribe, and official entertainment; and special and technical investigations in connection with matters falling within the Commission's jurisdiction: *Provided*, That transfers of funds may be made to other agencies of the Government for the performance of work for which this appropriation is made.

International Boundary Commission, United States and Canada, the completion of such remaining work as may be required under the award of the Alaskan Boundary Tribunal and the existing treaties between the United States and Great Britain; commutation of subsistence to employees while on field duty at not to exceed the authorized prevailing daily rate; hire of freight and passenger motor vehicles from temporary field employees; and payment for timber necessarily cut in keeping the boundary line clear.

INTERNATIONAL FISHERIES COMMISSIONS

For expenses, not otherwise provided for, necessary to enable the United States to meet its obligations in connection with participation in international fisheries commissions pursuant to treaties or conventions, and implementing Acts of Congress, \$5,500,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions.

EDUCATIONAL EXCHANGE

MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACTIVITIES

For expenses, not otherwise provided for, necessary to enable the Secretary of State to carry out the functions of the Department of State under the provisions of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458), and the Act of August 9, 1939 (22 U.S.C. 501), including expenses authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-1158); expenses of the National Commission on Educational, Scientific, and Cultural Cooperation as authorized by sections 3, 5, and 6 of the Act of July 30, 1946 (22 U.S.C. 287o, 287q, 287r); hire of passenger motor vehicles; not to exceed \$12,000 for representation expenses; not to exceed \$1,500 for official entertainment within the United States; services as authorized by 5 U.S.C. 3109; and advance of funds notwithstanding section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); \$58,500,000, of which not less than \$1,500,000 shall be used for payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States: *Provided*, That not to exceed \$2,800,000 may be used for administrative expenses during the current fiscal year.

CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN
EAST AND WEST

22 USC 2054 note. To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, \$10,000,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

5 USC 5332 note.

GENERAL PROVISIONS—DEPARTMENT OF STATE

Security guard services.

SEC. 102. Appropriations under this title for "Salaries and expenses", "International conferences and contingencies", and "Missions to international organizations" are available for reimbursement of the General Services Administration for security guard services for protection of confidential files.

One-world-government advocates

SEC. 103. None of the funds appropriated in this title shall be used (1) to pay the United States contribution to any international organization which engages in the direct or indirect promotion of the principle or doctrine of one world government or one world citizenship; (2) for the promotion, direct or indirect, of the principle or doctrine of one world government or one world citizenship.

Panama Canal treaty or agreement.

SEC. 104. It is the sense of the Congress that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Panama Canal.

OAS restructuring proposal, congressional support.

SEC. 105. The Congress, taking cognizance that—

(1) the Secretary of State on June 11 submitted a multi-point proposal to the Sixth General Assembly of the Organization of American States designed to restructure the membership qualifications, the policymaking organs, and the financial assessments for the members of that body, and

(2) the United States Government has been regularly contributing approximately two-thirds of the annual OAS budget, and

(3) the bureaucratic structure of the OAS has, according to the Secretary of State, assumed a "ponderous" and "cumbersome" nature, pre-empting some of the policymaking responsibilities of the General Assembly, and

(4) the several member-states of the OAS have sought a more active role for the organization in formulating common policy positions on such hemispheric issues as recognition of the Cuban government, renegotiation of the Panama Canal Treaty, and protection of human rights in Chile, and

(5) the responsive structure and financial strength of the OAS will determine the relevance of that organization for meeting the challenges of the future,

therefore expresses the support for its proposal presented to the Organization of American States General Assembly on June 11 by Secretary of State Henry A. Kissinger and urges the General Assembly to favorably consider and adopt the United States proposal at an early date.

Citation of title.

This title may be cited as the "Department of State Appropriation Act, 1977".

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Department of
Justice
Appropriation
Act, 1977.

For expenses necessary for the administration of the Department of Justice, including hire of passenger motor vehicles; not to exceed \$2,500 for official reception and representation expenses; and miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; \$20,400,000. In addition to funds provided under this Act, unobligated balances from the amount appropriated for the Watergate Special Prosecution Force in 1976 shall remain available until September 30, 1977.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; not to exceed \$30,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advances of public moneys pursuant to law (31 U.S.C. 529); \$64,090,000: *Provided*, That not to exceed \$105,000 may be transferred to this appropriation from the "Alien Property Fund, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust, consumer protection and kindred laws, \$24,000,000: *Provided*, That none of this appropriation shall be expended for the establishment and maintenance of permanent regional offices of the Antitrust Division.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

For necessary expenses of the offices of the United States attorneys and marshals, including purchase of firearms and ammunition, \$160,890,000.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, for payment of compensation and expenses of Commissioners appointed in condemnation cases under Rule 71A (h) of the Federal Rules of Civil Procedure, and for such compensation and expenses of expert witnesses pursuant to section 524 of title 28, United States Code, and sections 4244-48 of title 18, United States Code, including advances; \$19,177,000: *Provided*, That no part of the sum herein appropriated shall be used to pay any witness more than one attendance fee for any one calendar day: *Provided further*, That no part of the sum herein appropriated shall be used for the payment of the compensation of land commissioners at a daily rate in excess of the equivalent daily rate of compensation paid a grade 18 on the General Schedule.

28 USC app.

5 USC 5332 note.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service established by title X of the Civil Rights Act of 1964 (42 U.S.C. 2000g—2000g-2), \$4,500,000.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for the detection and prosecution of crimes against the United States; protection of the person of the President of the United States; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed one thousand two hundred and nineteen for replacement only) and hire of passenger motor vehicles; purchase, lease, hire, maintenance, operation and storage of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under 22 U.S.C. 1136(9)–(11), under regulations prescribed by the Secretary of State; and not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; \$493,977,000.

None of the funds appropriated for the Federal Bureau of Investigation shall be used to pay the compensation of any civil-service employee.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances (at a rate not in excess of \$1 per day) to aliens, while held in custody under the immigration laws, for work performed; payment of rewards; not to exceed \$50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year (not to exceed four hundred and ninety-eight, of which three hundred and seventy-two shall be for replacement only) and hire of passenger motor vehicles; lease, maintenance and operation of aircraft; firearms and ammunition, attendance at firearms matches; refunds of head tax, maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto; acquisition of land as sites for

enforcement fence and construction incident to such fence; reimbursement of the General Services Administration for security guard services for protection of confidential files; benefits in accordance with those provided under 22 U.S.C. 1136(9)–(11), under regulations prescribed by the Secretary of State; research related to immigration enforcement; \$234,000,000, of which not to exceed \$400,000 shall remain available for such research until expended: *Provided*, That of the amount herein appropriated, not to exceed \$50,000 may be used for the emergency replacement of aircraft upon certificate of the Attorney General.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES, BUREAU OF PRISONS

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision of United States prisoners in non-Federal institutions; purchase of (not to exceed twelve for replacement only) and hire of passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; \$208,160,000: *Provided*, That there may be transferred to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

42 USC 250a.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of section 521 of the Juvenile Justice and Delinquency Prevention Act of 1974, establishing a "National Institute of Corrections", \$4,997,000, to remain available until expended.

18 USC
4351-4353.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, \$56,980,000, to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to St. Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by law (24 U.S.C. 168a), \$31,875,000.

FEDERAL PRISON INDUSTRIES, INCORPORATED

31 USC 849.

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles, except as hereinafter provided:

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL TRAINING EXPENSES,
FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed \$1,618,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed \$4,829,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis and to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and shall be exclusive of depreciation, payment of claims, expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

SALARIES AND EXPENSES

42 USC 3701.
42 USC 5611.

For grants, contracts, loans, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and title II of the Juvenile Justice and Delinquency Prevention Act of 1974, including departmental salaries and other expenses in connection therewith, \$753,000,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including hire of passenger motor vehicles; payment in advance for special tests and studies by contract; not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed four hundred forty-two passenger motor vehicles (for replacement only) for police-type use without regard to the general purchase price limitation for the current fiscal year; payment of rewards; payment for publication of technical and informational material in professional and trade journals; purchase of chemicals, apparatus, and scientific equipment; payment for necessary accommodations in the District of Columbia for conferences and training activities; acquisition (purchase of one), lease, maintenance, and operation of aircraft; employment of aliens

by contract for services abroad; research related to enforcement and drug control; benefits in accordance with those provided under 22 U.S.C. 1136(9)–(11), under regulations prescribed by the Secretary of State; \$161,175,000, of which not to exceed \$4,500,000 for research shall remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 202. None of the funds appropriated by this title may be used to pay the compensation of any person hereafter employed as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

Attorneys,
qualifications.

SEC. 203. Appropriations and authorizations made in this title which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

Meetings
attendance.

SEC. 204. Appropriations and authorizations made in this title for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

Experts and
consultants.

SEC. 205. Appropriations for "Salaries and expenses, general administration", "Salaries and expenses, United States attorneys and marshals", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901–5902).

Uniforms.

SEC. 206. Appropriations made in this title shall be available for the purchase of insurance for motor vehicles operated on official Government business in foreign countries.

Government
motor vehicles,
insurance.

SEC. 207. Funds appropriated under this title shall be available for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at costs not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of said dependents between their places of residence and schools serving the area which they would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means and transportation.

Dependents'
schooling.

This title may be cited as the "Department of Justice Appropriation Act, 1977".

Citation of title.

TITLE III—DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Department of
Commerce
Appropriation
Act, 1977.

For expenses necessary for the general administration of the Department of Commerce, including not to exceed \$1,500 for official entertainment, \$13,595,000.

OFFICE OF ENERGY PROGRAMS

SALARIES AND EXPENSES

For expenses necessary for the energy conservation activities of the Department of Commerce, \$2,162,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, \$43,245,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to prepare for taking, compiling, and publishing the censuses of business, transportation, manufactures, and mineral industries; the census of governments; the census of agriculture; the census of population and housing; and periodic surveys, as provided for by law, \$47,400,000, to remain available until expended.

BUREAU OF ECONOMIC ANALYSIS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Economic Analysis, \$12,300,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as authorized by titles I, II, III, IV, and IX of the Public Works and Economic Development Act of 1965, as amended, and title II of the Trade Act of 1974, \$360,000,000.

42 USC 3131,
3141, 3151,
3161, 3241.
19 USC 2251.

ADMINISTRATION OF ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For necessary expenses of administering the economic development assistance programs, not otherwise provided for, \$26,725,000, of which not to exceed \$300,000 may be advanced to the Small Business Administration for processing of loan applications.

REGIONAL ACTION PLANNING COMMISSIONS

REGIONAL DEVELOPMENT PROGRAMS

For expenses necessary to carry out the programs authorized by title V of the Public Works and Economic Development Act of 1965, as amended, \$63,500,000, to remain available until expended.

42 USC 3181.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for domestic business activities of the Department of Commerce; necessary expenses for international business activities, including trade promotional activities abroad without regard to the provisions of law set forth in 41 U.S.C. 5 and 13, and 44

U.S.C. 501, 3702, and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; purchase of commercial and trade reports; employment of aliens by contract for services abroad; rental of space abroad, for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; and not to exceed \$4,200 for official representation expenses abroad; necessary expenses to carry out the provisions of the Defense Production Act of 1950, as amended; and necessary expenses for carrying out the Export Administration Act of 1969, as amended and extended by the Equal Export Opportunity Act, including awards of compensation to informers under said Act and as authorized by 22 U.S.C. 401(b); \$62,912,000, to remain available until expended, of which not to exceed \$678,000 may be advanced to the United States Customs Service, Treasury Department, for enforcement of the export administration program: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out the activities concerned with international business activities.

50 USC app.
2061.
50 USC app.
2401 note.

MINORITY BUSINESS ENTERPRISE

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, \$50,000,000, of which \$38,535,000 shall remain available until expended: *Provided*, That not to exceed \$11,465,000 shall be available for program development and management.

UNITED STATES TRAVEL SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the International Travel Act of 1961, as amended, including employment of aliens by contract for service abroad; rental of space abroad, for periods not exceeding five years, and expenses of alteration, repair, or improvement; advance of funds under contracts abroad; payment of tort claims, in the manner authorized in the first paragraph of section 2672 of title 28 of the United States Code, when such claims arise in foreign countries; and not to exceed \$3,500 for representation expenses abroad; and for necessary expenses to carry out the provisions of the Act of July 19, 1940, as amended, \$14,470,000, of which not less than \$1,500,000 shall be available for the domestic tourism promotion program.

22 USC 2121
note.

16 USC 18-18d.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For expenses necessary for the National Oceanic and Atmospheric Administration, including research and development; acquisition of two rotary-winged aircraft; maintenance, operation, and hire of aircraft; expenses of an authorized strength of 388 commissioned officers

33 USC 851.

on the active list; pay of commissioned officers retired in accordance with law and payments under the Retired Serviceman's Family Protection and the Survivors Benefit plans; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; \$566,270,000, to remain available until expended, of which so much as may become available during the current fiscal year shall be derived from the Pribilof Islands Fund: *Provided*, That this appropriation shall be available for payment to the National Aeronautics and Space Administration for procurement, in accordance with the authority available to that Administration, of such equipment or facilities as may be necessary, for the purposes of this appropriation: *Provided further*, That of the amount herein appropriated, \$1,500,000 shall be available for studies (including surveys, mission analyses, cost analyses, and initiation of a design and engineering study) for an underwater ocean laboratory.

COASTAL ZONE MANAGEMENT

16 USC 1451
note. For carrying out the provisions of Public Law 92-583, as amended, \$18,050,000, to remain available until expended.

FISHERMEN'S GUARANTY FUND

22 USC 1971
note. For payment to the Fishermen's Guaranty Fund, established pursuant to the Act of August 12, 1968 (82 Stat. 729), \$61,000 to remain available until expended.

CONSTRUCTION

For expenses necessary for the National Oceanic and Atmospheric Administration for planning the construction of facilities and construction of an access road and security fencing, \$970,000, to remain available until expended.

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

OPERATIONS, RESEARCH, AND ADMINISTRATION

15 USC 2201
note. For expenses necessary to carry out the provisions of the Federal Fire Prevention and Control Act of 1974, \$12,239,000, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, \$86,400,000.

SCIENCE AND TECHNICAL RESEARCH

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, including the acquisition of buildings, grounds, and other facilities; the National Technical Information Service; and the Office of Telecommunications; \$68,785,000, to remain available until expended, of which not to exceed \$2,085,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital.

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, \$388,000,000, to remain available until expended. 46 USC 1245.

RESEARCH AND DEVELOPMENT

For expenses necessary for research, development, fabrication, and test operation of experimental facilities and equipment; collection and dissemination of maritime technical and engineering information; studies to improve water transportation systems; \$18,500,000, to remain available until expended.

OPERATIONS AND TRAINING

For expenses necessary for carrying out the Merchant Marine Act, 1936, as amended, and the training of cadets as officers of the Merchant Marine, including not to exceed \$2,000 for entertainment of officials of other countries when specifically authorized by the Maritime Administrator; not to exceed \$1,500 for representation allowances; not to exceed \$2,500 for contingencies for the Superintendent, United States Merchant Marine Academy, to be expended in his discretion; \$48,200,000, to remain available until expended: *Provided*, That reimbursement may be made to this appropriation for expenses in support of activities for National Maritime Research Centers financed from the appropriation for "Research and development": *Provided further*, That reimbursements may be made to this appropriation from receipts to the "Federal ship financing fund" for administrative expenses in support of that program.

GENERAL PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

46 USC 1116.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 302. During the current fiscal year applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act.

SEC. 303. During the current fiscal year appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 304. No part of any appropriation contained in this title shall be used for construction of any ship in any foreign country.

Citation of title.

This title may be cited as the "Department of Commerce Appropriation Act, 1977".

Judiciary
Appropriation
Act, 1977.

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice; not to exceed \$5,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; \$7,482,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without reference to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); \$800,000.

5 USC 5101
et seq.,
8331 *et seq.*

COURT OF CUSTOMS AND PATENT APPEALS

SALARIES AND EXPENSES

For salaries of the chief judge, four associate judges, and all other officers and employees of the court, and necessary expenses of the court, including exchange of books, and traveling expenses, as may be approved by the chief judge, \$898,000.

CUSTOMS COURT

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; \$2,705,000: *Provided*, That traveling expenses of judges of the Customs Court shall be paid upon written certificate of the judge.

COURT OF CLAIMS

SALARIES AND EXPENSES

For salaries of the chief judge, six associate judges, and all other officers and employees of the court, and for other necessary expenses, including stenographic and other fees and charges necessary in the taking of testimony, and travel, \$2,536,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER
JUDICIAL SERVICES

SALARIES OF JUDGES

For salaries of circuit judges; district judges (including judges of the district courts of the Virgin Islands, the Panama Canal Zone, and Guam); justices and judges retired or resigned under title 28, United States Code, sections 371, 372, and 373; and annuities of widows of Justices of the Supreme Court of the United States in accordance with title 28, United States Code, section 375; \$29,782,000.

SALARIES OF SUPPORTING PERSONNEL

For salaries of all officials and employees of the Federal Judiciary, not otherwise specifically provided for, \$132,250,000: *Provided*, That the salaries of secretaries to circuit and district judges shall not exceed the compensation established in chapter 51 of title 5, United States Code, for General Schedule grade (GS) 5, 6, 7, 8, 9, or 10, and that the salaries of law clerks to circuit and district judges shall not exceed the compensation established in chapter 51 of title 5, United States Code, for General Schedule grade (GS) 7, 8, 9, 10, 11, or 12: *Provided further*, That (exclusive of step increases corresponding with those provided for by chapter 53 of title 5 of the United States Code, post differential and allowances for employees stationed outside the continental United States and in Alaska and of compensation paid for temporary assistance needed because of an emergency) the aggregate salaries paid to secretaries and law clerks appointed by each of the circuit and district judges shall not exceed \$63,947 and \$38,767 per annum, respectively, except in the case of the chief judge of each circuit and the chief judge of each district court having five or more district judges, in which case the aggregate salaries shall not exceed \$78,771 and \$49,813 per annum, respectively: *Provided further*, That the chief judge of each circuit may appoint a senior law clerk to the court at not more than \$31,500 per annum, without regard to the limitations referred to above.

28 USC 604 note.

5 USC 5101,
5332 note.

5 USC 5301.

REPRESENTATION BY COURT-APPOINTED COUNSEL AND OPERATION OF
DEFENDER ORGANIZATIONS

For the operation of Federal Public Defender and Community Defender organizations, and the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964 (18 U.S.C. 3006A, as amended by Public Law 91-447, October 14, 1970), \$20,686,000, to remain available until expended.

FEES OF JURORS

For fees, expenses, and costs of jurors; and compensation of jury commissioners; \$19,350,000, to remain available until expended.

TRAVEL AND MISCELLANEOUS EXPENSES

For necessary travel and miscellaneous expenses, not otherwise provided for, incurred by the Judiciary, including the purchase of firearms and ammunition, \$24,380,000.

SALARIES AND EXPENSES OF UNITED STATES MAGISTRATES

For compensation and expenses of United States Magistrates, including secretarial and clerical assistance, as authorized by 28 U.S.C. 634-635, \$12,341,000.

SALARIES AND EXPENSES OF REFEREES

For salaries and expenses of referees as authorized by the Act of June 28, 1946, as amended (11 U.S.C. 68, 102), not to exceed \$30,201,000, to be derived from the Referees' salary and expense fund established in pursuance of said Act, and, to the extent of any deficiency in said fund, from any monies in the Treasury not otherwise appropriated: *Provided*, That \$660,000 shall be transferred to the appropriation for "Administrative Office of the United States Courts" for general administrative expenses of the bankruptcy system.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, and rent in the District of Columbia and elsewhere, \$8,320,000.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

28 USC 620. For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, \$7,650,000.

SPACE AND FACILITIES, THE JUDICIARY

SPACE AND FACILITIES

40 USC 603 note. For the rental of space, tenant alterations, and related services for the United States Courts of Appeals and District Courts, the Court of Customs and Patent Appeals, the Customs Court, the Court of Claims, the Administrative Office of the United States Courts and the Federal Judicial Center, pursuant to the Public Buildings Amendments of 1972, Public Law 92-313, June 16, 1972 (86 Stat. 216), \$71,980,000, to be available for transfer to the General Services Administration which shall be responsible for administering the program in compliance with standards or guidelines prescribed by the Director of the Administrative Office of the United States Courts under the supervision and direction of the Judicial Conference of the United States.

EXPENSES, UNITED STATES COURT FACILITIES

FURNITURE AND FURNISHINGS

For necessary expenses, not otherwise provided for, to provide furniture and furnishings for the United States Courts, including the Administrative Office of the United States Courts and the Federal Judicial Center, \$4,940,000, to be available for transfer to the General Services Administration which shall be responsible for administering the program in compliance with standards or guidelines prescribed by the Director of the Administrative Office of the United States Courts under the supervision and direction of the Judicial Conference of the United States.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 402. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

Experts and consultants.

SEC. 403. Not to exceed \$120,000 of the appropriations contained in this title shall be available for the study of rules of practice and procedure.

Study of rules of practice and procedure.

This title may be cited as the "Judiciary Appropriation Act, 1977".

Citation of title.

TITLE V—RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed \$10,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), \$12,000,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe and Radio Liberty, \$53,385,000.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For expenses necessary for the Commission on Civil Rights, including hire of passenger motor vehicles, \$9,450,000.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For expenses necessary for the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, \$340,000 for the period beginning July 1, 1976, and to remain available until expended.

Ante, p. 661.
22 USC
3001-3008.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

42 USC 2000e. For necessary expenses of the Equal Employment Opportunity Commission established by title VII of the Civil Rights Act of 1964, as amended, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$6,000,000 for payments to State and local agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended; \$67,850,000.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Federal Communications Commission, as authorized by law, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); not to exceed \$280,000 for land and structures; not to exceed \$65,000 for improvement and care of grounds and repair to buildings; not to exceed \$1,500 for official reception and representation expenses; purchase (not to exceed six) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; \$54,696,000: *Provided*, That not to exceed \$500,000 of the foregoing amount shall remain available until September 30, 1978, for research and policy studies.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; \$8,300,000: *Provided*, That not to exceed \$1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$1,500 for official reception and representation expenses; \$52,700,000.

No part of these funds may be used to pay the salary of any employee, including Commissioners, of the Federal Trade Commission who—

(1) makes any publication based on the line-of-business data furnished by individual firms without taking reasonable precautions to prevent disclosure of the line-of-business data furnished by any particular firm; or

(2) permits anyone other than sworn officers and employees of the Federal Trade Commission to examine the line-of-business reports from individual firms; or

(3) uses the information provided in the line-of-business program for any purpose other than statistical purposes. Such information for carrying out specific law enforcement responsibilities of the Federal Trade Commission shall be obtained under existing practices and procedures or as changed by law.

FOREIGN CLAIMS SETTLEMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry on the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946, as amended, as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; \$650,000. 22 USC 1131.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, not to exceed \$220,000 for expenses of travel, hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, \$11,350,000: *Provided*, That no part of this appropriation shall be used to pay the salary of any member of the International Trade Commission who shall hereafter participate in any proceedings under sections 336, 337, and 338 of the Tariff Act of 1930, wherein he or any member of his family has any special, direct, and pecuniary interest, or in which he has acted as attorney or special representative: *Provided further*, That no part of the foregoing appropriation shall be used for making any special study, investigation, or report at the request of any other agency of the executive branch of the Government unless reimbursement is made for the cost thereof. 19 USC 1336, 1337, 1338.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

To enable the Department of the Treasury to make payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974 (P.L. 93-355), \$125,000,000. 42 USC 2996 note.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission to carry out the provisions of title II of the Act of October 21, 1972 (Public Law 92-522), establishing the Marine Mammal Commission, \$1,000,000. 16 USC 1401.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

SALARIES AND EXPENSES

For expenses necessary for the Office of the Special Representative for Trade Negotiations, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, \$2,250,000.

PRIVACY PROTECTION STUDY COMMISSION

SALARIES AND EXPENSES

5 USC 552a note. For necessary expenses of the Privacy Protection Study Commission pursuant to the provisions of the Privacy Act (Public Law 93-579), \$750,000.

RENEGOTIATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Renegotiation Board, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, \$5,700,000.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed \$2,000 for official reception and representation expenses, \$53,000,000.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

31 USC 665. For necessary expenses, not otherwise provided for, of the Small Business Administration, including purchase of one motor vehicle for replacement only and hire of passenger motor vehicles, not to exceed \$1,500 for official reception and representation expenses, \$35,400,000, and in addition there may be transferred to this appropriation not to exceed a total of \$99,600,000 from the "Disaster loan fund", the "Business loan and investment fund", the "Lease guarantees revolving fund", the "Pollution control equipment contract guarantees revolving fund" and the "Surety bond guarantees revolving fund", in such amounts as may be necessary for administrative expenses in connection with activities respectively financed under said funds: *Provided*, That 10 per centum of the amount authorized to be transferred from these revolving funds shall be apportioned for use, pursuant to section 3679 of the Revised Statutes, as amended, only in such amounts and at such times as may be necessary to carry out the business and disaster loan, and lease guarantee, pollution control equipment contract guarantee and surety bond guarantee programs.

DISASTER LOAN FUND

BUSINESS LOAN AND INVESTMENT FUND

LEASE GUARANTEES REVOLVING FUND

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES
REVOLVING FUND

SURETY BOND GUARANTEES REVOLVING FUND

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the following funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster loan fund", the "Business loan and investment fund", the "Lease guarantees revolving fund", the "Pollution control equipment contract guarantees revolving fund" and the "Surety bond guarantees revolving fund".

31 USC 849.

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business loan and investment fund", authorized by the Small Business Act, as amended, \$601,600,000, to remain available without fiscal year limitation.

15 USC 631 note.

DISASTER LOAN FUND

For additional capital for the "Disaster loan fund", authorized by the Small Business Act, as amended, \$90,000,000, to remain available without fiscal year limitation.

15 USC 633.

LEASE GUARANTEES REVOLVING FUND

For additional capital for the "Lease Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, \$3,000,000, to remain available without fiscal year limitation.

15 USC 694.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEES
REVOLVING FUND

For capital for the "Pollution Control Equipment Contract Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, \$15,000,000, to remain available without fiscal year limitation.

Ante, p. 665.
15 USC 694-2.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, \$36,000,000, to remain available without fiscal year limitation.

15 USC 694c.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

22 USC 1461
note.

For expenses necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 8 of 1953, the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act, as amended (22 U.S.C. 1431 et seq.), to carry out international information activities, including employment, without regard to the civil service and classification laws, of persons on a temporary basis (not to exceed \$20,000), and aliens within the United States; salaries, expenses, and allowances of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-1158); entertainment within the United States not to exceed \$3,000; purchase for use abroad of (not to exceed 95, of which 42 are for replacement only), and hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; advance of funds notwithstanding section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others; purchase of uniforms for not to exceed thirteen guards; radio activities and acquisition and production of motion pictures and visual materials and purchase or rental of technical equipment and facilities therefor, narration, scriptwriting, translation, and engineering services, by contract or otherwise; and purchase of objects for presentation to foreign governments, schools, or organizations; \$248,325,000: *Provided*, That not to exceed \$260,000 may be used for representation abroad: *Provided further*, That passenger motor vehicles used abroad exclusively for the purposes of this appropriation may be exchanged or sold pursuant to section 201(c) of the Act of June 30, 1949 (40 U.S.C. 481(c)), and the exchange allowances or proceeds of such sales shall be available for replacement of an equal number of such vehicles and the cost, including the exchange allowance of each such replacement, shall not exceed such amounts as may be otherwise provided by law (except that right-hand drive vehicles may be purchased without regard to any maximum price limitation otherwise established by law): *Provided further*, That, notwithstanding the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), the United States Information Agency is authorized, in making contracts for the use of international short-wave radio stations and facilities, to agree on behalf of the United States to indemnify the owners and operators of said radio stations and facilities from such funds as may be hereafter appropriated for the purpose against loss or damage on account of injury to persons or property arising from such use of said radio stations and facilities.

22 USC 1461b.

SALARIES AND EXPENSES (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the United States Information Agency, as authorized by law, \$8,600,000, to remain available until expended.

SPECIAL INTERNATIONAL EXHIBITIONS

For expenses necessary to carry out the functions of the United States Information Agency under section 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), \$4,841,000, to remain available until expended: *Provided*, That not to exceed a total of \$6,500 may be expended for representation.

22 USC 2452.

ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception, purchase and installation of necessary equipment for radio transmission and reception, without regard to the provisions of the Act of June 30, 1932 (40 U.S.C. 278a), and acquisition of land and interests in land by purchase, lease, rental, or otherwise, \$2,142,000, to remain available until expended: *Provided*, That this appropriation shall be available for acquisition of land outside the continental United States without regard to section 355 of the Revised Statutes (40 U.S.C. 255) and title to any land so acquired shall be approved by the Director of the United States Information Agency.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Publicity or
propaganda.

SEC. 602. No part of any appropriation contained in this Act shall be used to administer any program which is funded in whole or in part from foreign currencies or credits for which a specific dollar appropriation therefor has not been made.

Foreign currency
funded programs.

SEC. 603. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Fiscal year
limitation.

SEC. 604. No part of the funds appropriated by this Act shall be used to pay the salary of any Federal employee who is finally convicted in any Federal, State, or local court of competent jurisdiction, of inciting, promoting, or carrying on a riot resulting in material damage to property or injury to persons, found to be in violation of Federal, State, or local laws designed to protect persons or property in the community concerned.

Convicted rioters,
payment
prohibitions.

SEC. 605. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of, or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials or students in such institution from engaging in their duties or pursuing their studies at such institution.

Funds to campus
disrupters,
prohibitions.

SEC. 606. None of the funds appropriated in this Act shall be made available for the collection and preparation of budgetary information which will not be available to the Committees on Appropriations of the Senate and House of Representatives.

Short title.

This Act may be cited as the "Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1977".

Approved July 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1226 (Comm. on Appropriations) and No. 94-1309 (Comm. of Conference).

SENATE REPORT No. 94-964 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 18, considered and passed House.

June 24, considered and passed Senate, amended.

June 30, House agreed to conference report.

July 1, Senate agreed to conference report.

Public Law 94-363
94th Congress

An Act

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1977, and for other purposes.

July 14, 1976

[H.R. 14261]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1977, and for other purposes, namely:

Treasury, Postal
Service, and
General
Government
Appropriation
Act, 1977.

TITLE I

DEPARTMENT OF THE TREASURY

Treasury
Department
Appropriations
Act, 1977.

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For the necessary expenses in the Office of the Secretary, including the operation and maintenance of the Treasury Building and Annex thereof; hire of passenger motor vehicles; and not to exceed \$15,000 for official reception and representation expenses; \$26,000,000, of which not to exceed \$100,000 shall be available for unforeseen emergencies of a confidential character, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, and of which \$500,000 shall be for repairs and improvements to Treasury buildings and shall remain available until expended.

OFFICE OF REVENUE SHARING

SALARIES AND EXPENSES

For necessary expenses in the Office of Revenue Sharing, including the hire of passenger motor vehicles, \$3,810,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including purchase and hire of vehicles, and services as authorized by 5 U.S.C. 3109; \$8,650,000.

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Government Financial Operations, \$144,000,000.

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722), \$500,000, to remain available until expended.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS**SALARIES AND EXPENSES**

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms including purchase of (not to exceed two hundred and forty of which fifty shall be for replacement only, for police-type use), and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; \$114,500,000.

UNITED STATES CUSTOMS SERVICE**SALARIES AND EXPENSES**

For necessary expenses of the United States Customs Service, including purchase of three hundred and twenty-nine passenger motor vehicles (for replacement only), including three hundred and nineteen for police-type use; acquisition, operation, and maintenance of aircraft; hire of passenger motor vehicles and aircraft; and awards of compensation to informers as authorized by the Act of August 13, 1954 (22 U.S.C. 401); \$340,000,000, of which not to exceed \$150,000 shall be available for payment for rental space in connection with preclearance operations.

BUREAU OF THE MINT**SALARIES AND EXPENSES**

For necessary expenses of the Bureau of the Mint, including purchase of one passenger motor vehicle for replacement only; and not to exceed \$2,500 for the expenses of the annual assay commission; \$40,000,000.

BUREAU OF THE PUBLIC DEBT**ADMINISTERING THE PUBLIC DEBT**

For necessary expenses connected with any public-debt issues of the United States, \$112,000,000.

INTERNAL REVENUE SERVICE**SALARIES AND EXPENSES**

For necessary expenses of the Internal Revenue Service, not otherwise provided for, including executive direction, administrative support, and internal audit and security; hire of passenger motor vehicles; and services of expert witnesses at such rates as may be determined by the Commissioner; \$46,700,000.

ACCOUNTS, COLLECTION AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for processing tax returns, revenue accounting, providing assistance to taxpayers, securing unfiled tax returns, and collecting unpaid taxes; hire

of passenger motor vehicles; and services of expert witnesses at such rates as may be determined by the Commissioner; including not to exceed \$10,000,000 for employees on temporary appointments and not to exceed \$183,000 for salaries of personnel engaged in preemployment training of data transcriber applicants; \$793,400,000.

COMPLIANCE

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities, and for investigation and enforcement activities, including purchase (not to exceed ninety-one of which ninety-one shall be for replacement only) and hire of passenger motor vehicles; and services of expert witnesses at such rates as may be determined by the Commissioner; \$836,900,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Secret Service, including purchase (not to exceed seventy-seven for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments which may be provided without reimbursement; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be necessary to perform protective functions; and the conducting and participation in firearms matches; \$112,650,000, of which not to exceed \$2,000,000 shall remain available until expended, for payments to State and local governments for protection of permanent and observer foreign diplomatic missions, pursuant to Public Law 94-196.

3 USC 202, 208.

GENERAL PROVISIONS—TREASURY DEPARTMENT

SEC. 101. Appropriations in this Act to the Treasury Department shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-2) including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. Motor vehicles for police-type use by the Treasury Department may be purchased without regard to the general purchase price limitation for the current fiscal year.

This title may be cited as the "Treasury Department Appropriations Act, 1977".

Citation of title.

TITLE II

U.S. POSTAL SERVICE

Postal Service
Appropriation
Act, 1977.

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for public service costs and for revenue foregone on free and reduced rate mail, pursuant to 39 U.S.C. 2401 (b) and (c), and for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund

and to postal employees for earned and unused annual leave as of June 30, 1971, pursuant to 39 U.S.C. 2004, \$1,766,170,000.

Citation of title.

This title may be cited as the "Postal Service Appropriation Act, 1977".

Executive Office
Appropriations
Act, 1977.

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of \$50,000 per annum as authorized by 3 U.S.C. 102, \$250,000.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For expenses necessary for the White House Office as authorized by law, including not to exceed \$3,850,000 for services as authorized by 5 U.S.C. 3109, at such per diem rates for individuals as the President may specify and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed \$100,000 to be accounted for solely on the certificate of the President); and not to exceed \$10,000 for official entertainment expenses to be available for allocation within the Executive Office of the President; \$16,530,000.

EXECUTIVE RESIDENCE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence, to be expended as the President may determine, notwithstanding the provisions of this or any other Act, and official entertainment expenses of the President to be accounted for solely on his certificate, \$2,095,000.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, furnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, \$61,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For expenses necessary to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for grade GS-18,

5 USC 5332 note.

compensation for one position at a rate not to exceed the rate of level II of the Executive schedule, and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, including hire of passenger motor vehicles, \$1,246,000. 5 USC 5313.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), \$1,718,000.

COUNCIL ON INTERNATIONAL ECONOMIC POLICY

SALARIES AND EXPENSES

For necessary expenses of the Council on International Economic Policy, including hire of passenger motor vehicles, \$1,450,000, of which, an amount not to exceed \$1,000 may be expended for official entertainment.

COUNCIL ON WAGE AND PRICE STABILITY

SALARIES AND EXPENSES

For expenses, including compensation for the Deputy Director at a rate not to exceed the rate for level V of the Executive Schedule, necessary for the Council on Wage and Price Stability as authorized by the Council on Wage and Price Stability Act of 1974 (Public Law 93-387 as amended by Public Law 94-78) \$1,607,000.

12 USC 1904
note.

DOMESTIC COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Domestic Council, including services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for grade GS-18; and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service; \$1,700,000.

5 USC 5332 note.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For expenses necessary for the National Security Council, including services as authorized by 5 U.S.C. 3109, \$3,210,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For expenses necessary for the Office of Management and Budget, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, \$25,300,000.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109, \$1,627,000.

OFFICE OF TELECOMMUNICATIONS POLICY

SALARIES AND EXPENSES

For expenses necessary for the conduct of telecommunications functions assigned to the Director of the Office of Telecommunications Policy, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, \$8,206,000.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, and to pay administrative expenses (including personnel, in his discretion and without regard to any provision of law regulating employment and pay of persons in the Government service or regulating expenditures of Government funds) incurred with respect thereto, \$1,000,000.

Citation of title.

This title may be cited as the "Executive Office Appropriations Act, 1977".

Independent
Agencies
Appropriations
Act, 1977.

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), \$880,000.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306, \$215,000.

ADVISORY COMMITTEE ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

42 USC 4271.

For expenses necessary to carry out the provisions of the Act of September 24, 1959, as amended (73 Stat. 703-706), \$1,301,000.

CIVIL SERVICE COMMISSION

SALARIES AND EXPENSES

For necessary expenses, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia; hire of passenger motor vehicles; not to exceed \$2,500 for official reception and representation expenses; and advances or reim-

bursements to applicable funds of the Commission and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; \$102,328,000 together with not to exceed \$24,365,000 for current fiscal year administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Commission in amounts determined by the Commission without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds for administrative expenses of effecting statutory annuity adjustments. No part of the appropriation herein made to the Civil Service Commission shall be available for the salaries and expenses of the Legal Examining Unit of the Commission, established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose.

22 USC 287 note.

3 CFR
1943-1948
Comp., p. 256.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, \$451,844,000.

5 USC 8901
et seq.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special acts, to be credited to the Civil Service retirement and disability funds, \$2,874,955,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (2 C.Z.C. 181) and the Act of August 19, 1950, as amended (33 U.S.C. 771-775) may hereafter be paid out of the Civil Service retirement and disability fund.

33 USC 776.
33 USC 776.

FEDERAL LABOR RELATIONS COUNCIL

SALARIES AND EXPENSES

For expenses necessary to carry out functions of the Civil Service Commission under Executive Order No. 11491 of October 29, 1969, as amended, \$1,565,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C. 3109.

5 USC 7301 note.

INTERGOVERNMENTAL PERSONNEL ASSISTANCE

For grants to improve State and local personnel administration, as authorized by the Intergovernmental Personnel Act of 1970, \$15,000,000, to remain available until expended.

42 USC 4701
note.

COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

SALARIES AND EXPENSES

For necessary expenses of the Commission on Executive, Legislative, and Judicial Salaries, authorized by section 225 of the Postal

- 2 USC 351-361. Revenue and Federal Salary Act of 1967 (81 Stat. 642-645), \$100,000, to remain available until expended.

COMMISSION ON THE REVIEW OF THE NATIONAL
POLICY TOWARD GAMBLING

SALARIES AND EXPENSES

- 18 USC 1955
note. For expenses necessary to carry out functions of the Commission on the Review of the National Policy Toward Gambling, established by section 804 of the Organized Crime Control Act of 1970 (P.L. 91-452; 84 Stat. 938), \$265,000.

COMMITTEE FOR PURCHASE FROM THE BLIND AND
OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

- 41 USC 46. For expenses necessary for the Committee for Purchase from the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, including hire of passenger motor vehicles, \$316,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

- 2 USC 431 note. For expenses necessary to carry out the provisions of the Federal Election Campaign Act Amendments of 1974, \$6,000,000.

GENERAL SERVICES ADMINISTRATION

DISPOSAL OF SURPLUS REAL AND RELATED PERSONAL
PROPERTY, OPERATING EXPENSES

- 16 USC 4601-5. Not to exceed \$6,205,000 of any proceeds received by the General Services Administration during the current fiscal year from transfers of excess property and the disposal of surplus real and related personal property shall be deposited to this appropriation, and shall be available for necessary expenses incurred in the Federal Buildings Fund in carrying out surplus property functions, pursuant to the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460 1-5).

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into a fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and

alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract; in the aggregate amount of \$1,130,755,000 of which (1) not to exceed \$28,400,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

California:

Los Angeles, Parking Facility, \$5,665,000

Hawaii:

Honolulu, Prince J. K. Kalanianaʻole Federal Building Courthouse, \$3,500,000

Illinois:

East St. Louis, Courthouse and Federal Building, \$5,365,000

Michigan:

Detroit, Patrick V. McNamara Federal Office Building, \$800,000

New York:

New York, Customs Courthouse Federal Office Building Annex, \$1,500,000

Washington:

Blaine, Border Station, \$3,159,000

Wisconsin:

Madison, Courthouse, \$5,778,000

Conversions:

Georgia:

Atlanta, Post Office and Courthouse, \$1,830,000

Augusta, Post Office and Courthouse, \$803,000

Provided, That the immediately foregoing limits of costs may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: (2) not to exceed \$60,700,000, which shall remain available until expended for alterations and major repairs; (3) not to exceed \$92,000,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed \$473,200,000 for rental of space; (5) not to exceed \$414,905,000 for real property operations; and (6) not to exceed \$61,550,000 for program direction and centralized services: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490) and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of General Services Administration shall be considered to be federally owned buildings: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under Section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership

or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further*, That any revenues and collections and any other sums accruing to this fund during fiscal year 1977, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), in excess of \$1,156,018,000 shall be deposited in miscellaneous receipts of the Treasury of the United States.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

7 USC 1704.

50 USC app.
2061.

For expenses, not otherwise provided, necessary for supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement, inspection, standardization, and supply management activities as authorized by law, transportation, public utilities, the utilization of excess property, the disposal of surplus property, the rehabilitation of personal property, the national stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98-98h), the supplemental stockpile established by section 104(b) of the Agricultural Trade Developmental and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607), and the inventory maintained under the Defense Production Act of 1950, as amended (50 U.S.C. 2061-2166), including services as authorized by 5 U.S.C. 3109, \$154,266,000: *Provided*, That during the current fiscal year the General Services Administration is authorized to acquire leasehold interests in property, for periods not in excess of twenty years, for the storage, security, and maintenance of strategic, critical, and other materials in the national and supplemental stockpiles, provided said leasehold interests are at nominal cost to the Government: *Provided further*, That during the current fiscal year there shall be no limitation on the value of surplus strategic and critical materials which, in accordance with section 6 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e), may be transferred without reimbursement to the national stockpile: *Provided further*, That during the current fiscal year materials in the inventory maintained under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061-2166), and excess materials in the national stockpile and supplemental stockpile, the disposition of which is authorized by law, shall be available, without reimbursement, for transfer at fair market value to contractors as payment for expenses (including transportation and other accessorial expenses) of acquisition of materials, or of refining, processing, or otherwise beneficiating materials, or of rotating materials, pursuant to section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b), and of processing and refining materials pursuant to section 303(d) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093(d)).

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For necessary expenses in connection with Federal records management and related activities, as provided by law, including reimbursement for security guard services, contractual services incident to

movement or disposal of records, and acceptance and utilization of voluntary and uncompensated services, \$64,219,000, of which \$3,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

RECORDS DECLASSIFICATION

For expenses necessary for the review and declassification of documents, and related records management activities, pursuant to Executive Order 11652, directives issued pursuant thereto, and other applicable authorities, including expenses not otherwise provided for, and acceptance and utilization of voluntary and uncompensated services, \$1,410,000.

50 USC 401 note.

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

OPERATING EXPENSES

For expenses, not otherwise provided, necessary for carrying out Government-wide responsibilities relating to automated data management, telecommunications and related activities, as authorized by law, including services as authorized by 5 U.S.C. 3109, \$7,475,000.

FEDERAL PREPAREDNESS AGENCY

SALARIES AND EXPENSES

For expenses necessary for emergency preparedness functions, including activities authorized by 50 U.S.C. 404(b)(3), and 50 U.S.C. app. 2251-2297, and the disposal of excess materials in the national stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98-98h), the supplemental stockpile established by section 104(b) of the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607), and the inventory maintained under the Defense Production Act of 1950, as amended (50 U.S.C. 2061-2166), including services as authorized by 5 U.S.C. 3109 and expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency planning, and the provision of transportation in connection with the continuity of Government program, to the same extent and in the same manner as permitted the Secretary of a military department under 10 U.S.C. 2632, \$16,296,000.

7 USC 1704.

50 USC app.
2061.

GENERAL MANAGEMENT AND AGENCY OPERATIONS

SALARIES AND EXPENSES

For expenses of general management and agency operations of activities under the control of the General Services Administration, \$6,616,000: *Provided*, That not to exceed \$2,500 shall be available for reception and representation expenses.

INDIAN TRUST ACCOUNTING

For expenses necessary to provide accounting records management, and other support incident to adjudication of Indian Tribal claims by the Indian Claims Commission, \$2,702,000: *Provided*, That none of these funds shall be available for transfer to any other account.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), \$280,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of sections (a) and (c) of such Act.

EXPENSES, PRESIDENTIAL TRANSITION

For expenses necessary to carry out the provisions of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, note), \$900,000.

ADMINISTRATIVE AND STAFF SUPPORT SERVICES

SALARIES AND EXPENSES

For administrative expenses necessary in providing general administrative and staff support services within the General Services Administration, not otherwise provided for, \$72,219,000: *Provided*, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to section 601 of the Economy Act of 1932, as amended (31 U.S.C. 686).

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

SEC. 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with (1) cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129); and (2) appropriations or funds available to other agencies, and transferred to the General Services Administration, in connection with property transferred to the General Services Administration pursuant to the Act of July 2, 1948 (50 U.S.C. 451ff), and such appropriations or funds may be so transferred, with the approval of the Office of Management and Budget.

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

40 USC 759.

SEC. 3. None of the funds available under this Act or under section 111 of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended for the procurement by purchase, lease or any other arrangement, in whole or in part, of any or all the automatic data processing system, data communications network, or related software and services for the joint General Services Administration-Department of Agriculture MCS project 97-72 contained in the Request for Proposal CDPA 74-14, any successor to such project, or any other common user shared facilities authorized under section 111 of the Federal Property and Administrative Services Act of 1949.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

PAYMENT TO THE HARRY S TRUMAN MEMORIAL SCHOLARSHIP TRUST FUND

For payment to the Harry S Truman Memorial Scholarship Trust Fund, \$20,000,000.

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of title II of Public Law 93-495, \$1,300,000, to remain available until expended. 12 USC 2401.

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

SALARIES AND EXPENSES

For necessary expenses of the National Center for Productivity and Quality of Working Life, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$2,750,000.

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the National Commission on Supplies and Shortages Act (Public Law 93-426), including personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, \$360,000. 50 USC app. 2169.

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF
FEDERAL OFFICIALS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of title II of the Act of December 19, 1974 (Public Law 93-526), as amended by Public Law 92-261 (44 U.S.C. 33), \$350,000. 44 USC 3315 note, 44 USC 3318, 3322.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, \$7,222,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge. 26 USC 7443.

DEFENSE CIVIL PREPAREDNESS AGENCY

OPERATION AND MAINTENANCE

For expenses, not otherwise provided for, necessary for carrying out civil defense activities including the hire of motor vehicles; and financial contributions to the States for civil defense purposes, as authorized by law; \$65,000,000: *Provided*, That not to exceed \$29,600,000 shall be available for allocation under section 205 of the Federal Civil Defense Act of 1950, as amended. 5 USC app. 2286.

RESEARCH, SHELTER SURVEY, AND MARKING

For expenses, not otherwise provided for, necessary for studies and research to develop measures and plans for civil defense; continuing shelter surveys, marking, and equipping surveyed spaces; and finan-

50 USC app.
2281.

cial contributions to the States under section 201(i) of the Federal Civil Defense Act, which shall be equally matched for emergency operating centers and civil defense equipment; \$17,500,000.

GENERAL PROVISIONS—CIVIL DEFENSES

SEC. 1. Appropriations contained in this Act for carrying out civil defense activities shall not be available in excess of the limitations on appropriations contained in section 408 of the Federal Civil Defense Act, as amended (50 U.S.C. App. 2260).

SEC. 2. No part of any appropriation in this Act shall be available for the construction of warehouses or for the lease of warehouse space in any building which is to be constructed specifically for civil defense activities.

Citation of title.

This title may be cited as the "Independent Agencies Appropriations Act, 1977".

TITLE V—GENERAL PROVISIONS

THIS ACT

SEC. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; or to payments to interagency motor pools where separately set forth in the budget schedules.

Employees,
military leave,
position
restoration.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Civil Service Commission as still qualified to perform the duties of his former position and has not been restored thereto.

Offices outside
D.C., limitation.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

Fiscal year
limitation.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Foreign made
tools,
procurement
restriction.

SEC. 505. No part of any appropriation contained in this Act shall be available for the procurement of or for the payment of the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possession except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of

hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 506. The General Services Administration is authorized to negotiate and accept the conveyance to the United States of approximately 930 acres of land presently owned by Skyway-to-Highway, Incorporated adjacent to the West and Northwest boundaries of Dulles International Airport, in exchange for conveyance to Skyway-to-Highway, Incorporated of property of approximately equal value selected by the General Services Administration from any surplus Federal real properties. Acceptance by the United States of any exchange proposal is contingent upon review by the appropriate committees of the Congress.

Property
exchange.

SEC. 507. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulation, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

Stainless steel
flatware,
procurement.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Unless otherwise specifically provided the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at \$2,700 except station wagons for which the maximum shall be \$3,100: *Provided*, That these limits may be exceeded by not to exceed \$1,700 for police-type vehicles.

Motor vehicle
purchase.
31 USC 638c.
31 USC 638a.

SEC. 602. Unless otherwise specified and during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, or (4) is an alien from Cuba, Poland, South Viet Nam, or the Baltic countries lawfully admitted to the United States for permanent residence: *Provided*, That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been

Police-type
vehicles.
Citizenship
requirement for
employees.
31 USC 699b.

complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than \$4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal-clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

Quarters
allowances.

SEC. 603. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-5924.

Nominees not
approved,
compensation
restriction.

SEC. 604. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

Administrative
expense funds.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to the Government Corporation Control Act, as amended (31 U.S.C. 841), shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

Foreign credits.

SEC. 606. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchange allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

Publicity or
propaganda.

SEC. 607. (a) No part of any appropriation contained in this or any other Act, or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress.

U.S. Postal
Service
employees,
communication
with Congress.

(b) No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection

with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance or efficiency rating, denied promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available to finance interdepartmental boards, commissions, councils, committees, or similar groups under section 214 of the Independent Offices Appropriations Act, 1946 (31 U.S.C. 691) which do not have prior and specific congressional approval of such method of financial support.

Interdepartmental groups, expenses.

SEC. 609. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements, performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

Space and service charges and building improvements.

40 USC 601 note.
40 USC 603 note.

SEC. 610. Funds made available by this or any other Act to the fund created by the Public Buildings Amendments of 1972 (86 Stat. 216), and the "Postal Service fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section, and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b) attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c).

U.S. or Postal Service guards, funds.

SEC. 611. None of the funds available under this Act shall be available for administrative expenses in connection with the transfer of any functions, personnel, facilities, equipment, or funds out of the United States Customs Service unless such transfers have been specifically authorized by the Congress.

SEC. 612. None of the funds available under this Act shall be available for administrative expenses for the purpose of transferring the border control activities of the United States Customs Service to any other agency of the Federal Government.

Border control activities.

40 USC 490. SEC. 613. No part of any appropriation contained in, or funds made available by, this or any other Act shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than such agency included in its budget for the current fiscal year and for which appropriations were granted.

40 USC 602a. SEC. 614. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Buildings Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1977.

Short title. This Act may be cited as the "Treasury, Postal Service, and General Government Appropriation Act, 1977".

Approved July 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1229 (Comm. on Appropriations) and No. 94-1299 (Comm. of Conference).

SENATE REPORT No. 94-953 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 14, considered and passed House.

June 24, considered and passed Senate, amended.

June 30, House agreed to conference report; receded and concurred in Senate amendments; Senate agreed to conference report.

Public Law 94-364
94th Congress

An Act

To amend the Motor Vehicle Information and Cost Savings Act to authorize appropriations, to require the establishment of a special motor vehicle diagnostic inspection demonstration project, to provide additional authority for enforcing prohibitions against motor vehicle odometer tampering, and for other purposes.

July 14, 1976

[S. 1518]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Motor Vehicle
Information and
Cost Savings Act
Amendments of
1976.
15 USC 1901
note.

SHORT TITLE

SECTION 1. This Act may be cited as the “Motor Vehicle Information and Cost Savings Act Amendments of 1976”.

TITLE I—AMENDMENT TO TITLE I

SEC. 101. Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 111. There are authorized to be appropriated to carry out this title \$125,000 for the fiscal year ending June 30, 1976; \$75,000 for the period beginning July 1, 1976, and ending September 30, 1976; \$130,000 for the fiscal year ending September 30, 1977; and \$395,000 for the fiscal year ending September 30, 1978.”.

TITLE II—AMENDMENTS TO TITLE II

SEC. 201. Section 201(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941(d)) is amended by inserting at the end thereof the following: “The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.”.

Compilation of
information,
distribution rule.

SEC. 202. Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 209. There are authorized to be appropriated to carry out this title \$1,875,000 for the fiscal year ending June 30, 1976; \$500,000 for the period beginning July 1, 1976, and ending September 30, 1976; \$3,385,000 for the fiscal year ending September 30, 1977; and \$3,375,000 for the fiscal year ending September 30, 1978.”.

TITLE III—AMENDMENTS TO TITLE III

SEC. 301. Section 303 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1963) is amended—

- (1) by striking out “June 30, 1976” in subsection (b) and inserting in lieu thereof “September 30, 1977”; and
- (2) by adding at the end thereof the following new subsection:

Motor vehicle
diagnostic
inspection
demonstration
projects,
assistance.

“(c) The Secretary shall approve such applications and take such other action as may be necessary to provide that at least three motor vehicle diagnostic inspection demonstration projects receive financial assistance under grants under this part through September 30, 1977.”.

SEC. 302. Section 311 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1963a) is amended to read as follows:

“FUEL EFFICIENCY

“SEC. 311. (a) The Secretary shall establish a special motor vehicle diagnostic inspection demonstration project to assist in the research, rapid development, and evaluation of advanced inspection, analysis, and diagnostic equipment suitable for use by any State in any high volume inspection facility designed to assess the safety, noise, emissions, and fuel efficiency of motor vehicles. Motor vehicles shall be inspected at such project for purposes of (1) evaluating the conditions of parts, components, and repairs which may be necessary to comply with State and Federal safety, noise, and emissions standards, and (2) assisting the motor vehicle owner in achieving optimum fuel and maintenance economy.

Evaluation.
Report to
Congress.

“(b) The Secretary shall evaluate, to the extent feasible, the existing diagnostic analysis and test equipment available for use in small automotive repair establishments and report to the Congress, within two years after the enactment of the Motor Vehicle Information and Cost Savings Act Amendments of 1976, as to the scope of research and development required to make such equipment compatible with State motor vehicle inspection and diagnostic equipment. The report shall assess the extent to which private industry can supply small automotive repair shops with low-cost test equipment which can be used to monitor compliance with Federal safety, noise, and emissions standards promulgated by the Secretary, the Administrator of the Environmental Protection Agency, and by State or local regulatory agencies.

EPA
Administrator,
assistance.

“(c) In carrying out this section, the Secretary shall provide—

“(1) the Administrator of the Environmental Protection Agency with an opportunity to assist, to the extent such assistance relates to noise and emissions, in the establishment of the special motor vehicle diagnostic inspection demonstration project under subsection (a) and the evaluation of existing diagnostic and test equipment under subsection (b); and

FEA
Administrator,
assistance.

“(2) the Administrator of the Federal Energy Administration with an opportunity to assist, to the extent such assistance relates to fuel efficiency, in the establishment of such project and the evaluation of such equipment.”.

SEC. 303. Section 321 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1964) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 321. There are authorized to be appropriated to carry out this title \$5,000,000 for the fiscal year ending June 30, 1976; \$500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

\$7,500,000 for the fiscal year ending September 30, 1977; and \$4,400,000 for the fiscal year ending September 30, 1978. Sums appropriated under this section shall remain available until expended.”.

TITLE IV—AMENDMENTS TO TITLE IV

SEC. 401. Section 402 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1982) is amended by—

(1) redesignating paragraphs (1), (2), and (3) as paragraphs (3), (4), and (5), respectively; and

(2) inserting before paragraph (3), as redesignated, the following new paragraphs:

“(1) The term ‘dealer’ means any person who has sold 5 or more motor vehicles in the past 12 months to purchasers who in good faith purchase such vehicles for purposes other than resale. “Dealer.”

“(2) The term ‘distributor’ means any person who has sold 5 or more vehicles in the past 12 months for resale.” “Distributor.”

SEC. 402. The first sentence of section 403 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1983) is amended to read as follows: “No person shall advertise for sale, sell, use, or install or cause to be installed, any device which causes an odometer to register any mileage other than the true mileage driven.” Odometers.

SEC. 403. Section 404 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1984) is amended to read as follows:

“UNLAWFUL CHANGE OF MILEAGE

“SEC. 404. No person shall disconnect, reset, or alter or cause to be disconnected, reset, or altered, the odometer of any motor vehicle with intent to change the number of miles indicated thereon.”.

SEC. 404. Section 405 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1985) is amended to read as follows:

“OPERATION WITH INTENT TO DEFRAUD

“SEC. 405. No person shall, with intent to defraud, operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.”.

SEC. 405. Section 407 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1987) is amended by (1) inserting “(a)” immediately after “SEC. 407.”; (2) striking out the last sentence thereof; and (3) adding at the end thereof the following new subsection:

“(b) (1) No person shall fail to adjust an odometer or affix a notice regarding such adjustment as required pursuant to subsection (a) of this section.

“(2) No person shall, with intent to defraud, remove or alter any notice affixed to a motor vehicle pursuant to subsection (a) of this section.”.

SEC. 406. Section 408(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(b)) is amended to read as follows:

“(b) No transferor shall violate any rule prescribed under this section or give a false statement to a transferee in making any disclosure required by such rule.

“(c) No transferee who, for purposes of resale, acquires ownership of a motor vehicle shall accept any written disclosure required by any rule prescribed under this section if such disclosure is incomplete.”.

SEC. 407. Section 410 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990) is amended to read as follows:

“INJUNCTIVE ENFORCEMENT

Jurisdiction. “SEC. 410. (a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and 28 USC app. (b) of the Federal Rules of Civil Procedure, to restrain violations of this title, or rules, regulations, or orders issued thereunder. Such actions may be brought by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found, is an inhabitant, or transacts business. In any action brought under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

Subpenas. “(b) In any action brought under this title, subpoenas for witnesses who are required to attend a United States district court may run into any other district.”.

SEC. 408. Title IV of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1981 et seq.) is amended by—

15 USC 1991, 1981 notes. (1) redesignating sections 411, 412, and 413 as sections 418, 419, and 420, respectively; and

15 USC 1990. (2) inserting immediately after section 410 the following new sections:

“STATE ENFORCEMENT

15 USC 1990a. “SEC. 411. (a) If any person violates any requirement imposed under this title, the chief law enforcement officer of the State in which such violation occurred may bring any action to—

“(1) restrain such violation; or

15 USC 1989. “(2) recover amounts for which such person is liable under section 409 to each person on whose behalf such action is brought.

“(b) Any action under subsection (a) of this section may be brought within two years from the date on which the liability arises—

“(1) without regard to the amount in controversy, in any appropriate district court of the United States, or

“(2) in any court of competent jurisdiction of any State.

“CIVIL PENALTY

15 USC 1990b. “SEC. 412. (a) Any person who commits any act or causes to be done any act that violates any provision of this title or omits to do any act or causes to be omitted any act that is required by any such provision shall be subject to a civil penalty not to exceed \$1,000 for each such violation. A violation of any such provision shall, for purposes of this section, constitute a separate violation with respect to each motor vehicle or device involved, except that the maximum civil penalty shall not exceed \$100,000 for any related series of violations.

“(b) Any civil penalty under this section shall be assessed by the Secretary and collected in a civil action brought by the Attorney General on behalf of the United States. Before referral of civil penalty claims to the Attorney General, civil penalties may be compromised by the Secretary after affording the person charged with a violation of any section of this title an opportunity to present views and evidence in support thereof to establish that the alleged violation did not occur. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

“CRIMINAL PENALTIES

“SEC. 413. (a) Any person who knowingly and willfully commits any act or causes to be done any act that violates any provision of this title or knowingly and willfully omits to do any act or causes to be omitted any act that is required by any such provision shall be fined not more than \$50,000 or imprisoned not more than one year, or both. 15 USC 1990c.

“(b) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any section of this title shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under subsection (a).

“INSPECTIONS AND INVESTIGATIONS

“SEC. 414. (a)(1) The Secretary is authorized to conduct any inspection or investigation necessary to enforce this title or any rules, regulations, or orders issued thereunder. Information obtained indicating noncompliance with this title or any rules, regulations, or orders issued thereunder, may be referred to the Attorney General for investigative consideration. In making investigations under this paragraph, the Secretary shall cooperate with appropriate State and local officials to the greatest extent possible consistent with the purposes of this subsection. 15 USC 1990d.

“(2) For purposes of carrying out paragraph (1) of this subsection, officers or employees duly designated by the Secretary, upon stating their purpose and presenting appropriate credentials and written notice (which notice may consist of an administrative inspection warrant) to the owner, operator, or agent in charge, are authorized at reasonable times and in a reasonable manner—

“(A) to enter (i) any factory, warehouse, establishment, or other commercial premises in or on which motor vehicles or items of motor vehicle equipment are manufactured, held for shipment or sale, maintained, or repaired, or (ii) any noncommercial premises in or on which the Secretary reasonably believes that there is a motor vehicle or item of motor vehicle equipment that has been the object of a violation of this title; Cooperation.

- Impoundment.** “(B) to impound, for a period not to exceed 72 hours, for purposes of inspection, any motor vehicle or item of motor vehicle equipment that the Secretary reasonably believes to have been the object of a violation of this title; and
- “(C) to inspect any factory, warehouse, establishment, premises, vehicle, or equipment referred to in subparagraph (A) or (B) of this paragraph.
- Each inspection or impoundment under this paragraph shall be commenced and completed with reasonable promptness.
- Compensation.** “(3) Whenever, under the authority of paragraph (2) (B) of this subsection, the Secretary impounds for the purpose of inspection any motor vehicle (other than a vehicle subject to part II of the Interstate Commerce Act) or any item of motor vehicle equipment, he shall pay reasonable compensation to the owner of such vehicle or equipment to the extent that such inspection or impounding results in the denial of the use of the vehicle or equipment to its owner or in the reduction in value of the vehicle or equipment.
- 49 USC 301.** “(b) For the purpose of enabling the Secretary to determine whether any dealer or distributor has acted or is acting in compliance with this title or any rules, regulations, or orders issued thereunder, each dealer and distributor shall—
- Record maintenance.** “(1) maintain such records as the Secretary may reasonably require to make such determination;
- “(2) permit an officer or employee duly designated by the Secretary, upon request of such officer or employee, to inspect appropriate books, papers, records, and documents relevant to making such determination; and
- “(3) provide such officer or employee information from records required to be maintained under this subsection as the Secretary finds necessary for such determination if the Secretary (A) provides the reason or purpose for requiring such information, and (B) identifies to the fullest extent practicable such information.
- Nothing in this subsection authorizes the Secretary to require a dealer or distributor to provide information on a regular periodic basis.
- Hearings.** “(c) (1) For the purpose of carrying out the provisions of this title, the Secretary or, with the authorization of the Secretary, any officer or employee of the Department of Transportation may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such officer or employee, deems advisable.
- Documentary evidence, access.** “(2) In order to carry out the provisions of this title, the Secretary or his duly authorized agent shall at all reasonable times have access to, and for the purposes of examination the right to copy, any documentary evidence of any person having materials or information relevant to any function of the Secretary under this title.
- Reports and answers, filing.** “(3) Except to the extent inconsistent with the last sentence of subsection (b) of this section, the Secretary is authorized to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe.

"(4) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena or order of the Secretary or such officer or employee issued under paragraph (1) or (3) of this subsection, issue an order requiring compliance therewith, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(5) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage which are paid witnesses in the courts of the United States.

Witness fees.

"(d) All information reported to or otherwise obtained by the Secretary or his representative under this title, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

Information confidentiality.

"ADMINISTRATIVE WARRANTS

"SEC. 415. (a) A warrant under this section shall be required for any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment) authorized by section 414 of this Act, except if such entry or inspection is—

15 USC 1990e.

"(1) with the consent of the owner, operator, or agent in charge of the factory, warehouse, establishment, or premises;

"(2) in situations involving inspection of motor vehicles where there is reasonable cause to believe that the mobility of the motor vehicle makes it impracticable to obtain a warrant;

"(3) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

"(4) for access to and examination of books, records, and any other documentary evidence pursuant to section 414(c)(2); or

"(5) in any other situations where a warrant is not constitutionally required.

Ante, p. 985.

"(b) Issuance and execution of administrative inspection warrants shall be as follows:

Issuance and execution.

"(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by section 414 and of impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections. For the purposes of this section, the term 'probable cause' means a valid public interest in the effective enforcement of this title or regulations issued thereunder sufficient to justify administrative inspections of the area, factory, warehouse, establishment, premises, or motor vehicle, or contents thereof, in the circumstances specified in the application for the warrant.

"Probable cause."

"(2) A warrant shall be issued only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist, he shall issue a warrant identifying the area, factory, warehouse, establishment, premises, or motor vehicle to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall—

Ante, p. 985.

"(A) identify the items or type of property to be impounded, if any;

"(B) be directed to a person authorized under section 414 to execute it;

"(C) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

"(D) command the person to whom it is directed to inspect the area, factory, warehouse, establishment, premises, or motor vehicle identified for the purpose specified, and, where appropriate, shall direct the impoundment of the property specified;

"(E) direct that it be served during the hours specified in it; and

"(F) designate the judge or magistrate to whom it shall be returned.

Impounded
property.

Inventory.

"(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing by the Secretary of a need therefor, the judge or magistrate allows additional time in the warrant. If property is impounded pursuant to a warrant, the person executing the warrant shall give the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

Filing.

"(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

"PROHIBITED ACTS

15 USC 1990f.
Ante, p. 985.

"SEC. 416. No person shall fail to comply with the requirements of section 414 to maintain records, make reports, provide information, permit access to or copying of records, permit entry or inspection, or permit impounding.

“AUTHORIZATION OF APPROPRIATIONS

“Sec. 417. There are authorized to be appropriated to carry out this title \$450,000 for the fiscal year ending June 30, 1976; \$100,000 for the period beginning July 1, 1976, and ending September 30, 1976; \$650,000 for the fiscal year ending September 30, 1977; and \$562,000 for the fiscal year ending September 30, 1978.”. 15 USC 1990g.

Approved July 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-764 accompanying H.R. 10807 (*Comm. on Interstate and Foreign Commerce*).

SENATE REPORT No. 94-155 (*Comm. on Commerce*).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 5, considered and passed Senate.

Vol. 122 (1976): Jan. 22, considered and passed House, amended, in lieu of H.R. 10807.

June 29, Senate agreed to House amendments with amendments.

July 1, House concurred in Senate amendments.

Public Law 94-365
94th Congress

An Act

July 14, 1976

[H.R. 14484]

To make permanent the existing temporary authority for reimbursement of States for interim assistance payments under title XVI of the Social Security Act, to extend for one year the eligibility of supplemental security income recipients for food stamps, and to extend for one year the period during which payments may be made to States for child support collection services under part D of title IV of such Act.

Social Security
Act,
amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

INTERIM ASSISTANCE

42 USC 1383.

SECTION 1. Section 1631(g) of the Social Security Act is amended by striking out paragraph (6).

FOOD STAMP ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS

7 USC 2012 note.

SEC. 2. Section 8 of Public Law 93-233 is amended, subject to such further modifications as may hereafter be made in the provisions of law involved, by striking out "the 30-month period beginning January 1, 1974" where it appears—

(1) in the matter preceding the colon in subsection (a) (1), and in the new sentence added by such subsection, and

7 USC 2012 note,
612c notes, 1431
note.
42 USC 1382e
note.

(2) in subsections (a) (2), (b) (1), (b) (2), (b) (3), and (e). and by inserting in lieu thereof in each instance "the period ending June 30, 1977".

CHILD SUPPORT COLLECTION PAYMENTS

42 USC 655.

SEC. 3. Section 455(a) of the Social Security Act is amended by striking out "June 30, 1976" in the matter following paragraph (2) and inserting in lieu thereof "June 30, 1977".

Approved July 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1296 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 122 (1976):

June 28, considered and passed House.

June 30, considered and passed Senate, amended.

July 1, House disagreed to Senate amendments.

July 2, Senate receded from its amendments.

Public Law 94-366
94th Congress

An Act

To repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion and to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture.

July 14, 1976
[H.R. 10930]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 610 of the Agricultural Act of 1970, as amended (7 U.S.C. 2119), is repealed effective October 1, 1977.

Cotton research
and promotion.

SEC. 2. Section 7(e) of the Cotton Research and Promotion Act (7 U.S.C. 2106(e)) is amended as follows:

(1) At the end of the first sentence strike the period and add the following: “, and for reimbursing the Secretary (1) for expenses not to exceed \$200,000 incurred by him in connection with any referendum conducted under section 8, and (2) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after an order or amendment to an order has been issued and made effective.”.

7 USC 2107.

(2) At the end of the second sentence strike the period and add the following: “, unless specifically authorized by provisions of this subsection.”.

(3) At the end of the third sentence strike the period and add the following: “but, subject to approval in a referendum as provided in section 8, the Secretary shall issue an amendment to the order which shall provide that, in each marketing year, the rate shall be supplemented by an additional per bale amount to be collected or paid as provided in this subsection, such amount to be at a rate as prescribed in the amendment to the order, but not to exceed 1 per centum of the value of cotton as determined by the Cotton Board and the Secretary. Neither the amendment to the order authorized by the foregoing provisions nor the disapproval of such amendment in a referendum shall operate to decrease or otherwise affect the amount of the assessment of \$1 per bale in effect under the order published in the Federal Register on December 31, 1966. No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act.”.

Cotton Board,
consumer
advisors.

SEC. 3. Section 7(b) of the Cotton Research and Promotion Act (7 U.S.C. 2106(b)) is amended by adding at the end thereof the following: "The Secretary may appoint a number of consumer advisors to the Cotton Board not to exceed 15 per centum of the membership of the Cotton Board. The Cotton Board shall reimburse the consumer advisors for expenses incurred in attending meetings of the Board in the same manner as the Cotton Board members."

Approved July 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1157 (Comm. on Agriculture).

SENATE REPORT No. 94-1023 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 3, considered and passed House.

July 2, considered and passed Senate.

Public Law 94-367
94th Congress

An Act

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

July 16, 1976
[H.R. 14235]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1977, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military
Construction
Appropriation
Act, 1977.

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, and facilities for the Army as currently authorized in military public works or military construction Acts, and in sections 2673 and 2675 of title 10, United States Code, \$580,868,000, to remain available until expended.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, and facilities for the Navy as currently authorized in military public works or military construction Acts, and in sections 2673 and 2675 of title 10, United States Code, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$549,935,000, to remain available until expended.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, and facilities for the Air Force as currently authorized in military public works or military construction Acts, and in sections 2673 and 2675 of title 10, United States Code, \$788,079,000, to remain available until expended.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, and facilities for activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency), as currently authorized in military public works or military construction Acts, and in sections 2673 and 2675 of title 10, United States Code, \$41,396,000, to remain available until expended; and, in addition, not to exceed \$20,000,000 to be derived by transfer from the appropriation "Research, development, test, and evaluation, Defense Agencies" as determined by the Secretary of Defense: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of

Enewetak Atoll,
cleanup.

Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate: *Provided further*, That none of the funds appropriated under this paragraph may be expended for the cleanup of Enewetak Atoll until such time as the Secretary of Defense receives certification from appropriate administering authorities of the Trust Territory of the Pacific Islands that an agreement has been reached with the owners of the land of Enewetak Atoll or their duly constituted representatives that this appropriation shall constitute the total commitment of the Government of the United States for the cleanup of Enewetak Atoll.

All feasible economies should be realized in the accomplishment of this project, through the use of military services' construction and support forces, their subsistence, equipment, material, supplies and transportation, which have been funded to support ongoing operations of the military services and would be required for normal operations of these forces. Further, such support should be furnished without reimbursement from military construction funds.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

10 USC 2231
et seq.

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$61,128,000, to remain available until expended.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$37,200,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$53,804,000, to remain available until expended.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$23,600,000, to remain available until expended.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$10,773,000 to remain available until expended.

FAMILY HOUSING, DEFENSE

For expenses of family housing for the Army, Navy, Marine Corps, Air Force, and Defense agencies, for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation, maintenance, and debt payment, including leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$1,304,523,000, to be obligated and expended in the Family Housing Management Account established pursuant to section 501(a) of Public Law 87-554, in not to exceed the following amounts:

42 USC
1594a-1.

For the Army:

Construction, \$34,410,000;

For the Navy and Marine Corps:

Construction, \$35,175,000;

For the Air Force:

Construction, \$10,966,000;

For Defense agencies:

Construction, \$25,000;

For Department of Defense:

Debt payment, \$158,747,000;

Operation, maintenance, \$1,065,200,000:

Provided, That the amounts provided under this head for construction and for debt payment shall remain available until expended.

GENERAL PROVISIONS

SEC. 101. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such department by the authorizations enacted into law during the second session of the Ninety-fourth Congress.

Prior
appropriations.

SEC. 102. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Contracts.

SEC. 103. None of the funds appropriated in this Act shall be expended for additional costs involved in expediting construction unless the Secretary of Defense certifies such costs to be necessary to protect the national interest and establishes a reasonable completion date for each project, taking into consideration the urgency of the requirement, the type and location of the project, the climatic and seasonal conditions affecting the construction, and the application of economical construction practices.

Construction
costs, expedition.

SEC. 104. None of the funds appropriated in this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories, or possessions, as to which the Secretary of Defense does not certify, in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Service facilities.

SEC. 105. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

Motor vehicles,
hire.

SEC. 106. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States

31 USC 638f.
Access roads,
construction.
31 USC 700b.

	Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.
New bases.	SEC. 107. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.
Land purchases or easements.	SEC. 108. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except: (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than \$25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.
Foreign contracts.	SEC. 109. None of the funds appropriated in this Act may be used to make payments under contracts for any project in a foreign country unless the Secretary of Defense or his designee, after consultation with the Secretary of the Treasury or his designee, certifies to the Congress that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law is not feasible for the purpose, stating the reason therefor.
Family housing.	SEC. 110. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.
Base realignment or closure.	SEC. 111. None of the funds appropriated or otherwise made available under this Act shall be obligated or expended in connection with any base realignment or closure activity, until all terms, conditions and requirements of the National Environmental Policy Act have been complied with, with respect to each such activity.
42 USC 4321 note.	This Act may be cited as the "Military Construction Appropriation Act, 1977".
Short title.	

Approved July 16, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1222 (Comm. on Appropriations) and No. 94-1314 (Comm. of Conference).

SENATE REPORT No. 94-971 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 16, considered and passed House.

June 26, considered and passed Senate, amended.

July 1, House agreed to conference report; receded and concurred with an amendment to Senate amendment.

July 2, Senate agreed to conference report; concurred in House amendment.

Public Law 94-368
94th Congress

An Act

To extend or remove certain time limitations and make other administrative improvements in the medicare program under title XVIII of the Social Security Act.

July 16, 1976

[H.R. 13501]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15(d) of Public Law 93-233 (as amended by section 7(c) of Public Law 93-368) is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977".

SEC. 2. The last sentence of section 1842(b)(3) of the Social Security Act is amended by striking out "for the fiscal year beginning July 1, 1975," and inserting in lieu thereof "for the twelve-month period beginning on July 1 in any calendar year after 1974".

SEC. 3. (a) The third sentence of section 1842(b)(3) of the Social Security Act is amended by striking out "prior to the start of the fiscal year in which the bill is submitted or the request for payment is made" in clause (ii) and inserting in lieu thereof "prior to the start of the twelve-month period (beginning July 1 of each year) in which the bill is submitted or the request for payment is made".

(b) The fourth sentence of section 1842(b)(3) of such Act is amended by striking out "for any fiscal year beginning after June 30, 1973," and inserting in lieu thereof "for any twelve-month period (beginning after June 30, 1973) specified in clause (ii) of such sentence".

(c) Section 204(7) of the Fiscal Year Transition Act is amended by striking out the reference to section 1842(b)(3) of the Social Security Act.

SEC. 4. The amendments made by sections 2 and 3 of this Act shall be effective with respect to periods beginning after June 30, 1976; except that, for the twelve-month period beginning July 1, 1976, the amendments made by section 3 shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act (after June 30, 1976, and before July 1, 1977) with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made pursuant to such section 3 in the prevailing charge levels for such twelve-month period under the third and fourth sentences of section 1842(b)(3) of the Social Security Act.

Approved July 16, 1976.

Medicare
program.
Extension.
42 USC 1395x
note.
42 USC 1395u.

7 USC 390e note.

Effective dates.
42 USC 1395u
note.

42 USC 1395j.

42 USC 1395u.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1114 (Comm. on Ways and Means).

SENATE REPORT No. 94-993 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 13, considered and passed House.

June 30, considered and passed Senate, amended.

July 1, House disagreed to Senate amendments; Senate receded from its amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 30:

July 19, Presidential statement.

Public Law 94-369
94th Congress

An Act

To authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes.

July 22, 1976
[S. 3201]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Works Employment Act of 1976".

TITLE I—LOCAL PUBLIC WORKS

SEC. 101. This title may be cited as the "Local Public Works Capital Development and Investment Act of 1976".

SEC. 102. As used in this title, the term—

(1) "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(3) "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

SEC. 103. (a) The Secretary is authorized to make grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects including but not limited to those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this Act. In addition the Secretary is authorized to make grants to any State or local government for the completion of plans, specifications, and estimates for local public works projects where either architectural design or preliminary engineering or related planning has already been undertaken and where additional architectural and engineering work or related planning is required to permit construction of the project under this Act.

(b) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the cost of the project.

SEC. 104. In addition to the grants otherwise authorized by this Act, the Secretary is authorized to make a grant for the purpose of increasing the Federal contribution to a public works project for which Federal financial assistance is authorized under provisions of law other than this Act. Any grant made for a public works project under this section shall be in such amount as may be necessary to make the Federal share of the cost of such project 100 per centum. No grant shall be made for a project under this section unless the Federal financial assistance for such project authorized under provisions of law other than this Act is immediately available for such project and construction of such project has not yet been initiated because of lack of funding for the non-Federal share.

SEC. 105. In addition to the grants otherwise authorized by this Act, the Secretary is authorized to make a grant for the purpose of providing all or any portion of the required State or local share of the cost of any public works project for which financial assistance is

Public Works
Employment Act
of 1976.

42 USC 6701
note.

Local Public
Works Capital
Development and
Investment Act of
1976.

42 USC 6701
note.

Definitions.
42 USC 6701.

Grants.
42 USC 6702.

Federal share.

42 USC 6703.

42 USC 6704.

authorized under any provision of State or local law requiring such contribution. Any grant made for a public works project under this section shall be made in such amount as may be necessary to provide the requested State or local share of the cost of such project. A grant shall be made under this section for either the State or local share of the cost of the project, but not both shares. No grant shall be made for a project under this section unless the share of the financial assistance for such project (other than the share with respect to which a grant is requested under this section) is immediately available for such project and construction of such project has not yet been initiated.

42 USC 6705.

SEC. 106. (a) No grant shall be made under section 103, 104, or 105 of this Act for any project having as its principal purpose the channelization, damming, diversion, or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site) and having as its permanent effect the channelization, damming, diversion, or dredging of such watercourse or construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site).

(b) No part of any grant made under section 103, 104, or 105 of this Act shall be used for the acquisition of any interest in real property.

(c) Nothing in this Act shall be construed to authorize the payment of maintenance costs in connection with any projects constructed (in whole or in part) with Federal financial assistance under this Act.

(d) Grants made by the Secretary under this Act shall be made only for projects for which the applicant gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor can begin within ninety days of project approval.

Rules and
regulations.
42 USC 6706.

SEC. 107. The Secretary shall, not later than thirty days after date of enactment of this Act, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this Act. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project area, and (3) the extent to which proposed projects will contribute to the reduction of unemployment. The Secretary shall make a final determination with respect to each application for a grant submitted to him under this Act not later than the sixtieth day after the date he receives such application. Failure to make such final determination within such period shall be deemed to be an approval by the Secretary of the grant requested. For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

42 USC 6707.

SEC. 108. (a) Not less than one-half of 1 per centum or more than 12½ per centum of all amounts appropriated to carry out this title shall be granted under this Act for local public works projects within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the

aggregate shall be granted for such projects in all three of these jurisdictions.

(b) In making grants under this Act, the Secretary shall give priority and preference to public works projects of local governments.

(c) In making grants under this Act, if for the three most recent consecutive months, the national unemployment rate is equal to or exceeds 6½ per centum, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of 6½ per centum, but less than the national unemployment rate. Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization.

(d) Seventy per centum of all amounts appropriated to carry out this Act shall be granted for public works projects submitted by State or local governments given priority under clause (1) of the first sentence of subsection (c) of this section. The remaining 30 per centum shall be available for public works projects submitted by State or local governments in other classifications of priority.

(e) The unemployment rate of a local government shall, for the purposes of this Act, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood.

(f) In determining the unemployment rate of a local government for the purposes of this section, unemployment in those adjoining areas from which the labor force for such project may be drawn, shall, upon request of the applicant, be taken into consideration.

(g) States and local governments making application under this Act should (1) relate their specific requests to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions; and (2) where feasible, make requests which, although capable of early initiation, will promote or advance longer range plans and programs.

Sec. 109. All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall not extend any financial assistance under this Act for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R.

Labor standards.
42 USC 6708.

5 USC app. I.

3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

Nondiscrimination.
42 USC 6709.

SEC. 110. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project receiving Federal grant assistance under this Act, including any supplemental grant made under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

42 USC 2000d.

Appropriation
authorization.
42 USC 6710.

SEC. 111. There is authorized to be appropriated not to exceed \$2,000,000,000 for the period ending September 30, 1977, to carry out this Act.

TITLE II—ANTIRECESSION PROVISIONS

FINDINGS OF FACT AND DECLARATION OF POLICY

42 USC 6721.

SEC. 201. FINDINGS.—The Congress finds—

(1) that State and local governments represent a significant segment of the national economy whose economic health is essential to national economic prosperity;

(2) that present national economic problems have imposed considerable hardships on State and local government budgets;

(3) that those governments, because of their own fiscal difficulties, are being forced to take budget-related actions which tend to undermine Federal Government efforts to stimulate the economy;

(4) that efforts to stimulate the economy through reductions in Federal Government tax obligations are weakened when State and local governments are forced to increase taxes;

(5) that the net effect of Federal Government efforts to reduce unemployment through public service jobs is substantially limited if State and local governments use federally financed public service employees to replace regular employees that they have been forced to lay off;

(6) that efforts to stimulate the construction industry and reduce unemployment are substantially undermined when State and local governments are forced to cancel or delay the construction of essential capital projects; and

(7) that efforts by the Federal Government to stimulate the economic recovery will be substantially enhanced by a program of emergency Federal Government assistance to State and local governments to help prevent those governments from taking budget-related actions which undermine the Federal Government efforts to stimulate economic recovery.

FINANCIAL ASSISTANCE AUTHORIZED

42 USC 6722.

SEC. 202. (a) PAYMENTS TO STATE AND LOCAL GOVERNMENTS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall, in accordance with the provisions of this title, make payments to States and to local governments to coordinate budget-related actions by such governments with Federal Government efforts to stimulate economic recovery.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Subject to the provisions of subsections (c) and (d), there are authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1976) for the purpose of payments under this title—

- (1) \$125,000,000 plus
- (2) \$62,500,000 multiplied by the number of one-half percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended three months before the beginning of such calendar quarter exceeded 6 percent.

(c) **AGGREGATE AUTHORIZATION.**—In no case shall the aggregate amount authorized to be appropriated under the provisions of subsection (b) for the five calendar quarters beginning with the calendar quarter which begins July 1, 1976, exceed \$1,250,000,000.

(d) **TERMINATION.**—No amount is authorized to be appropriated under the provisions of subsection (b) for any calendar quarter if—

- (1) the average rate of national unemployment during the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent, and
- (2) the rate of national unemployment for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent.

ALLOCATION

SEC. 203. (a) **RESERVATIONS.**—

42 USC 6723.

(1) **ELIGIBLE STATES.**—The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 202 for each calendar quarter for the purpose of making payments to eligible State governments under subsection (b).

(2) **ELIGIBLE UNITS OF LOCAL GOVERNMENT.**—The Secretary shall reserve two-thirds of such amounts for the purpose of making payments to eligible units of local government under subsection (c).

(b) **STATE ALLOCATION.**—

(1) **IN GENERAL.**—The Secretary shall allocate from amounts reserved under subsection (a) (1) an amount for the purpose of making payments to each State equal to the total amount reserved under subsection (a) (1) for the calendar quarter multiplied by the applicable State percentage.

(2) **APPLICABLE STATE PERCENTAGE.**—For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of the product of—

- (A) the State excess unemployment percentage, multiplied by
- (B) the State revenue sharing amount by the sum of such products for all the States.

(3) **DEFINITIONS.**—For the purposes of this section—

- (A) the term “State” means each State of the United States;
- (B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the State unemployment rate for that State but shall not be less than zero;

(C) the State unemployment rate is equal to the rate of unemployment in the State during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and

31 USC 1226.

(D) the State revenue sharing amount is the amount determined under section 107 of the State and Local Fiscal Assistance Act of 1972 for the one-year period beginning on July 1, 1975.

(c) LOCAL GOVERNMENT ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a)(2) an amount for the purpose of making payments to each local government, subject to the provisions of paragraphs (3) and (5), equal to the total amount reserved under such subsection for calendar quarter multiplied by the local government percentage.

(2) LOCAL GOVERNMENT PERCENTAGE.—For purposes of this subsection, the local government percentage is equal to the quotient resulting from the division of the product of—

(A) the local excess unemployment percentage, multiplied by

(B) the local revenue sharing amount, by the sum of such products for all local governments.

(3) SPECIAL RULE.—

(A) For purposes of paragraphs (1) and (2), all local governments within the jurisdiction of a State other than identifiable local governments shall be treated as though they were one local government.

(B) The Secretary shall set aside from the amount allocated under paragraph (1) of this subsection for all local government within the jurisdiction of a State which are treated as though they are one local government under subparagraph (A) an amount determined under subparagraph (C) for the purpose of making payments to each local government, other than identifiable local governments within the jurisdiction of such State.

(C) The amount set aside for the purpose of making payments to each local government, other than an identifiable local government, with the jurisdiction of a State under subparagraph (B) shall be—

(i) equal to the total amount allocated under paragraph (1) of this subsection for all local governments within the jurisdiction of such State which are treated as though they are one local government under subparagraph (A) multiplied by the local government percentage as defined in paragraph (2) (determined without regard to the parenthetical phrases at the end of paragraphs (4) (B) and (C) of this subsection), unless

(ii) such State submits, within thirty days, after the effective date of this title, an allocation plan which has been approved by the State legislature and which meets the requirements set forth in section 206(a), and is approved by the Secretary under the provisions of section 206(b). In the event that a State legislature is not scheduled to meet in regular session within three months after the effective date of this title, the Governor of such State shall be authorized to submit an alternative plan

which meets the requirements set forth in section 206(a), and is approved by the Secretary under the provisions of section 206(b).

(D) If local unemployment rate data (as defined in paragraph (4)(B) of this subsection without regard to the parenthetical phrase at the end of such definition) for a local government jurisdiction is unavailable to the Secretary for purposes of determining the amount to be set aside for such government under subparagraph (C) then the Secretary shall determine such amount under subparagraph (C) by using the local unemployment rate determined under the parenthetical phrase of subsection (4)(B) for all local governments in such State treated as one jurisdiction under paragraph (A) of this subsection unless better unemployment rate data, certified by the Secretary of Labor, is available.

(4) DEFINITIONS.—For purposes of this subsection—

(A) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the local unemployment rate, but shall not be less than zero;

(B) the local unemployment rate is equal to the rate of unemployment in the jurisdiction of the local government during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary (in the case of local governments treated as one local government under paragraph (3)(A), the local unemployment rate shall be the unemployment rate of the State adjusted by excluding consideration of unemployment and of the labor force within identifiable local governments, other than county governments, within the jurisdiction of that State);

(C) the local revenue sharing amount is the amount determined under section 108 of the State and Local Fiscal Assistance Act of 1972 for the one-year period beginning on July 1, 1975 (and in the case of local governments treated as one local government under paragraph (3)(A), the local revenue sharing amount shall be the sum of the local revenue sharing amounts of all eligible local governments within the State, adjusted by excluding an amount equal to the sum of the local revenue sharing amounts of identifiable local governments within the jurisdiction of that State);

31 USC 1227.

(D) the term “identifiable local government” means a unit of general local government for which the Secretary of Labor has made a determination concerning the rate of unemployment for purposes of title II or title VI of the Comprehensive Employment and Training Act of 1973 during the current or preceding fiscal year; and

29 USC 841,
961.

(E) the term “local government” means the government of a county, municipality, township, or other unit of government below the State which—

(i) is a unit of general government (determined on the basis of the same principles as are used by the Social and Economic Statistics Administration for general statistical purposes), and

(ii) performs substantial governmental functions. Such term includes the District of Columbia and also

includes the recognized governing body of an Indian tribe of Alaskan Native village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

29 USC 961. For the purpose of paragraph (4) (D), the Secretary of Labor shall, notwithstanding any other provision of law, continue to make determinations with respect to the rate of unemployment for the purposes of such title VI.

(5) SPECIAL LIMITATION.—If the amount which would be allocated to any unit of local government under this subsection is less than \$100, then no amount shall be allocated for such unit of local government under this subsection.

USES OF PAYMENTS

42 USC 6724. SEC. 204. Each State and local government shall use payments made under this title for the maintenance of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use emergency support grants made under this title for the acquisition of supplies and materials and for construction unless such supplies and materials or construction are to maintain basic services.

STATEMENT OF ASSURANCES

Rules.
42 USC 6725. SEC. 205. Each State and unit of local government may receive payments under this title only upon filing with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than ninety days after the effective date of this title. The Secretary may not require any State or local government to file more than one such statement during each fiscal year. Each such statement shall contain—

(1) an assurance that payments made under this title to the State or local government will be used for the maintenance, to the extent practical, of levels of public employment and of basic services customarily provided to persons in that State or in the area under the jurisdiction of that unit of local government which is consistent with the provisions of section 204;

(2) an assurance that the State or unit of local government will—

(A) use fiscal, accounting, and audit procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States), and

(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title;

Reports,
publication.

(3) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title and that such report shall be published in a newspaper of general circulation in the jurisdiction of such government unless the cost of such publication is excessive in relation to the amount of the payments received by such government under

this title or other means of publicizing such report is more appropriate, in which case such report shall be publicized pursuant to rules prescribed by the Secretary;

(4) an assurance that the requirements of section 207 will be complied with;

(5) an assurance that the requirements of section 208 will be complied with;

(6) an assurance that the requirements of section 209 will be complied with;

(7) an assurance that the State or unit of local government will spend any payment it receives under this title before the end of the six-calendar-month period which begins on the day after the date on which such State or local government receives such payment; and

(8) an assurance that the State or unit of local government will spend amounts received under this title only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

OPTIONAL ALLOCATION PLANS

SEC. 206. (a) STATE ALLOCATION PLANS FOR PURPOSES OF SECTION 203(c) (3).—A State may file an allocation plan with the Secretary for purposes of section 203(c) (3) (C) (ii) at such time, in such manner, and containing such information as the Secretary may require by rule. Such rules shall be provided by the Secretary not later than sixty days of the effective date of this title. Such allocation plan shall meet the following requirements:

Rules.
42 USC 6726.

(1) the criteria for allocation of amounts among the local governments within the State shall be consistent with the allocation formula for local governments under section 203(c) (2);

(2) the plan shall use—

(A) the best available unemployment rate data for such government if such data is determined in a manner which is substantially consistent with the manner in which local unemployment rate data is determined, or

(B) if no consistent unemployment rate data is available, the local unemployment rate data for the smallest unit of identifiable local government in the jurisdiction of which such government is located,

(3) the allocation criteria must be specified in the plan, and

(4) the plan must be developed after consultation with appropriate officials of local governments within the State other than identifiable local governments.

(b) APPROVAL.—The Secretary shall approve any allocation plan that meets the requirements of subsection (a) within thirty days after he receives such allocation plan, and shall not finally disapprove, in whole or in part, any allocation plan for payments under this title without first affording the State or local governments involved reasonable notice and an opportunity for a hearing.

NONDISCRIMINATION

SEC. 207. (a) IN GENERAL.—No person in the United States shall, on the grounds of race, religion, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

42 USC 6727.

(b) **AUTHORITY OF THE SECRETARY.**—Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) or an applicable regulation, he shall, within ten days, notify the Governor of the State (or, in the case of a unit of local government the Governor of the State in which such unit is located, and the chief elected official of the unit) of the non-compliance. If within thirty days of the notification compliance is not achieved, the Secretary shall within ten days thereafter—

42 USC 2000d.

(1) exercise all the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000e);

(2) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(3) take such other action as may be provided by law.

(c) **ENFORCEMENT.**—Upon his determination of discrimination under subsection (b), the Secretary shall have the full authority to withhold or temporarily suspend any payment under this title, or otherwise exercise any authority contained in title VI of the Civil Rights Act of 1964, to assure compliance with the requirement of nondiscrimination in federally assisted programs funded, in whole or in part, under this title.

(d) **APPLICABILITY OF CERTAIN CIVIL RIGHTS ACTS.**—

(1) Any party who is injured or deprived within the meaning of section 1979 of the Revised Statutes (42 U.S.C. 1983) or of section 1980 of the Revised Statutes (42 U.S.C. 1985) by any person, or two or more persons in the case of such section 1980, in connection with the administration of a payment under this title may bring a civil action under such section 1979 or 1980, as applicable, subject to the terms and conditions of those sections.

(2) Any person who is aggrieved by an unlawful employment practice within the meaning of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by any employer in connection with the administration of a payment under this title may bring a civil action under section 706(f)(1) of such Act (42 U.S.C. 2000e-5(f)(1)) subject to the terms and conditions of such title.

LABOR STANDARDS

42 USC 6728.

SEC. 208. All laborers and mechanics employed by contractors on all construction projects funded in whole or in part by payments under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 C.F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

5 USC app. I.

SPECIAL REPORTS

42 USC 6729.

SEC. 209. Each State and unit of local government which receives a payment under the provisions of this title shall report to the Secretary any increase or decrease in any tax which it imposes and any substantial reduction in the number of individuals it employs or in services which such State or local government provides. Each State which receives a payment under the provisions of this title shall report to the Secretary any decrease in the amount of financial assistance which the State provides to the units of local governments during the twelve-

month period which ends on the last day of the calendar quarter immediately preceding the date of enactment of this title, together with an explanation of the reasons for such decrease. Such reports shall be made as soon as it is practical and, in any case, not more than six months after the date on which the decision to impose such tax increase or decrease, such reductions in employment or services, or such decrease in State financial assistance is made public.

PAYMENTS

SEC. 210. (a) IN GENERAL.—From the amount allocated for State and local governments under section 203, the Secretary shall pay not later than five days after the beginning of each quarter to each State and to each local government which has filed a statement of assurances under section 205, an amount equal to the amount allocated to such State or local government under section 203. 42 USC 6730.

(b) ADJUSTMENTS.—Payments under this title may be made with necessary adjustments on account of overpayments or underpayments.

(c) TERMINATION.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if—

(1) the average rate of unemployment within the jurisdiction of such State or local government during the most recent calendar quarter which ended three months before the beginning of such calendar quarter was less than 4.5 percent, and

(2) the rate of unemployment within the jurisdiction of such government for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 4.5 percent.

STATE AND LOCAL GOVERNMENT ECONOMICIZATION

SEC. 211. Each State or unit of local government which receives payments under this title shall provide assurances in writing to the Secretary, at such time and in such manner and form as the Secretary may prescribe by rule, that it has made substantial economies in its operations and that payments under this title are necessary to maintain essential services without weakening Federal Government efforts to stimulate the economy through reductions in Federal tax obligations. 42 USC 6731.

WITHHOLDING

SEC. 212. Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any State or unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that State or units of local government filed under section 205, the Secretary shall notify that State or unit of local government that further payments will not be made under this title until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title. Notice and hearing. 42 USC 6732.

REPORTS

SEC. 213. The Secretary shall report to the Congress as soon as is practical after the end of each calendar quarter during which payments are made under the provisions of this title. Such report shall include information on the amounts paid to each State and units of 42 USC 6733.

local government and a description of any action which the Secretary has taken under the provisions of section 212 during the previous calendar quarter. The Secretary shall report to Congress as soon as is practical after the end of each calendar year during which payments are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to State and units of local government under the provisions of this title, any actions with which the Secretary has taken under the provisions of section 212, and an evaluation of the purposes to which amounts paid under this title were put by State and units of local government and economic impact of such expenditures during the previous calendar year.

ADMINISTRATION

42 USC 6734.

SEC. 214. (a) RULES.—The Secretary is authorized to prescribe, after consultation with the Secretary of Labor, such rules as may be necessary for the purpose of carrying out his functions under this title. Such rules should be prescribed by the Secretary not later than ninety days of the effective date of this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the administration of this title.

PROGRAM STUDIES AND RECOMMENDATIONS

42 USC 6735.

SEC. 215. (a) EVALUATION.—The Comptroller General of the United States shall conduct an investigation of the impact which emergency support grants have on the operations of State and local governments and on the national economy. Before and during the course of such investigation the Comptroller General shall consult with and coordinate his activities with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The Comptroller General shall report the results of such investigation to the Congress within one year after the date of enactment of this title together with an evaluation of the macroeconomic effect of the program established under this title and any recommendations for improving the effectiveness of similar programs. All officers and employees of the United States shall make available all information, reports, data, and any other material necessary to carry out the provisions of this subsection to the Comptroller General upon a reasonable request.

Report to
Congress.

(b) COUNTERCYCLICAL STUDY.—The Congressional Budget Office and the Advisory Commission on Intergovernmental Relations shall conduct a study to determine the most effective means by which the Federal Government can stabilize the national economy during periods of rapid economic growth and high inflation through programs directed toward State and local governments. Such study shall include a comparison of the effectiveness of alternative factors for triggering and measuring the extent of the fiscal coordination problem addressed by this program, and the effect of the recession on State and local expenditures. Before and during the course of such study, the Congressional Budget Office and the Advisory Commission shall consult with and coordinate their activities with the Comptroller General of the United States. The Congressional Budget Office and the Advisory Commission shall report the results of such study to Congress within two years after the date of enactment of this title. Such study shall include the opinions of the Comptroller General with respect to such study.

Report to
Congress.

TITLE III—FEDERAL WATER POLLUTION
CONTROL ACT AMENDMENTS

SEC. 301. There is authorized to be appropriated to carry out title II of the Federal Water Pollution Control Act, other than sections 206, 208, and 209, for the fiscal year ending September 30, 1977, not to exceed \$700,000,000 which sum (subject to such amounts as are provided in appropriation Acts) shall be allotted to each State listed in column 1 of table IV contained in House Public Works and Transportation Committee Print numbered 94-25 in accordance with the percentages provided for such State (if any) in column 5 of such table. The sum authorized by this section shall be in addition to, and not in lieu of, any funds otherwise authorized to carry out such title during such fiscal year. Any sums allotted to a State under this section shall be available until expended.

Appropriation
authorization.
33 USC 1287
note.
33 USC 1281.

CARL ALBERT

Speaker of the House of Representatives.

JOHN CULVER

Acting President of the Senate pro tempore.

IN THE SENATE OF THE UNITED STATES,

July 21, 1976.

The Senate having proceeded to reconsider the bill (S. 3201) entitled "An Act to authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO

Secretary.

I certify that this Act originated in the Senate.

FRANCIS R. VALEO

Secretary.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

July 22, 1976.

The House of Representatives having proceeded to reconsider the bill (S. 3201) entitled "An Act to authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDMUND L. HENSHAW, JR.

Clerk.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1077 accompanying H.R. 12972 (Comm. on Public Works and Transportation) and No. 94-1260 (Comm. of Conference).

SENATE REPORTS: No. 94-710 (Comm. on Public Works) and No. 94-939 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 12, 13, considered and passed Senate.

May 13, considered and passed House, amended, in lieu of H.R. 12972.

June 16, Senate agreed to conference report.

June 23, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 28:

July 6, vetoed; Presidential message.

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 21, Senate overrode veto.

July 22, House overrode veto.

Public Law 94-370
94th Congress

An Act

To improve coastal zone management in the United States, and for other purposes.

July 26, 1976
[S. 586]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coastal Zone Management Act Amendments of 1976".

SEC. 2. FINDINGS.

Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended—

(1) by inserting "ecological," immediately after "recreational," in subsection (b);

(2) by striking out—

(A) the semicolon at the end of subsections (a), (b), (c), (d), (e), and (f), respectively, and

(B) "; and" at the end of subsection (g),

and inserting in lieu of such matter at each such place a period; and

(3) by inserting immediately after subsection (h) the following:

"(i) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone."

SEC. 3. DEFINITIONS.

Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended—

(1) by redesignating paragraph (a) as paragraph (1), and by amending the first sentence of such paragraph (1) (as so redesignated)—

(A) by striking out "'Coastal'" and inserting in lieu thereof "The term 'coastal'"; and

(B) by inserting immediately after "and includes" the following: "islands,";

(2) by redesignating paragraph (b) as paragraph (2), and by amending such paragraph (2) (as so redesignated)—

(A) by striking out "'Coastal'" and inserting in lieu thereof "The term 'coastal'"; and

(B) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(3) by striking out "(c) 'Coastal'" and inserting in lieu thereof "(3) The term 'coastal'";

(4) by inserting immediately before paragraph (d) thereof the following:

"(4) The term 'coastal energy activity' means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or

Coastal Zone
Management Act
Amendments of
1976.
16 USC 1451
note.

operation of such equipment or facility be carried out in, or in close proximity to, the coastal zone of any coastal state;

“(i) Any outer Continental Shelf energy activity.

“(ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

“(iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deep-water port, as defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(10))).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be ‘in close proximity to’ the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

“(5) The term ‘energy facilities’ means any equipment or facility which is or will be used primarily—

“(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

“(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.”;

(5) by striking out “(d) ‘Estuary’” and inserting in lieu thereof

“(6) The term ‘estuary’”;

(6) by redesignating paragraph (e) as paragraph (7) and by amending such paragraph (7) (as so redesignated)—

(A) by striking out “‘Estuarine’” and inserting in lieu thereof “The term ‘estuarine’”, and

(B) by striking out “estuary, adjoining transitional areas, and adjacent uplands, constituting” and inserting in lieu thereof the following: “estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes”;

(7) by striking out paragraph (f) and inserting in lieu thereof the following:

“(8) The term ‘Fund’ means the Coastal Energy Impact Fund established by section 308(h).

Post, p. 1019.

“(9) The term ‘land use’ means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 307(g).

16 USC 1456.

“(10) The term ‘local government’ means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state’s coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.”;

(8) by striking out “(g) ‘Management’ and inserting in lieu thereof “(11) The term ‘management’”;

(9) by inserting immediately after paragraph (11) (as redesignated by paragraph (8) of this section) the following:

“(12) The term ‘outer Continental Shelf energy activity’ means any exploration for, or any development or production of, oil or natural gas from the outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))), or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production.

“(13) The term ‘person’ means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state; the Federal Government; any state, regional, or local government; or any entity of any such Federal, state, regional, or local government.

“(14) The term ‘public facilities and public services’ means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

“(15) The term ‘Secretary’ means the Secretary of Commerce.”;

(10) by striking out “(h) ‘Water’ and inserting in lieu thereof

“(16) The term ‘water’; and

(11) by striking out paragraph (i).

SEC. 4. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is amended to read as follows:

“MANAGEMENT PROGRAM DEVELOPMENT GRANTS

“SEC. 305. (a) The Secretary may make grants to any coastal state—

“(1) under subsection (c) for the purpose of assisting such state in the development of a management program for the land and water resources of its coastal zone; and

“(2) under subsection (d) for the purpose of assisting such state in the completion of the development, and the initial implementation, of its management program before such state qualifies for administrative grants under section 306.

“(b) The management program for each coastal state shall include each of the following requirements:

“(1) An identification of the boundaries of the coastal zone subject to the management program.

“(2) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

“(3) An inventory and designation of areas of particular concern within the coastal zone.

“(4) An identification of the means by which the state proposes to exert control over the land uses and water uses referred to in

Post, p. 1017.
Requirements.

paragraph (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions.

“(5) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

“(6) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

“(7) A definition of the term ‘beach’ and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

“(8) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities.

“(9) A planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

No management program is required to meet the requirements in paragraphs (7), (8), and (9) before October 1, 1978.

Post, p. 1017.

“(c) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a) (1) if such state reasonably demonstrates to the satisfaction of the Secretary that such grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed 80 per centum of such state’s costs for such purposes in any one year. No coastal state is eligible to receive more than four grants pursuant to this subsection. After the initial grant is made to any coastal state pursuant to this subsection, no subsequent grant shall be made to such state pursuant to this subsection unless the Secretary finds that such state is satisfactorily developing its management program.

“(d) (1) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a) (2) if the Secretary finds that such state meets the eligibility requirements set forth in paragraph (2). The amount of any such grant shall not exceed 80 per centum of the costs for such purposes in any one year.

Eligibility.

“(2) A coastal state is eligible to receive grants under this subsection if it has—

“(A) developed a management program which—

“(i) is in compliance with the rules and regulations promulgated to carry out subsection (b), but

“(ii) has not yet been approved by the Secretary under section 306;

“(B) specifically identified, after consultation with the Secretary, any deficiency in such program which makes it ineligible for approval by the Secretary pursuant to section 306, and has established a reasonable time schedule during which it can remedy any such deficiency;

“(C) specified the purposes for which any such grant will be used;

“(D) taken or is taking adequate steps to meet any requirement under section 306 or 307 which involves any Federal official or agency; and

Post, p. 1018.

“(E) complied with any other requirement which the Secretary, by rules and regulations, prescribes as being necessary and appropriate to carry out the purposes of this subsection.

“(3) No management program for which grants are made under this subsection shall be considered an approved program for purposes of section 307.

“(e) Grants under this section shall be made to, and allocated among, the coastal states pursuant to rules and regulations promulgated by the Secretary; except that—

16 USC 1456.
Rules and regulations.

“(1) no grant shall be made under this section in an amount which is more than 10 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary may waive this limitation in the case of any coastal state which is eligible for grants under subsection (d); and

“(2) no grant shall be made under this section in an amount which is less than 1 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary shall waive this limitation in the case of any coastal state which requests such a waiver.

“(f) The amount of any grant (or portion thereof) made under this section which is not obligated by the coastal state concerned during the fiscal year for which it was first authorized to be obligated by such state, or during the fiscal year immediately following, shall revert to the Secretary who shall add such amount to the funds available for grants under this section.

“(g) With the approval of the Secretary, any coastal state may allocate to any local government, to any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to any regional agency, or to any interstate agency, a portion of any grant received by it under this section for the purpose of carrying out the provisions of this section.

42 USC 3334.

“(h) Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306. Whenever the Secretary approves the management program of any coastal state under section 306, such state thereafter—

Infra.

“(1) shall not be eligible for grants under this section; except that such state may receive grants under subsection (c) in order to comply with the requirements of paragraphs (7), (8), and (9) of subsection (b); and

“(2) shall be eligible for grants under section 306.

“(i) The authority to make grants under this section shall expire on September 30, 1979.”

Expiration date.

SEC. 5. ADMINISTRATIVE GRANTS.

Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—

(1) by amending subsection (a) to read as follows:

“(a) The Secretary may make a grant annually to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary (1) finds that such program meets the requirements of section 305(b), and (2) approves such program in accordance with subsections (c), (d), and (e).”;

Ante, p. 1015.

(2) by amending subsection (c)(2)(B) by striking out the period at the end thereof and inserting in lieu thereof the following: “; except that the Secretary shall not find any mechanism to be ‘effective’ for purposes of this subparagraph unless it includes each of the following requirements:

Notice.

“(i) Such management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, to send a notice of such management program decision to any local government whose zoning authority is affected thereby.

“(ii) Any such notice shall provide that such local government may, within the 30-day period commencing on the date of receipt of such notice, submit to the management agency written comments on such management program decision, and any recommendation for alternatives thereto, if no action is taken during such period which would conflict or interfere with such management program decision, unless such local government waives its right to comment.

“(iii) Such management agency, if any such comments are submitted to it, with such 30-day period, by any local government—

“(I) is required to consider any such comments,

“(II) is authorized, in its discretion, to hold a public hearing on such comments, and

“(III) may not take any action within such 30-day period to implement the management program decision, whether or not modified on the basis of such comments.”;

(3) by amending subsection (c) (8) to read as follows—

“(8) The management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such consideration to any applicable interstate energy plan or program.”;

(4) by amending subsection (g) to read as follows:

“(g) Any coastal state may amend or modify the management program which it has submitted and which has been approved by the Secretary under this section, pursuant to the required procedures described in subsection (c). Except with respect to any such amendment which is made before October 1, 1978, for the purpose of complying with the requirements of paragraphs (7), (8), and (9) of section 305(b), no grant shall be made under this section to any coastal state after the date of such an amendment or modification, until the Secretary approves such amendment or modification.”.

Ante, p. 1015.

SEC. 6. CONSISTENCY AND MEDIATION.

Section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) is amended—

(1) by striking out “INTERAGENCY” in the title of such section;

(2) by striking out the last sentence of subsection (b);

(3) by amending subsection (c) (3) by inserting “(A)” immediately after “(3)”, and by adding at the end thereof the following:

“(B) After the management program of any coastal state has been approved by the Secretary under section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such

16 USC 1455.

plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

“(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

“(ii) concurrence by such state with such certification is conclusively presumed, as provided for in subparagraph (A); or

“(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.”; and

(4) by adding at the end thereof the following new subsection:

“(h) In case of serious disagreement between any Federal agency and a coastal state—

“(1) in the development or the initial implementation of a management program under section 305; or

“(2) in the administration of a management program approved under section 306;

the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.”.

SEC. 7. COASTAL ENERGY IMPACT PROGRAM.

The Coastal Zone Management Act of 1972 is further amended by redesignating sections 308 through 315 as sections 311 through 318, respectively; and by inserting immediately after section 307 the following:

“COASTAL ENERGY IMPACT PROGRAM

“SEC. 308. (a) (1) The Secretary shall administer and coordinate, as part of the coastal zone management activities of the Federal Government provided for under this title, a coastal energy impact program. Such program shall consist of the provision of financial

Ante, p. 1015.

16 USC 1455.

16 USC
1457-1464.

16 USC 1456a.

assistance to meet the needs of coastal states and local governments in such states resulting from specified activities involving energy development. Such assistance, which includes—

“(A) grants, under subsection (b), to coastal states for the purposes set forth in subsection (b)(4) with respect to consequences resulting from the energy activities specified therein;

“(B) grants, under subsection (c), to coastal states for study of, and planning for, consequences relating to new or expanded energy facilities in, or which significantly affect, the coastal zone;

“(C) loans, under subsection (d)(1), to coastal states and units of general purpose local government to assist such states and units to provide new or improved public facilities or public services which are required as a result of coastal energy activity;

“(D) guarantees, under subsection (d)(2) and subject to the provisions of subsection (f), of bonds or other evidences of indebtedness issued by coastal states and units of general purpose local government for the purpose of providing new or improved public facilities or public services which are required as a result of coastal energy activity;

“(E) grants or other assistance, under subsection (d)(3), to coastal states and units of general purpose local government to enable such states and units to meet obligations under loans or guarantees under subsection (d)(1) or (2) which they are unable to meet as they mature, for reasons specified in subsection (d)(3); and

“(F) grants, under subsection (d)(4), to coastal states which have suffered, are suffering, or will suffer any unavoidable loss of a valuable environmental or recreational resource;

shall be provided, administered, and coordinated by the Secretary in accordance with the provisions of this section and under the rules and regulations required to be promulgated pursuant to paragraph (2). Any such financial assistance shall be subject to audit under section 313.

“(2) The Secretary shall promulgate, in accordance with section 317, such rules and regulations (including, but not limited to, those required under subsection (e)) as may be necessary and appropriate to carry out the provisions of this section.

“(b)(1) The Secretary shall make grants annually to coastal states, in accordance with the provisions of this subsection.

“(2) The amounts granted to coastal states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), (C), and (D):

“(A) An amount which bears, to one-third of the amount appropriated for the purpose of funding grants under this subsection for such fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in such preceding year.

“(B) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal

Post, p. 1030.
Rules and
regulations.
16 USC 1463.

Grants.

Calculations.

Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.

“(C) An amount which bears, to one-sixth of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the coastal states in such year.

“(D) An amount which bears, to one-third of the amount appropriated for such purpose for such fiscal year, the same ratio that the number of individuals residing in such state in the immediately preceding fiscal year who obtain new employment in such year as a result of new or expanded outer Continental Shelf energy activities bears to the total number of individuals residing in all of the coastal states in such year who obtain new employment in such year as a result of such outer Continental Shelf energy activities.

“(3) (A) The Secretary shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each Federal department, agency, and instrumentality shall provide to the Secretary such assistance in collecting and evaluating relevant information as the Secretary may request. The Secretary shall request the assistance of any appropriate state agency in collecting and evaluating such information.

“(B) For purposes of making calculations under paragraph (2), outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

“(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

“(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by an interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and the Contiguous Zone, and extended on the basis of such principles.

“(iii) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

“(C) For purposes of making calculations under this subsection, the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included within the fiscal year ending June 30, 1976.

"(4) Each coastal state shall use the proceeds of grants received by it under this subsection for the following purposes (except that priority shall be given to the use of such proceeds for the purpose set forth in subparagraph (A)):

"(A) The retirement of state and local bonds, if any, which are guaranteed under subsection (d)(2); except that, if the amount of such grants is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

"(B) The study of, planning for, development of, and the carrying out of projects and programs in such state which are—

"(i) necessary, because of the unavailability of adequate financing under any other subsection, to provide new or improved public facilities and public services which are required as a direct result of new or expanded outer Continental Shelf energy activity; and

"(ii) of a type approved by the Secretary as eligible for grants under this paragraph, except that the Secretary may not disapprove any project or program for highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care.

"(C) The prevention, reduction, or amelioration of any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource if such loss results from coastal energy activity.

"(5) The Secretary, in a timely manner, shall determine that each coastal state has expended or committed, and may determine that such state will expend or commit, grants which such state has received under this subsection in accordance with the purposes set forth in paragraph (4). The United States shall be entitled to recover from any coastal state an amount equal to any portion of any such grant received by such state under this subsection which—

"(A) is not expended or committed by such state before the close of the fiscal year immediately following the fiscal year in which the grant was disbursed, or

"(B) is expended or committed by such state for any purpose other than a purpose set forth in paragraph (4).

Before disbursing the proceeds of any grant under this subsection to any coastal state, the Secretary shall require such state to provide adequate assurances of being able to return to the United States any amounts to which the preceding sentence may apply.

Grants.

"(c) The Secretary shall make grants to any coastal state if the Secretary finds that the coastal zone of such state is being, or is likely to be, significantly affected by the siting, construction, expansion, or operation of new or expanded energy facilities. Such grants shall be used for the study of, and planning for (including, but not limited to, the application of the planning process included in a management program pursuant to section 305(b)(8)) any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such state's coastal zone as a result of the siting, construction, expansion, or operation of such new or expanded energy facilities. The amount of any such grant shall not exceed 80 per centum of the cost of such study and planning.

Ante, p. 1015.

Loans.

"(d) (1) The Secretary shall make loans to any coastal state and to any unit of general purpose local government to assist such state or unit to provide new or improved public facilities or public services, or

both, which are required as a result of coastal energy activity. Such loans shall be made solely pursuant to this title, and no such loan shall require as a condition thereof that any such state or unit pledge its full faith and credit to the repayment thereof. No loan shall be made under this paragraph after September 30, 1986.

“(2) The Secretary shall, subject to the provisions of subsection (f), guarantee, or enter into commitments to guarantee, the payment of interest on, and the principal amount of, any bond or other evidence of indebtedness if it is issued by a coastal state or a unit of general purpose local government for the purpose of providing new or improved public facilities or public services, or both, which are required as a result of a coastal energy activity.

“(3) If the Secretary finds that any coastal state or unit of general purpose local government is unable to meet its obligations pursuant to a loan or guarantee made under paragraph (1) or (2) because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such state or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such state or unit pursuant to subsection (e)(3), take any of the following actions:

“(A) Modify appropriately the terms and conditions of such loan or guarantee.

“(B) Refinance such loan.

“(C) Make a supplemental loan to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

“(D) Make a grant to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

Notwithstanding the preceding sentence, if the Secretary—

“(i) has taken action under subparagraph (A), (B), or (C) with respect to any loan or guarantee made under paragraph (1) or (2), and

“(ii) finds that additional action under subparagraph (A), (B), or (C) will not enable such state or unit to meet, within a reasonable time, its obligations under such loan or guarantee and any additional obligations related to such loan or guarantee; the Secretary shall make a grant or grants under subparagraph (D) to such state or unit in an amount sufficient to enable such state or unit to meet such outstanding obligations.

“(4) The Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from coastal energy activity, if the Secretary finds that such state has not received amounts under subsection (b) which are sufficient to prevent, reduce, or ameliorate such loss.

“(e) Rules and regulations with respect to the following matters shall be promulgated by the Secretary as soon as practicable, but not later than 270 days after the date of the enactment of this section:

“(1) A formula and procedures for apportioning equitably, among the coastal states, the amounts which are available for the provision of financial assistance under subsection (d). Such formula shall be based on, and limited to, the following factors:

“(A) The number of additional individuals who are expected to become employed in new or expanded coastal

Rules and regulations.

Financial assistance, formula and procedures.

energy activity, and the related new population, who reside in the respective coastal states.

“(B) The standardized unit costs (as determined by the Secretary by rule), in the relevant regions of such states, for new or improved public facilities and public services which are required as a result of such expected employment and the related new population.

“(2) Criteria under which the Secretary shall review each coastal state’s compliance with the requirements of subsection (g) (2).

Criteria and
procedures for
repayment.

“(3) Criteria and procedures for evaluating the extent to which any loan or guarantee under subsection (d) (1) or (2) which is applied for by any coastal state or unit of general purpose local government can be repaid through its ordinary methods and rates for generating tax revenues. Such procedures shall require such state or unit to submit to the Secretary such information which is specified by the Secretary to be necessary for such evaluation, including, but not limited to—

“(A) a statement as to the number of additional individuals who are expected to become employed in the new or expanded coastal energy activity involved, and the related new population, who reside in such state or unit;

“(B) a description, and the estimated costs, of the new or improved public facilities or public services needed or likely to be needed as a result of such expected employment and related new population;

“(C) a projection of such state’s or unit’s estimated tax receipts during such reasonable time thereafter, not to exceed 30 years, which will be available for the repayment of such loan or guarantee; and

“(D) a proposed repayment schedule.

The procedures required by this paragraph shall also provide for the periodic verification, review, and modification (if necessary) by the Secretary of the information or other material required to be submitted pursuant to this paragraph.

“(4) Requirements, terms, and conditions (which may include the posting of security) which shall be imposed by the Secretary, in connection with loans and guarantees made under subsections (d) (1) and (2), in order to assure repayment within the time fixed, to assure that the proceeds thereof may not be used to provide public services for an unreasonable length of time, and otherwise to protect the financial interests of the United States.

Interest rate.

“(5) Criteria under which the Secretary shall establish rates of interest on loans made under subsections (d) (1) and (3). Such rates shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loans.

In developing rules and regulations under this subsection, the Secretary shall, to the extent practicable, request the views of, or consult with, appropriate persons regarding impacts resulting from coastal energy activity.

“(f) (1) Bonds or other evidences of indebtedness guaranteed under subsection (d) (2) shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—

“(A) no guarantee shall be made unless the indebtedness involved will be completely amortized within a reasonable period, not to exceed 30 years;

“(B) no guarantee shall be made unless the Secretary determines that such bonds or other evidences of indebtedness will—

“(i) be issued only to investors who meet the requirements prescribed by the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

“(ii) bear interest at a rate found not to be excessive by the Secretary; and

“(iii) contain, or be subject to, repayment, maturity, and other provisions which are satisfactory to the Secretary;

“(C) the approval of the Secretary of the Treasury shall be required with respect to any such guarantee, unless the Secretary of the Treasury waives such approval; and

“(D) no guarantee shall be made after September 30, 1986.

“(2) The full faith and credit of the United States is pledged to the payment, under paragraph (5), of any default on any indebtedness guaranteed under subsection (d) (2). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation, except for fraud or material misrepresentation on the part of the holder, or known to the holder at the time acquired.

“(3) The Secretary shall prescribe and collect fees in connection with guarantees made under subsection (d) (2). These fees may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs pertaining to such guarantees.

Fees.

“(4) The interest paid on any obligation which is guaranteed under subsection (d) (2) and which is received by the purchaser thereof (or the purchaser's successor in interest), shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954. The Secretary may pay out of the Fund to the coastal state or the unit of general purpose local government issuing such obligations not more than such portion of the interest on such obligations as exceeds the amount of interest that would be due at a comparable rate determined for loans made under subsection (d) (1).

26 USC 1 *et seq.*

“(5) (A) Payments required to be made as a result of any guarantee made under subsection (d) (2) shall be made by the Secretary from sums appropriated to the Fund or from moneys obtained from the Secretary of the Treasury pursuant to paragraph (6).

“(B) If there is a default by a coastal state or unit of general purpose local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary under subsection (d) (2), any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due such holder, unless the Secretary finds that there was no default by such state or unit or that such default has been remedied.

“(C) If the Secretary makes a payment to a holder under subparagraph (B), the Secretary shall—

“(i) have all of the rights granted to the Secretary or the United States by law or by agreement with the obligor; and

“(ii) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement between such holder and the obligor.

Such rights shall include, but not be limited to, a right of reimbursement to the United States against the coastal state or unit of general purpose local government for which the payment was made for the amount of such payment plus interest at the prevailing current rate as determined by the Secretary. If such coastal state, or the coastal state in which such unit is located, is due to receive any amount under subsection (b), the Secretary shall, in lieu of paying such amount to such state, deposit such amount in the Fund until such right of reimbursement has been satisfied. The Secretary may accept, in complete or partial satisfaction of any such rights, a conveyance of property or interests therein. Any property so obtained by the Secretary may be completed, maintained, operated, held, rented, sold, or otherwise dealt with or disposed of on such terms or conditions as the Secretary prescribes or approves. If, in any case, the sum received through the sale of such property is greater than the amount paid to the holder under subparagraph (D) plus costs, the Secretary shall pay any such excess to the obligor.

“(D) The Attorney General shall, upon the request of the Secretary, take such action as may be appropriate to enforce any right accruing to the Secretary or the United States as a result of the making of any guarantee under subsection (d) (2). Any sums received through any sale under subparagraph (C) or recovered pursuant to this subparagraph shall be paid into the Fund.

“(6) If the moneys available to the Secretary are not sufficient to pay any amount which the Secretary is obligated to pay under paragraph (5), the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. Any sums received by the Secretary through such issuance shall be deposited in the Fund. The Secretary of the Treasury shall purchase any notes or other obligations issued under this paragraph, and for this purpose such Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under that Act are extended to include any purchase of notes or other obligations issued under this paragraph. The Secretary of the Treasury may at any time sell any of the notes or other obligations so acquired under this paragraph. All redemptions, purchases, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

“(g) (1) No coastal state is eligible to receive any financial assistance under this section unless such state—

“(A) has a management program which has been approved under section 306;

“(B) is receiving a grant under section 305(c) or (d); or

“(C) is, in the judgment of the Secretary, making satisfactory progress toward the development of a management program which is consistent with the policies set forth in section 303.

31 USC 774.

16 USC 1455
Ante, p. 1015.

16 USC 1433.

“(2) Each coastal state shall, to the maximum extent practicable, provide that financial assistance provided under this section be apportioned, allocated, and granted to units of local government within such state on a basis which is proportional to the extent to which such units need such assistance.

“(h) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of carrying out subsections (c) and (d). The Fund shall consist of—

Coastal Energy
Impact Fund.
Establishment.

“(1) any sums appropriated to the Fund;

“(2) payments of principal and interest received under any loan made under subsection (d) (1);

“(3) any fees received in connection with any guarantee made under subsection (d) (2); and

“(4) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

All payments made by the Secretary to carry out the provisions of subsections (c), (d), and (f) (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d), and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

“(i) The Secretary shall not intercede in any land use or water use decision of any coastal state with respect to the siting of any energy facility or public facility by making siting in a particular location a prerequisite to, or a condition of, financial assistance under this section.

“(j) The Secretary may evaluate, and report to the Congress, on the efforts of the coastal states and units of local government therein to reduce or ameliorate adverse consequences resulting from coastal energy activity and on the extent to which such efforts involve adequate consideration of alternative sites.

Report to
Congress.

“(k) To the extent that Federal funds are available under, or pursuant to, any other law with respect to—

“(1) study and planning for which financial assistance may be provided under subsection (b) (4) (B) and (c), or

“(2) public facilities and public services for which financial assistance may be provided under subsection (b) (4) (B) and (d), the Secretary shall, to the extent practicable, administer such subsections—

“(A) on the basis that the financial assistance shall be in addition to, and not in lieu of, any Federal funds which any coastal state or unit of general purpose local government may obtain under any other law; and

“(B) to avoid duplication.

“(l) As used in this section—

Definitions.

“(1) The term ‘retirement’, when used with respect to bonds, means the redemption in full and the withdrawal from circulation of those which cannot be repaid by the issuing jurisdiction in accordance with the appropriate repayment schedule.

“(2) The term ‘unavoidable’, when used with respect to a loss of any valuable environmental or recreational resource, means a loss, in whole or in part—

“(A) the costs of prevention, reduction, or amelioration of which cannot be directly or indirectly attributed to, or assessed against, any identifiable person; and

“(B) cannot be paid for with funds which are available under, or pursuant to, any provision of Federal law other than this section.

“(3) The term ‘unit of general purpose local government’ means any political subdivision of any coastal state or any special entity created by such a state or subdivision which (in whole or part) is located in, or has authority over, such state’s coastal zone, and which (A) has authority to levy taxes or establish and collect user fees, and (B) provides any public facility or public service which is financed in whole or part by taxes or user fees.”.

SEC. 8. INTERSTATE GRANTS.

The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 308 (as added by section 7 of this Act) the following:

“INTERSTATE GRANTS

16 USC 1456b.

“SEC. 309. (a) The coastal states are encouraged to give high priority—

“(1) to coordinating state coastal zone planning, policies, and programs with respect to contiguous areas of such states; and

“(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas.

Such coordination, study, planning, and implementation may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

“(b) The consent of the Congress is hereby given to two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

“(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

“(2) establishing executive instrumentalities or agencies which such states deem desirable for the effective implementation of such agreements or compacts.

Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by the Congress.

“(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to adopt a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Administrator of the Federal Energy Administration, or their designated representatives, shall participate *ex officio* on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

“(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to—

Ante, p. 1015.
16 USC 1455.
Agreements or
compacts.

“(1) coordinate state coastal zone planning, policies, and programs with respect to contiguous areas of the states involved;

“(2) study, plan, and implement unified coastal zone policies with respect to such areas; and

“(3) establish an effective mechanism, and adopt a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity.”.

SEC. 9. RESEARCH AND TECHNICAL ASSISTANCE.

The Coastal Management Act of 1972 is further amended by adding immediately after section 309 (as added by section 8 of this Act) the following:

“RESEARCH AND TECHNICAL ASSISTANCE FOR COASTAL ZONE MANAGEMENT

“SEC. 310. (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including, but not limited to, the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and training which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.

16 USC 1456c.

Contracts or other arrangements.

“(b) The Secretary may make grants to coastal states to assist such states in carrying out research, studies, and training required with respect to coastal zone management. The amount of any grant made under this subsection shall not exceed 80 per centum of the cost of such research, studies, and training.

Grants.

“(c)(1) The Secretary shall provide for the coordination of research, studies, and training activities under this section with any other such activities that are conducted by, or subject to the authority of, the Secretary.

“(2) The Secretary shall make the results of research conducted pursuant to this section available to any interested person.”.

SEC. 10. REVIEW OF PERFORMANCE.

Section 312(a) of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1458(a)) is amended to read as follows:

“(a) The Secretary shall conduct a continuing review of—

“(1) the management programs of the coastal states and the performance of such states with respect to coastal zone management; and

“(2) the coastal energy impact program provided for under section 308.”.

Ante, p. 1019.

SEC. 11. AUDIT OF TRANSACTIONS.

Section 313 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1459), is amended—

(1) by inserting “AND AUDIT” after “RECORDS” in the title of such section;

(2) by amending subsection (a)—

(A) by inserting immediately after “grant under this title” the following: “or of financial assistance under section 308”, and

(B) by inserting after “received under the grant” the following: “and of the proceeds of such assistance”; and

(3) by amending subsection (b) to read as follows:

“(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

“(1) after any grant is made under this title or any financial assistance is provided under section 308(d); and

“(2) until the expiration of 3 years after—

“(A) completion of the project, program, or other undertaking for which such grant was made or used, or

“(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided,

have access for purposes of audit and examination to any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this title.”.

Ante, p. 1019.

SEC. 12. ACQUISITION OF ACCESS TO PUBLIC BEACHES AND OTHER PUBLIC COASTAL AREAS.

Section 315 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1461), is amended to read as follows:

“ESTUARINE SANCTUARIES AND BEACH ACCESS

Grants.

“SEC. 315. The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal state for the purpose of—

“(1) acquiring, developing, or operating estuarine sanctuaries, to serve as natural field laboratories in which to study and gather data on the natural and human processes occurring within the estuaries of the coastal zone; and

“(2) acquiring lands to provide for access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for the preservation of islands.

The amount of any such grant shall not exceed 50 per centum of the cost of the project involved; except that, in the case of acquisition of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed \$2,000,000.”.

SEC. 13. ANNUAL REPORT.

The second sentence of section 316(a) of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1462(a)), is amended by striking out “and (9)” and inserting in lieu thereof “(12)”; and by inserting immediately after clause (8) the following: “(9) a description of the economic, environmental, and

social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences; (10) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; (11) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and”.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

Section 318 of the Coastal Zone Management Act of 1972, as redesignated by section 7 of this Act (16 U.S.C. 1464), is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 318. (a) There are authorized to be appropriated to the Secretary—

“(1) such sums, not to exceed \$20,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, respectively, as may be necessary for grants under section 305, to remain available until expended;

“(2) such sums, not to exceed \$50,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 306, to remain available until expended;

“(3) such sums, not to exceed \$50,000,000 for each of the 8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984, as may be necessary for grants under section 308(b);

Ante, p. 1019.

“(4) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 309, to remain available until expended;

Ante, p. 1028.

“(5) such sums, not to exceed \$10,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for financial assistance under section 310, of which 50 per centum shall be for financial assistance under section 310(a) and 50 per centum shall be for financial assistance under section 310(b), to remain available until expended;

“(6) such sums, not to exceed \$6,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(1), to remain available until expended;

“(7) such sums, not to exceed \$25,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 315(2), to remain available until expended; and

“(8) such sums, not to exceed \$5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for administrative expenses incident to the administration of this title.

“(b) There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed \$800,000,000, for the purposes of

Ante, p. 1017.

carrying out the provisions of section 308, other than subsection (b), of which not to exceed \$50,000,000 shall be for purposes of subsections (c) and (d) (4) of such section.

“(c) Federal funds received from other sources shall not be used to pay a coastal state’s share of costs under section 305, 306, 309, or 310.”.

Ante, pp. 1015,
1017, 1028,
1029.

15 USC 1511a.

SEC. 15. ADMINISTRATION.

(a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management, who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(140) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.”.

15 USC 1511a
note.

(c) The Secretary may, to carry out the provisions of the amendments made by this Act, establish, and fix the compensation for, four new positions without regard to the provision of chapter 51 of title 5, United States Code, at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. Any such appointment may, at the discretion of the Secretary, be made without regard to the provisions of such title 5 governing appointments in the competitive service.

5 USC 5332 note.

SEC. 16. SHELLFISH SANITATION REGULATIONS.

(a) The Secretary of Commerce shall—

(1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and

(2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

16 USC 1462
note.

Report to
Congress.

The Secretary of Commerce shall, not later than April 30, 1977, submit a report to the Congress of the findings, comments, and recommendations (if any) which result from such review and evaluation.

(b) The Secretary of Health, Education, and Welfare shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977. At least 60 days prior to the promulgation of any such regulations, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Commerce, shall publish an analysis (1) of the economic impact of such regulations on the domestic shellfish industry, and (2) the cost of such national shellfish safety program relative to the benefits that it is expected to achieve.

Analysis,
publication.

Approved July 26, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-878 accompanying H.R. 3981 (Comm. on Merchant Marine and Fisheries) and No. 94-1298 (Comm. of Conference).

SENATE REPORTS: No. 94-277 (Comm. on Commerce) and No. 94-987 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 16, considered and passed Senate.

Vol. 122 (1976): Mar. 11, considered and passed House, amended, in lieu of H.R. 3981.

June 29, Senate agreed to conference report.

June 30, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 31 (1976): July 26, Presidential statement.

Public Law 94-371
94th Congress

An Act

To amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and for other purposes.

July 26, 1976
[S. 3184]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1976".

SEC. 2. Section 2(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (hereinafter in this Act referred to as "the Act") is amended to read as follows:

"(b) It is the policy of the United States and the purpose of this Act to approach alcohol abuse and alcoholism from a comprehensive community care standpoint, and to meet the problems of alcohol abuse and alcoholism through—

"(1) comprehensive Federal, State, and local planning for, and effective use of, Federal assistance to States, and direct Federal assistance to community-based programs to meet the urgent needs of special populations, in coordination with all other governmental and nongovernmental sources of assistance;

"(2) the development of methods for diverting problem drinkers from criminal justice systems into prevention and treatment programs; and

"(3) increased Federal commitment to research into the behavioral and biomedical etiology of, the treatment of, and the mental and physical health and social and economic consequences of, alcohol abuse and alcoholism."

SEC. 3. (a) Section 301 of the Act is amended (1) by striking out "and" after "1975," and (2) by inserting after "1976," the following: "\$70,000,000 for the fiscal year ending September 30, 1977, \$77,000,000 for the fiscal year ending September 30, 1978, and \$85,000,000 for the fiscal year ending September 30, 1979,".

(b) Section 302(a) of the Act is amended by adding at the end thereof the following new sentence: "In determining the extent of a State's need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism, the Secretary shall (within 180 days after the date of enactment of this sentence) by regulation establish a methodology to assess and determine the incidence and prevalence of alcohol abuse within the States."

SEC. 4. (a) Section 304(b) of the Act is amended by striking out the last sentence thereof.

(b) Effective July 1, 1976, section 304(c) of the Act is amended by—

(1) striking out "10 per centum" and substituting "20 percent"; and

(2) striking out "\$100,000" and substituting "\$150,000".

(c) Effective July 1, 1976—

(1) sections 304(d) and 311(d) of the Act are repealed,

(2) section 304 of the Act (A) is transferred to part B of the Act, (B) is inserted before section 311, and (C) is redesignated as section 310, and

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1976.

42 USC 4541 note.

42 USC 4541.

Appropriation authorization.
42 USC 4571.

Regulation.
42 USC 4572.

42 USC 4574.

Repeals.
42 USC 4577.

42 USC 4577.

(3) part B of the Act is amended by inserting after section 311 the following new section :

“AUTHORIZATIONS OF APPROPRIATIONS

42 USC 4578.

“SEC. 312. For purposes of sections 310 and 311, there are authorized to be appropriated \$85,000,000 for the fiscal year ending September 30, 1977, \$91,000,000 for the fiscal year ending September 30, 1978, and \$102,500,000 for the fiscal year ending September 30, 1979.”.

Ante, p. 1035.

42 USC 4576.

(d) Section 310(a) of the Act (as so redesignated) is amended (1) by striking out “September 30, 1977” and inserting in lieu thereof “September 30, 1979”, and (2) by striking out “three grants” and inserting in lieu thereof “six grants”.

State plans,
approval.

42 USC 4573.

42 USC 300m-3.

SEC. 5. (a) Section 303(a)(3) of the Act is amended by inserting “and at least one representative of the Statewide Health Coordinating Council established pursuant to section 1524 of the Public Health Service Act,” after “alcoholism.”.

(b)(1) Section 303(a) of the Act is further amended by striking out “and” at the end of paragraph (10), by redesignating paragraph (11) as paragraph (16) and by inserting after paragraph (10) the following :

“(11) contain, to the extent feasible, a complete inventory of all public and private resources available in the State for the purpose of alcohol abuse and alcoholism treatment, prevention, and rehabilitation, including but not limited to programs funded under State and local laws, occupational programs, voluntary organizations, education programs, military and Veterans’ Administration resources, and available public and private third-party payment plans;

“(12) provide assurance that the State agency will coordinate its planning with local alcoholism and alcohol abuse planning agencies and with other State and local health planning agencies;

“(13) provide assurance that State certification, accreditation, or licensure requirements, if any, applicable to alcohol abuse and alcoholism treatment facilities and personnel take into account the special nature of such programs and personnel, including the need to encourage the development of nonmedical modes of treatment and the need to acknowledge previous experience when assessing the adequacy of treatment personnel;

“(14) provide reasonable assurance that prevention or treatment projects or programs supported by funds made available under section 302 have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such prevention or treatment programs or projects;

“(15) provide that the State agency will review admissions to hospitals and outpatient facilities to assist the Secretary in determining the compliance of such hospitals and facilities with the requirement of section 321 and shall make periodic reports to the Secretary respecting such review; and”.

42 USC 4572.

Review; reports.

42 USC 4581.

Effective date.

42 USC 4573

note.

42 USC 4572.

(2) The amendments made by paragraph (1) shall apply with respect to State plan requirements for allotments under section 302 of the Act after June 30, 1976.

(c)(1) Section 303 of the Act is further amended by inserting at the end thereof the following new subsection :

Regulations;
report to the
Secretary of
HEW.

“(c) The Secretary shall by regulation require, as a condition to the approval of the State plan, that the State for which such plan was submitted report to the Secretary (in such form and manner as the Secretary shall prescribe) an assessment of the progress of the State in the implementation of its State plan. After making an initial such

report, a State shall make additional reports every third year thereafter in which it receives an allotment under this part. The reporting requirement shall first apply with respect to State plans submitted for allotments for fiscal years beginning after September 30, 1977."

(2) Section 303(a)(4) of the Act is amended by inserting "(A)" after "(4)" and by inserting after such section the following: 42 USC 4573.

"(B) include in the survey conducted pursuant to subparagraph (A) an identification of the need for prevention and treatment of alcohol abuse and alcoholism by women and by individuals under the age of eighteen and provide assurance that prevention and treatment programs within the State will be designed to meet such need;"

SEC. 6. (a) Section 311(a) of the Act is amended to read as follows: "SEC. 311(a) The Secretary, acting through the Institute, may make grants to public and nonprofit private entities and may enter into contracts with public and private entities and with individuals— 42 USC 4577.

"(1) to conduct demonstration and evaluation projects, including projects designed to develop methods for the effective coordination of all alcoholism treatment, training, prevention, and research resources available within a health service area established under section 1511 of the Public Health Service Act,

42 USC 300L

"(2) to provide treatment and prevention services, with special emphasis on currently underserved populations, such as racial and ethnic minorities, native Americans, youth, female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available,

"(3) to provide education and training, which may include additional training to enable treatment personnel to meet certification requirements of public or private accreditation or licensure, or requirements of third-party payors, and

"(4) to provide programs and services, including education and counseling services, in cooperation with law enforcement personnel, schools, courts, penal institutions, and other public agencies,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics."

(b) Section 311(b) of the Act is amended by redesignating clause (2) as clause (3) and inserting a new clause (2) after "individuals;" as follows: "(2) where a substantial number of the individuals in the population served by the project or program are of limited English-speaking ability, utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals and develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and identify an individual employed by the project or program, or who is available to the project or program on a full-time basis, who is fluent both in that language and English and whose responsibilities shall include providing guidance to the individuals of limited English speaking ability and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;"

Limited English-speaking individuals.

(c) Section 311(c) of the Act is amended by adding after paragraph (3) the following new paragraphs:

"(4) The Secretary shall give special consideration to applications under this section for programs and projects for prevention and treatment of alcohol abuse and alcoholism by women and for programs and projects for prevention and treatment of alcohol abuse and alcoholism by individuals under the age of eighteen.

Programs for women and juveniles, applications.

“(5) Each applicant, upon filing its application with the Secretary for a grant or contract to provide prevention or treatment services, shall provide a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such services.”.

42 USC 4591.

SEC. 7. The Act is further amended by redesignating title V and references thereto as title VI and by inserting after title IV the following:

“TITLE V—RESEARCH

“ENCOURAGEMENT OF RESEARCH

42 USC 4585.

“SEC. 501. (a) The Secretary, acting through the Institute, shall carry out a program of research, investigations, experiments, demonstrations, and studies, directly and by grant or contract, into—

“(1) the behavioral and biomedical etiology of,

“(2) treatment of,

“(3) mental and physical health consequences of, and

“(4) social and economic consequences of, alcohol abuse and alcoholism.

“(b) In carrying out the program described in subsection (a) of this section, the Secretary, acting through the Institute, is authorized to—

“(1) collect and make available through publications and other appropriate means, information as to, and the practical application of, the research and other activities under the program;

“(2) make available research facilities of the Public Health Service to appropriate public authorities, and to health officials and scientists engaged in special study;

Grants.

“(3) make grants to universities, hospitals, laboratories, and other public or nonprofit institutions, and to individuals for such research projects as are recommended by the National Advisory Council on Alcohol Abuse and Alcoholism;

“(4) secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

“(5) promote the coordination of research programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals, including all National Institutes of Health research activities which are or may be related to the problems of individuals suffering from alcoholism or alcohol abuse;

Intramural program.

“(6) conduct an intramural program of biomedical and behavioral research, including research into the most effective means of treatment and service delivery, and including research involving human subjects, which is—

“(A) located in an institution capable of providing all necessary medical care for such human subjects, including complete 24-hour medical diagnostic services by or under the supervision of physicians, acute and intensive medical care, including 24-hour emergency care, psychiatric care, and such other care as is determined to be necessary for individuals suffering from alcoholism and alcohol abuse; and

“(B) associated with an accredited medical or research training institution;

“(7) for purposes of study, admit and treat at institutions, hospitals, and stations of the Public Health Service, persons not otherwise eligible for such treatment;

"(8) provide to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

"(9) enter into contracts under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5); and

"(10) adopt, upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

Contracts.

"SCIENTIFIC PEER REVIEW

"SEC. 502. The Secretary, acting through the Institute, shall, by regulation, provide for review of all research grants and contracts, training, treatment, and prevention activity grants, and programs over which he has authority under this Act by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of alcoholism.

Regulations.
42 USC 4586.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 503. There are authorized to be appropriated for carrying out the purposes of section 501 and 502 \$20,000,000 for the fiscal year ending September 30, 1977, \$24,000,000 for the fiscal year ending September 30, 1978, and \$28,000,000 for the fiscal year ending September 30, 1979.

42 USC 4587.

"NATIONAL ALCOHOL RESEARCH CENTERS

"SEC. 504. (a) The Secretary acting through the Institute may designate National Alcohol Research Centers for the purpose of interdisciplinary research relating to alcoholism and other alcohol problems. No entity may be designated as a Center unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such manner and contain such information as the Secretary may reasonably require. The Secretary may not approve such an application unless—

Designation.
42 USC 4588.

"(1) the application contains or is supported by reasonable assurances that—

"(A) the applicant has the experience, or capability, to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on alcoholism and other alcohol problems and to provide coordination of such research among such disciplines;

"(B) the applicant has available to it sufficient laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature);

"(C) the applicant has facilities and personnel to provide training in the prevention and treatment of alcoholism and other alcohol problems;

"(D) the applicant has the capacity to train predoctoral and postdoctoral students for careers in research on alcoholism and other alcohol problems; and

"(E) the applicant has the capacity to conduct courses on alcohol problems and research on alcohol problems for undergraduate and graduate students, and for medical and osteopathic students and physicians;

Annual grants, limitations.	<p>“(2) the application contains a detailed five-year plan for research relating to alcoholism and other alcohol problems.</p> <p>“(b) The Secretary shall, under such conditions as the Secretary may reasonably require, make annual grants to Centers which have been designated under this section. No annual grant to any Center may exceed \$1,000,000. No funds provided under a grant under this subsection may be used for the purchase or rental of any land or the rental, purchase, construction, preservation, or repair of any building. For the purposes of the preceding sentence, the term ‘construction’ has the meaning given that term by section 702(2) of the Public Health Service Act (42 U.S.C. 292a).</p>
Appropriation authorization.	<p>“(c) There are authorized to be appropriated to carry out the purposes of this section \$6,000,000 for the fiscal year ending September 30, 1977, and for each of the next two succeeding fiscal years.”.</p>
42 USC 3511.	<p>SEC. 8. Section 201 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 is amended by adding at the end thereof the following new subsection:</p>
Evaluation and recommendations.	<p>“(d) The Secretary of Health, Education, and Welfare, acting through the Administration, shall evaluate and make recommendations regarding improved, coordinated activities, where appropriate, for public education and other prevention programs with respect to the abuse of alcohol and other substances.”.</p>
Effective date. 21 USC 1176 note. 42 USC 2688a, 2688k, 2688n-1.	<p>SEC. 9. The first sentence of section 217(d) of the Public Health Service Act (42 U.S.C. 218) is amended by adding before the period at the end thereof the following: “, including policies and priorities with respect to grants and contracts”.</p>
21 USC 1176.	<p>SEC. 10. (a) (1) Section 409(e) (5) of the Drug Abuse Office and Treatment Act of 1972 is amended by inserting “(A)” after “(5)” and by inserting after such section the following:</p>
	<p>“(B) include in the survey conducted pursuant to subparagraph (A) an identification of the need for prevention and treatment of drug abuse and drug dependence by women and by individuals under the age of eighteen and provide assurance that prevention and treatment programs within the State will be designed to meet such need;”.</p>
	<p>(2) The amendment made by paragraph (1) shall apply with respect to State plans submitted for grants under section 401 of the Drug Abuse Office and Treatment Act of 1972 after June 30, 1976.</p>
	<p>(b) (1) Section 409(c) (1) (A) of such Act is amended by striking out “an allotment for a fiscal year in an amount not less than \$150,000, the allotment for such State for such fiscal year may not be less than \$150,000 multiplied by such fraction” and substituting “a minimum allotment in excess of \$100,000, multiplied by such fraction, the minimum allotment for such State may be increased by up to 50 percent in accordance with such demonstrated need”.</p>
Effective date. 21 USC 1176 note.	<p>(2) The amendment made by paragraph (1) shall apply with respect to allotments under section 409(c) of the Drug Abuse Office and Treatment Act of 1972 after June 30, 1976.</p>
21 USC 1177.	<p>(c) (1) Section 410 of such Act is amended by redesignating subsection (d) as subsection (e) and by adding after subsection (c) the following:</p>
Programs for women and juveniles, applications.	<p>“(d) The Secretary shall give special consideration to applications under this section for programs and projects for prevention and treatment of drug abuse and drug dependence by women and for programs and projects for prevention and treatment of drug abuse and drug dependence by individuals under the age of eighteen.”.</p>

(2) The amendment made by paragraph (1) shall apply with respect to applications submitted for grants or contracts under section 410 of the Drug Abuse Office and Treatment Act of 1972 after June 30, 1976.

SEC. 11. (a) Section 321(a) of the Act is amended by inserting “, or outpatient facility (as defined in section 1633(6) of the Public Health Service Act)” after “hospital”.

(b) Section 321(b) (1) of the Act as amended by—

(1) inserting “and outpatient facilities” after “hospitals”;

(2) inserting “or outpatient facility” after “hospital” each time it appears; and

(3) striking out “is authorized to make regulations” in the first sentence and inserting in lieu thereof “shall issue regulations not later than December 31, 1976”.

(c) (1) The heading for part C of the Act is amended by striking out “HOSPITALS” and inserting in lieu thereof “HOSPITALS AND OUTPATIENT FACILITIES”.

(2) The heading for section 321 of the Act is amended by striking out “HOSPITALS” and inserting in lieu thereof “HOSPITALS AND OUTPATIENT FACILITIES”.

SEC. 12. (a) Section 311(c) (2) of the Act is amended by inserting at the end thereof the following: “Each application for a grant under this section shall be submitted by the Secretary to the National Advisory Council on Alcohol Abuse and Alcoholism for its review. The Secretary may approve an application for a grant under this section only if it is recommended for approval by such Council.”.

(b) The amendment made by subsection (a) shall apply with respect to applications for grants under section 311 of the Act after June 30, 1976.

Effective date.
21 USC 1177
note.
21 USC 1177.
42 USC 4581.

42 USC 4577.
Application,
review.
Approval.

Effective date.
42 USC 4577
note.

Approved July 26, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1092 accompanying H.R. 12677 (Comm. on Interstate and Foreign Commerce) and No. 94-1285 (Comm. of Conference).

SENATE REPORTS: No. 94-705 and No. 94-705 pt. 2 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 29, considered and passed Senate.

May 21, considered and passed House, amended, in lieu of H.R. 12677.

June 29, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 31:

July 27, Presidential statement.

Public Law 94-372
94th Congress

An Act

July 31, 1976

[H.R. 11504]

To amend section 502 of the Merchant Marine Act, 1936.

Negotiated
Shipbuilding
Contracting Act
of 1976.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Negotiated Shipbuilding Contracting Act of 1976".

SEC. 2. Section 502(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152(a)) is amended in the third sentence thereof—

(1) by striking out "June 30, 1976" and inserting in lieu thereof "June 30, 1979";

(2) by striking out "(i) the negotiated" and all that follows through "per centum in fiscal 1976;" and

(3) by redesignating "(ii)", "(iii)", and "(iv)" as "(1)", "(2)", and "(3)".

Construction cost,
limitation.

SEC. 3. Section 502(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1152(b)) is amended by amending the fifth, sixth, seventh, and eighth sentences thereof to read as follows: "The construction differential approved and paid by the Secretary shall not exceed 50 per centum of the cost of constructing, reconstructing, or reconditioning the vessel (excluding the cost of national defense features). If the Secretary finds that the construction differential exceeds, in any case, the foregoing percentage of such cost, the Secretary may negotiate with any bidder (whether or not such person is the lowest bidder) and may contract with such bidder (notwithstanding the first sentence of section 505) for the construction, reconstruction, or reconditioning of the vessel involved in a domestic shipyard at a cost which will reduce the construction differential to such percentage or less."

46 USC 1155.

Approved July 31, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-864 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-1013 accompanying S. 3171 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 15, considered and passed House.

June 30, S. 3171 considered and passed Senate.

July 1, considered and passed Senate, amended.

July 19, House concurred in Senate amendment.

Public Law 94-373
94th Congress

An Act

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

July 31, 1976
[H.R. 14231]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1977, and for other purposes, namely:

Department of
the Interior and
Related Agencies
Appropriation
Act, 1977.

TITLE I—DEPARTMENT OF THE INTERIOR
LAND AND WATER RESOURCES

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, \$223,829,000.

CONSTRUCTION AND MAINTENANCE

For acquisition, construction and maintenance of buildings, appurtenant facilities, and other improvements, and maintenance of access roads, \$10,160,000, to remain available until expended.

PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS (LIQUIDATION OF
CONTRACT AUTHORITY)

For liquidation of obligations incurred pursuant to authority contained in title 23, United States Code, section 203, \$5,000,000, to remain available until expended: *Provided*, That \$13,900,000 of unobligated balances of contract authority provided by the Federal-Aid Highway Act of 1973 (P.L. 93-87) and proposed to be unobligated as of September 30, 1977, is hereby rescinded effective October 1, 1976.

23 USC 101 note.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of rights-of-way and of existing connecting roads on or adjacent to such lands; an amount equivalent to 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands, to remain available until expended: *Provided*,

That the amount appropriated herein for the purposes of this appropriation on lands administered by the Forest Service shall be transferred to the Forest Service, Department of Agriculture: *Provided further*, That the amount appropriated herein for road construction on lands other than those administered by the Forest Service shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further*, That the amount appropriated herein is hereby made a reimbursable charge against the Oregon and California land grant fund and shall be reimbursed to the general fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

43 USC 1181f.

RANGE IMPROVEMENTS

For construction, purchase, and maintenance of range improvements pursuant to the provisions of sections 3 and 10 of the Act of June 28, 1934, as amended (43 U.S.C. 315), sums equal to the aggregate of all moneys received, during the current fiscal year, as range improvements fees under section 3 of said Act, 25 per centum of all moneys received, during the current fiscal year, under section 15 of said Act, and the amount designated for range improvements from grazing fees from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended.

43 USC 315b,
315i.

43 USC 315m.

RECREATION DEVELOPMENT AND OPERATION OF RECREATION FACILITIES

For construction, operation, and maintenance of outdoor recreation facilities, including collection of special recreation use fees, to remain available until expended, \$300,000, to be derived from the special receipt accounts established by section 1(b) of the Act of July 15, 1968 (82 Stat. 354), and section 4(e) of the Act of July 11, 1972 (86 Stat. 461): *Provided*, That not more than 40 per centum of the amount credited pursuant to section 4(e) of the Act of July 11, 1972, shall be available for the enhancement of the fee collection system established by section 4 of such Act, including the promotion and enforcement thereof.

16 USC 460l-5
note.
16 USC 460l-6a.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures; and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title: *Provided*, That of appropriations herein made for the Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the general fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended on a reimbursable basis for (1) surveys of lands other than those under the jurisdiction of the Bureau of Land Management and (2) protection of lands for the State of Alaska: *Provided further*, That notwith-

standing any other provisions of law, payments to States made in fiscal year 1977, under the Mineral Leasing Act of 1920 (30 U.S.C. 191, 30 U.S.C. 285), will be based on receipts collected during the period July 1, 1976, through March 31, 1977: *Provided further*, That notwithstanding any other provisions of law, Bureau of Land Management payments to States and counties made in fiscal year 1977, under statutes other than the Mineral Leasing Act of 1920, will be based on receipts collected during the period July 1, 1976, through September 30, 1976.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Water Resources Research Act of 1964, as amended (42 U.S.C. 1961-1961c-7), and the Saline Water Conversion Act of 1971, as amended (42 U.S.C. 1959-1959h), \$18,923,000, of which \$7,540,000 shall remain available until expended.

FISH AND WILDLIFE AND PARKS

BUREAU OF OUTDOOR RECREATION

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Outdoor Recreation, not otherwise provided for, \$5,961,000.

LAND AND WATER CONSERVATION FUND

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965 as amended (16 U.S.C. 4601-4-11), including \$6,686,000 for administrative expenses of the Bureau of Outdoor Recreation during the current fiscal year, and acquisition of land or waters, or interest therein, in accordance with the statutory authority applicable to the State or Federal agency concerned, to be derived from the Land and Water Conservation Fund, established by section 2 of said Act as amended, to remain available until expended, not to exceed \$397,056,000, of which (1) not to exceed \$175,516,000 shall be available for payments to the States in accordance with section 6(c) of said Act; (2) not to exceed \$144,603,000 shall be available to the National Park Service; (3) not to exceed \$52,506,000 shall be available to the Forest Service; (4) not to exceed \$15,745,000 shall be available to the United States Fish and Wildlife Service; and (5) not to exceed \$2,000,000 shall be available to the Bureau of Land Management.

16 USC 4601-5.

16 USC 4601-8.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; and maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, \$128,861,000, of which not to

Ante, p. 724.

exceed \$1,000,000 shall remain available until expended: *Provided*, That \$9,198,000 shall be available for obligation only upon the enactment into law of H.R. 8092, Ninety-Fourth Congress, or similar legislation.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; and for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757f); \$17,211,000, to remain available until expended.

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5; 81 Stat. 612), \$4,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed one hundred and fourteen passenger motor vehicles, of which one hundred and six are for replacement only (including fifty-two for police-type use); purchase of four aircraft, for replacement only, one to be obtained by exchange; not to exceed \$100,000 for payment, in the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Fish and Wildlife Service; miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed \$75,000; publication and distribution of bulletins as authorized by law (7 U.S.C. 417); insurance on official motor vehicles, aircraft and boats operated by the United States Fish and Wildlife Service in Mexico and Canada; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed \$1 for each option; facilities incident to such public recreational uses on conservation areas as are not inconsistent with their primary purpose, and the maintenance and improvement of aquaria, buildings and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), \$276,485,000: *Provided*, That the National Park Service shall not lease the facilities located at 900 Ohio Drive in the District of Columbia on any other basis than the fair market rental value generally pertaining for such premises in the area.

PLANNING AND CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451); the acquisition of water rights; expenses necessary for investigation and studies to determine suitability of areas to be included in the National Park System, the designation of wilderness areas, and the management of water resources; the preparation of plans for existing and proposed park and recreation areas; provisions of technical assistance to other Federal agencies, and to States and private institutions in the planning, development, and operation of landmarks, parks, and recreation areas; and for financial or other assistance in planning, development, or operation of areas as authorized by law or pursuant to agreements with other Federal agencies, States, or private institutions, including not to exceed \$257,000 for the Roosevelt Campobello International Park Commission, \$40,097,000 to remain available until expended: *Provided*, That \$2,060,000 shall be available for obligation only upon the enactment into law of authorizing legislation providing for the acquisition of locomotives and related facilities at the Golden Spike National Historic Site. Of the amount appropriated under this section, \$111,000 shall be available for the payment of obligations outstanding on the date of enactment of this Act which were incurred in the development of the Chamizal National Memorial in the State of Texas.

ROAD CONSTRUCTION (LIQUIDATION OF CONTRACT AUTHORITY)

For liquidation of obligations incurred pursuant to authority contained in title 23, United States Code, section 203, \$21,800,000, to remain available until expended: *Provided*, That \$118,995,000 of unobligated balances of contract authority provided by the Federal-Aid Highway Act of 1973 (P.L. 93-87) and proposed to be unobligated as of September 30, 1977, is hereby rescinded effective October 1, 1976.

23 USC 101 note.

PRESERVATION OF HISTORIC PROPERTIES

For expenses necessary in carrying out a program for the preservation of additional historic properties throughout the Nation, as authorized by law (16 U.S.C. 461-467, 470), and investigations, studies, and salvage of archeological values, \$22,000,000, to remain available until expended: *Provided*, That \$17,500,000 of the amount made available under this head shall be available for obligation only upon the enactment into law of H.R. 12234, Ninety-Fourth Congress, or similar legislation.

PLANNING, DEVELOPMENT AND OPERATION OF RECREATION FACILITIES

For construction, operation, and maintenance of outdoor recreation facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451); including collection of special recreation use fees, to remain available until expended, \$14,000,000 to be derived from the special receipt accounts established by section 1(b) of the Act of July 15, 1968 (82 Stat. 354), and section 4(e) of the Act of July 11, 1972 (86 Stat. 461): *Provided*, That not more than 40 per centum of the amount credited pursuant to section 4(e) of the Act of July 11, 1972, shall be available for the enhancement of the fee collection system established by section 4 of such Act, including the promotion and enforcement thereof.

16 USC 460l-5
note.

16 USC 460l-6a.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the non-performing arts functions of the John F. Kennedy Center for the Performing Arts, \$3,072,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed one hundred eighty-one passenger motor vehicles, of which one hundred fifty-seven shall be for replacement only, including not to exceed one hundred twelve for police-type use; and to provide, notwithstanding any other provision of law, at a cost not exceeding \$100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service: *Provided*, That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations in the National Park System; and to provide insurance on official motor vehicles and aircraft operated by the National Park Service in Mexico and Canada.

ENERGY AND MINERALS

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332, and 1340); classify lands as to mineral character and water and power resources; give engineering supervision to power permits and Federal Power Commission licenses; enforce departmental regulations applicable to oil, gas, and other mining leases, permits, licenses, and operating contracts; control the interstate shipment of contraband oil as required by law (15 U.S.C. 715); administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; \$305,896,000, of which \$27,808,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

43 USC 50.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed thirty-one passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services, contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of

necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the U.S. National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts.

MINING ENFORCEMENT AND SAFETY ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary to promote health and safety in mines and in the minerals industry through development, promulgation and enforcement of regulations, including mine inspections, technical support, and education and training as authorized by law, \$93,740,000: *Provided*, That no part of the funds appropriated by this Act shall be used to pay any public relations firm for any promotional campaigns among coal miners.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the Mining Enforcement and Safety Administration may be expended for purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and for the purchase of not to exceed 195 passenger motor vehicles: *Provided*, That the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further*, That the Mining Enforcement and Safety Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations: *Provided further*, That any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major mine disasters.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, \$164,465,000, of which \$97,779,000 shall remain available until expended: *Provided*, That no part of the sum herein appropriated shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That the full-time permanent employees hired by the Bureau of Mines to staff the mining research center at Carbondale, Illinois, shall not be counted against or considered to be a part of any employment ceiling assigned to the Department of the Interior.

ADMINISTRATIVE PROVISION

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That the Bureau of Mines is authorized during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

INDIAN AFFAIRS

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment (in advance or from date of admission), of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order, and payment of rewards for information or evidence concerning violations of law on Indian reservation lands, or treaty fishing rights tribal use areas; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; and for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, \$602,713,000, of which not to exceed \$31,452,000 for assistance to public schools shall remain available for obligation until September 30, 1978, and that the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450) shall remain available until September 30, 1978: *Provided*, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs; and includes expenses necessary to carry out the provisions of sections 8 and 19(a) of Public Law 93-531, \$2,040,000 to remain available until expended, of which not more than \$250,000 shall be available for payments pursuant to section 8(e) of said Act: *Provided*, That the Secretary of the Interior is directed, upon the request of any tribe, to enter into a contract or contracts with any tribal organization of any such tribe for the provision of law enforcement, if such contract proposal meets the criteria established by Public Law 93-638.

25 USC 450 note.

25 USC 640d-7,
640d-18.

25 USC 450 note.

CONSTRUCTION

For construction, major repair and improvement of irrigation and power systems, buildings, utilities, and other facilities; acquisition of lands and interests in lands; preparation of lands for farming; and architectural and engineering services by contract, \$77,101,000, to remain available until expended: *Provided*, That such amounts as may

be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation.

ROAD CONSTRUCTION

For construction of roads pursuant to section 318a of title 25, United States Code, \$39,075,000, to remain available until expended.

ROAD CONSTRUCTION (LIQUIDATION OF CONTRACT AUTHORITY)

For liquidation of obligations incurred pursuant to authority contained in title 23, United States Code, section 203, as amended by Federal-Aid Highway Amendments of 1974, \$36,795,000, to remain available until expended. 23 USC 101 note.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment to the loan guaranty and insurance fund as authorized by the Indian Financing Act of 1974, Public Law 93-262, title III, section 302, to carry out the provisions of sections 217 and 301 of the above Act to (a) provide capital for a loan guaranty and insurance fund, (b) pay interest subsidy on guaranteed loans, and (c) pay administrative expenses, \$15,000,000, to remain available until expended: *Provided*, That for the purpose of entering into contracts pursuant to title V, section 502 of the above Act, the Secretary is authorized to use not to exceed 5 per centum of any funds appropriated for any fiscal year pursuant to title III, section 302 of the above Act. 25 USC 1512.
25 USC 1497,
1511.
25 USC 1542.

ALASKA NATIVE FUND

For transfer to the Alaska Native Fund to provide for settlement of certain land claims by Natives and Native groups of Alaska, and for other purposes, based on aboriginal land claims, as authorized by the Act of December 18, 1971 (Public Law 92-203), \$30,000,000. 43 USC 1601
note.

MISCELLANEOUS TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed \$3,000,000 from tribal funds not otherwise available for expenditure for the benefit of Indians and Indian tribes, including pay and travel expenses of employees; care, tuition, and other assistance to Indian children attending public and private schools (which may be paid in advance or from date of admission); purchase of land and improvements on land, title to which shall be taken in the name of the United States in trust for the tribe for which purchased; lease of lands and water rights; compensation and expenses of attorneys and other persons employed by Indian tribes under approved contracts; pay, travel, and other expenses of tribal officers, councils, and committees thereof, or other tribal organizations, including mileage for use of privately owned automobiles and per diem in lieu of subsistence at rates established administratively but not to exceed those applicable to civilian employees of the Government; relief of Indians, without regard to section 7 of the Act of May 27, 1930 (46 Stat. 391) including cash grants: *Provided*, That in addition to the amount appropriated herein, tribal funds may be advanced to Indian tribes during the current fiscal year for such purposes as may be designated by the governing body of the particular tribe involved and approved by the Secretary. 18 USC 4124 and
note.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans) shall be available for expenses of exhibits; purchase of not to exceed one hundred thirty-eight passenger carrying motor vehicles of which one hundred seven shall be for replacement only, which may be used for the transportation of Indians; advance payments for service (including services which may extend beyond the current fiscal year) under contracts executed pursuant to the Act of June 4, 1936 (25 U.S.C. 452), the Act of August 3, 1956 (25 U.S.C. 309), and legislation terminating Federal supervision over certain Indian tribes; and expenses required by continuing or permanent treaty provisions.

TERRITORIAL AFFAIRS

OFFICE OF TERRITORIAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of Territories under the jurisdiction of the Department of the Interior, including expenses of the Office of the Governor of American Samoa, as authorized by law (48 U.S.C. 1661(c)); compensation and mileage of members of the legislature in American Samoa as authorized by law (48 U.S.C. 1661(c)); compensation and expenses of the judiciary in American Samoa, as authorized by law (48 U.S.C. 1661(c)); grants to American Samoa, in addition to current local revenues, for support of governmental functions; grants to Guam, as authorized by law (48 U.S.C. 1428-1428e); and personal services, household equipment and furnishings, and utilities necessary in the operation of the house of the Governor of American Samoa; \$23,846,000, together with \$620,000 for expenses of the office of the Government Comptroller for the Virgin Islands to be derived from "Internal Revenue Collections for Virgin Islands", as authorized by law (48 U.S.C. 1599(a)) and \$256,000 for expenses of the office of the Government Comptroller for Guam to be derived from duties and taxes which would otherwise be covered into the Treasury of Guam, as authorized by law (48 U.S.C. 1422d(a)), to remain available until expended: *Provided*, That the Territorial and local government herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That appropriations available for the administration of Territories may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary: *Provided further*, That in addition to the amounts provided above, there is appropriated for emergency grants to the Government of Guam, \$20,000,000, which amount shall be available immediately upon enactment of this Act and shall remain available until expended, to assist in providing the necessary governmental services jeopardized, and repairing public facilities damaged, as a result of Typhoon Pamela: *Provided further*, That such emergency grants shall be made in accordance with such stipulations as the Secretary of the Interior may deem appropriate.

48 USC 1401f,
1423l, 1665.

48 USC 1470a.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947, (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299), including the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands in addition to local revenues, for support of governmental functions; \$79,077,000, to remain available until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That appropriations available for the administration of the Trust Territory of the Pacific Islands may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary in carrying out the provisions of article 6(2) of the Trusteeship Agreement approved by Congress.

22 USC 287 note.
48 USC 1681
note.

48 USC 1683.

31 USC 1.
31 USC 65 note.
48 USC 1682.
48 USC 1687.

SECRETARIAL OFFICES

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, \$12,371,000.

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, including not to exceed \$2,000 for official reception and representation expenses, \$20,620,000.

DEPARTMENTAL OPERATIONS

For necessary expenses for certain operations that provide departmentwide services, \$12,926,000.

SALARIES AND EXPENSES (SPECIAL FOREIGN CURRENCY PROGRAM)

For payment in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses of the Office of the Secretary, as authorized by law, \$907,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations, to such office for payments in the foregoing currencies (7 U.S.C. 1704).

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Facilities,
emergency
reconstruction.

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Forest or range
fires.

SEC. 102. The Secretary may authorize the expenditure or transfer of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior and for the emergency rehabilitation of burned-over lands under its jurisdiction: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and the period July 1, 1976 through September 30, 1976, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof.

Service facilities.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, whenever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 686): *Provided*, That reimbursements for costs of supplies, materials, and equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed \$300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

Uniforms.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

Surplus aircraft.

SEC. 106. In addition to the aircraft specifically authorized under this Act there is hereby authorized for acquisition five aircraft for replacement only, two of which shall be from surplus. Such acquisitions shall be integral to the provision of centralized aircraft services in Alaska.

SEC. 107. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST PROTECTION AND UTILIZATION

For expenses necessary for forest protection and utilization, as follows:

Forest land management: For necessary expenses of the Forest Service, not otherwise provided for, including the administration, improvement, development, and management of lands, waters, or interests therein, under Forest Service administration, fighting and preventing forest fires on or threatening such lands and emergency rehabilitation and for liquidation of obligations incurred in the preceding fiscal year for such purposes, control of forest diseases and insects on Federal and non-Federal lands, implementation of forest advanced logging and conservation systems including necessary research and development related thereto, \$397,151,000 of which \$4,275,000 for fighting and preventing forest fires and for the emergency rehabilitation of burned-over lands under its jurisdiction and \$5,025,000 for insect and disease control shall be apportioned for use, pursuant to section 3679 of the Revised Statutes, as amended, to the extent necessary under the then existing conditions: *Provided*, That funds appropriated for "Cooperative range improvements", pursuant to section 12 of the Act of April 24, 1950 (16 U.S.C. 580h), may be advanced to this appropriation: *Provided further*, That funds appropriated for the cooperative law enforcement program, \$5,556,000, and insect and disease control, \$15,892,000, shall remain available until expended.

31 USC 665.

Forest research: For forest research at forest and range experiment stations, the Forest Products Laboratory, or elsewhere, as authorized by law, \$87,087,000.

State and private forestry cooperation: For cooperation with States in forest-fire prevention and suppression, in forest tree planting on non-Federal public and private lands, and in forest management and processing, and for advising timberland owners, associations, wood-using industries, and others in the application of forest management principles and processing of forest products, as authorized by law, \$33,254,000.

CONSTRUCTION AND LAND ACQUISITION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection and utilization of national forest resources, point discharge monitoring and evaluation, and non-point discharge surveillance monitoring and evaluation, and the acquisition of lands and interests therein necessary to these objectives, \$18,016,000, to remain available until expended: *Provided*, That not more than \$1,740,000 of this appropriation may be used for acquisition of land under the Act of March 1, 1911, as amended (16 U.S.C. 513-519).

YOUTH CONSERVATION CORPS

For expenses necessary to carry out the provisions of the Act of August 13, 1970, as amended by Public Law 93-408, \$30,000,000, to remain available until the end of the fiscal year following the fiscal

16 USC 1701.

year for which appropriated: *Provided*, That \$15,000,000 shall be available to the Secretary of the Interior and \$15,000,000 shall be available to the Secretary of Agriculture.

FOREST ROADS

16 USC 535. For the construction of roads by timber purchasers pursuant to clause (2) of section 4 of the Act of October 13, 1964 (78 Stat. 1089), and in advance of a determination of payments due pursuant to the Act of March 4, 1907 (16 U.S.C. 499) and the Acts of May 23, 1908 and March 1, 1911 (16 U.S.C. 500), \$173,000,000.

FOREST ROADS AND TRAILS (LIQUIDATION OF CONTRACT AUTHORITY)

23 USC 101 note. For expenses necessary for carrying out the provisions of title 23, United States Code, sections 203 and 205, relating to the construction and maintenance of forest development roads and trails, \$208,104,000, to remain available until expended, for liquidation of obligations incurred pursuant to authority contained in title 23, United States Code, section 203: *Provided*, That funds available under the Act of March 4, 1913 (16 U.S.C. 501) shall be merged with and made a part of this appropriation: *Provided further*, That the unused contract authorization contained in Federal-Aid Highway Act of 1973, Public Law 93-87, August 13, 1973, in the amount of \$39,827,943 is hereby rescinded effective October 1, 1976.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of land to facilitate the control of soil erosion and flood damage originating within the exterior boundaries of the following national forests, in accordance with the provisions of the following Acts, authorizing annual appropriations of forest receipts for such purposes, and in not to exceed the following amounts from such receipts, Cache National Forest, Utah, Act of May 11, 1938 (52 Stat. 347), as amended, \$20,000; Unita and Wasatch National Forests, Utah, Act of August 26, 1935 (49 Stat. 866), as amended, \$30,000; Toiyabe National Forest, Nevada, Act of June 25, 1938 (52 Stat. 1205), as amended, \$10,000; Angeles National Forest, California, Act of June 11, 1940 (54 Stat. 299), \$20,000; San Bernardino and Cleveland National Forests, California, Act of June 15, 1938 (52 Stat. 699), as amended, \$80,000; in all, \$160,000.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands in accordance with the Act of December 4, 1967 (16 U.S.C. 484a), to remain available until expended, \$54,000, to be derived from deposits by public school authorities under said Act.

COOPERATIVE RANGE IMPROVEMENTS

For artificial revegetation, construction, and maintenance of range improvements, control of rodents, and eradication of poisonous and noxious plants on national forests in accordance with section 12 of the Act of April 24, 1950 (16 U.S.C. 580h), to be derived from grazing fees as authorized by said section, \$700,000, to remain available until expended.

ASSISTANCE TO STATES FOR TREE PLANTING

For expenses necessary to carry out section 401 of the Agricultural Act of 1956, approved May 28, 1976 (16 U.S.C. 568e), \$1,373,000, to remain available until expended.

CONSTRUCTION AND OPERATION OF RECREATION FACILITIES

For construction, operation, and maintenance of outdoor recreation facilities, including collection of special recreation use fees, to remain available until expended, \$2,475,000, to be derived from the special receipt accounts established by section 1(b) of the Act of July 15, 1968 (82 Stat. 354), and section 4(e) of the Act of July 11, 1972 (86 Stat. 461): *Provided*, That not more than 40 per centum of the amount credited pursuant to section 4(e) of the Act of July 11, 1972, shall be available for the enhancement of the fee collection system established by section 4 of such Act, including the promotion and enforcement thereof.

16 USC 460l-5
note.
16 USC 460l-6a.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed two hundred thirty-two passenger motor vehicles of which one hundred fifty-seven shall be for replacement only, and hire of such vehicles; operation and maintenance of aircraft and the purchase of not to exceed four for replacement only; (b) employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$100,000 for employment under 5 U.S.C. 3109; (c) uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) expenses of the National Forest Reservation Commission as authorized by section 14 of the Act of March 1, 1911 (16 U.S.C. 514); (f) acquisition of land and interests therein for sites for administrative and not to exceed \$75,000 for research purposes, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (g) expenses incident to acquisition by donation or exchange of land, waters, or interests in land or waters, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a): *Provided*, That such appropriation shall not be available for expenses incident to donations and exchanges which can be made pursuant to authorities other than the Act of August 3, 1956 (7 U.S.C. 428a); and (h) not to exceed \$100,000 for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note).

Funds appropriated under this Act shall not be used for acquisition of forest lands under the provisions of the Act approved March 1, 1911, as amended (16 U.S.C. 513-519, 521), where such land is not within the boundaries of an established national forest or purchase unit.

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, and National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture and Forestry in the U.S. Senate and the Committee on Agriculture in the U.S. House of Representatives.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

OPERATING EXPENSES, FOSSIL FUELS

42 USC 5801
note.

For necessary operating expenses of the Administration in carrying out the purposes of the Energy Reorganization Act of 1974; hire, maintenance, and operation of aircraft; publication and dissemination of atomic and other energy information; purchase, repair, and cleaning of uniforms; reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles; \$521,775,000 and any moneys (except sums received from the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 16, 1910, as amended (50 U.S.C. 98h; 30 U.S.C. 7)) received by the Energy Research and Development Administration notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), to remain available until expended: *Provided*, That from this appropriation transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made: *Provided further*, That the amount appropriated in any other appropriation act for "Operating expenses" for the Energy Research and Development Administration for the fiscal year ending September 30, 1977, shall be merged with this appropriation: *Provided further*, That no part of the sum herein appropriated shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That the funds made available under this head shall be available for obligation only upon the enactment into law of H.R. 13350, Ninety-Fourth Congress, or similar legislation: *Provided further*, That none of the funds herein appropriated for expenses related to fossil fuels shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in future appropriation acts.

PLANT AND CAPITAL EQUIPMENT, FOSSIL FUELS

42 USC 5801
note.

For expenses of the Administration, as authorized by law, in connection with the purchase and construction of plant and the acquisition of capital equipment and other expenses incidental thereto necessary in carrying out the purposes of the Energy Reorganization Act of 1974, including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion: \$62,220,000, to remain available until expended: *Provided*, That the amount appropriated in any other appropriation act for "Plant and capital equipment" for the Energy Research and Development Administration for the fiscal year ending September 30, 1977, shall be merged with this appropriation: *Provided further*, That the funds made available under this head shall be available for obligation only upon the enactment into law of H.R. 13350, Ninety-Fourth Congress, or similar legislation.

FEDERAL ENERGY ADMINISTRATION

SALARIES AND EXPENSES

15 USC 761.

5 USC 5332 note.

For necessary expenses of the Federal Energy Administration established by Public Law 93-275, dated May 7, 1974, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for grade GS-18; and not to exceed \$2,000 for official

reception and representation expenses, \$150,385,000: *Provided*, That advances or repayments or transfers from the appropriation may be made to any department or agency for expenses of carrying out such activities: *Provided further*, That in the event of the expiration of such Administration, the funds provided herein shall be available for obligation by any other entity or entities established to carry out substantially the same functions as such Administration: *Provided further*, That loan guarantees and obligation guarantees authorized by Public Law 94-163 shall not be made unless so authorized by limitations of outstanding obligational authority provided in future appropriation acts.

42 USC 6201
note.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out sections 151 through 166 of the Energy Policy and Conservation Act of 1975, \$447,684,000, to remain available until expended: *Provided*, That this appropriation shall be reduced to the extent that funds are made available for this purpose pursuant to section 201 of the Naval Petroleum Reserves Production Act of 1976.

42 USC
6231-6246.

Ante, p. 307.
10 USC 7420.

FUNDS APPROPRIATED TO THE PRESIDENT

PETROLEUM RESERVES

For expenses necessary to carry out the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258), \$406,116,000, and such sums as are available, not to exceed \$447,684,000, which shall be derived from the Naval Petroleum Reserves Special Account, to remain available until expended.

42 USC 6501
note.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses, not otherwise provided for, necessary to carry out the Act of August 5, 1954 (68 Stat. 674), Public Law 93-638, and titles III and V of the Public Health Service Act, including hire of passenger motor vehicles and aircraft; purchase of reprints; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, \$337,422,000.

42 USC 2001.
25 USC 450 note.
42 USC 241,
219.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites; purchase and erection of portable buildings; purchase of trailers; and provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), and Public Law 93-638, \$88,163,000, to remain available until expended.

25 USC 450 note.

ADMINISTRATIVE PROVISIONS, HEALTH SERVICES ADMINISTRATION

SEC. 1001. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by

5 USC 5332 note. 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18.

SEC. 1002. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 1003. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

OFFICE OF EDUCATION

INDIAN EDUCATION

20 USC 241aa note.
20 USC 1221. For carrying out, to the extent not otherwise provided, part A (\$25,000,000), part B (\$14,080,000), and part C (\$4,000,000) of the Indian Education Act, and the General Education Provisions Act, \$44,933,000.

INDIAN CLAIMS COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the purposes of the Act of August 13, 1946 (25 U.S.C. 70), as amended (86 Stat. 115), creating an Indian Claims Commission, \$1,525,000, of which not to exceed \$14,000 shall be available for expenses of travel: *Provided*, That the funds made available under this head shall be available for obligation only upon the enactment into law of H.R. 11909, Ninety-Fourth Congress, or similar legislation.

NAVAJO AND HOPI RELOCATION COMMISSION

SALARIES AND EXPENSES

25 USC
640d-24. For necessary expenses of the Navajo and Hopi Relocation Commission as authorized by law (Public Law 93-531, section 25(a)(5)), \$400,000, to remain available until expended.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, and protection of buildings, facilities, and approaches; not to exceed \$100,000 for services as authorized by 5 U.S.C. 3109; purchase or rental of two passenger motor vehicles; purchase rental, repair, and cleaning of uniforms for employees; \$82,106,000: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

MUSEUM PROGRAMS AND RELATED RESEARCH (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses for carrying out museum programs, scientific and cultural research, and related educational activities, as authorized by law, \$3,481,000, to remain available until expended and to be available only to United States institutions: *Provided*, That this appropriation shall be available, in addition to other appropriations to the Smithsonian Institution, for payments in the foregoing currencies: *Provided further*, That not to exceed \$1,000,000 shall be available to the Smithsonian Institution for the salvage of archeological sites on the Island of Philae.

SCIENCE INFORMATION EXCHANGE

For necessary expenses of the Science Information Exchange, \$1,900,000.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, \$6,580,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed \$10,000 for services as authorized by 5 U.S.C. 3109, \$2,950,000, to remain available until expended.

20 USC 53a.

SALARIES AND EXPENSES, NATIONAL GALLERY OF ART

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards and elevator operators, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and not to exceed \$70,000 for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, \$12,309,000.

20 USC 74.

SALARIES AND EXPENSES, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of

20 USC 80e note.

passenger vehicles and services as authorized by 5 U.S.C. 3109, \$1,120,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SALARIES AND EXPENSES

- 20 USC 951 note. For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$166,000,000, of which \$77,500,000 shall be available until expended to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, of which not less than 20 percent shall be available until expended to the National Endowment for the Arts for assistance pursuant to section 5(g) of the Act; \$77,500,000 shall be available until expended to the National Endowment for the Humanities for support of activities in the humanities pursuant to section 7(c) of the Act; and \$11,000,000 shall be available for administering the provisions of the Act: *Provided*, That not to exceed 3 per centum of the funds appropriated to the National Endowment for the Arts for the purposes of sections 5(c) and 5(g) and not to exceed 3 per centum of the funds appropriated to the National Endowment for the Humanities for the purposes of section 7(c) shall be available for program development and evaluation: *Provided further*, That the funds made available under this head shall be available for obligation only upon the enactment into law of H.R. 12838, Ninety-Fourth Congress, or similar legislation.
- 20 USC 954.
- 20 USC 956.
- 20 USC 951 note.

MATCHING GRANTS

- 20 USC 959. To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$14,500,000, to remain available until expended: *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman of each Endowment under the provisions of section 10(a)(2) during the current and preceding fiscal years and the transition period, for which equal amounts have not previously been appropriated: *Provided further*, That the funds made available under this head shall be available for obligation only upon the enactment into law of H.R. 12838, Ninety-Fourth Congress, or similar legislation.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), \$214,000.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), \$1,904,000.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses to carry out the provisions of the Act of December 11, 1973 (Public Law 93-179), \$65,000.

87 Stat. 697.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), \$29,000, to remain available until expended.

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION
FOR ALASKA

SALARIES AND EXPENSES

For necessary expenses of the Joint Federal-State Land Use Planning Commission for Alaska, established by the Act of December 18, 1971 (Public Law 92-203), as amended, \$737,000: *Provided*, That this appropriation shall not be available to pay more than one-half of the expenses of the Commission.

43 USC 1601
note.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17 of Public Law 92-578, as amended, \$1,000,000: *Provided*, That this appropriation shall be available only upon enactment of authorizing legislation.

40 USC 885.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

Unprocessed
timber, sale
restrictions.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease or right to access to minerals owned by private individuals.

Leasing of
mineral rights,
restrictions.

SEC. 303. No part of any appropriation under this Act shall be made available to the Secretary of the Interior for the leasing of oil and natural gas on publicly owned lands within the boundaries of the Flathead National Forest, Montana.

SEC. 304. Funds appropriated to the Lowell Historic Canal District Commission in the Department of the Interior and Related Agencies Appropriation Act, 1976, including funds appropriated for the period ending September 30, 1976 (Public Law 94-165; 89 Stat. 977), shall remain available until expended.

Fiscal year
limitation.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Short title.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriation Act, 1977."

Approved July 31, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1218 (Comm. on Appropriations) and No. 94-1330 (Comm. of Conference).

SENATE REPORT No. 94-991 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 25, considered and passed House.

June 26, considered and passed Senate, amended.

July 20, House and Senate agreed to conference report.

Public Law 94-374
94th Congress

An Act

To amend the Federal Aviation Act of 1958 to extend the authority of the Secretary of Transportation with respect to war risk insurance.

July 31, 1976
[H.R. 13308]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. 1542) is amended by striking out "May 7, 1976", and inserting in lieu thereof "May 7, 1977".

War risk
insurance.
Extension.

Approved July 31, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1123 (Comm. on Public Works and Transportation).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 18, considered and passed House.

July 20, considered and passed Senate.

Public Law 94-375
94th Congress

An Act

To amend and extend laws relating to housing and community development.

Aug. 3, 1976

[S. 3295]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Housing
Authorization Act
of 1976.

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing Authorization Act of 1976".

12 USC 1701
note.

AMENDMENTS TO THE UNITED STATES HOUSING ACT OF 1937

SEC. 2. (a) Section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following new sentence: "The Secretary is authorized to enter into contracts for annual contributions aggregating not more than \$1,524,000,000 per annum, which limit shall be increased by \$965,000,000 on July 1, 1974, by \$662,300,000 on July 1, 1975, and by \$850,000,000 on October 1, 1976, except that the additional authority to enter into contracts for annual contributions provided on or after July 1, 1975, shall be effective only in such amounts as may be approved in appropriation Acts."; and

Low-income
housing projects,
contracts for
annual
contributions.
42 USC 1437c.

(2) by inserting immediately after "on July 1, 1975," in the fourth sentence thereof the following: "and by not less than \$17,000,000 per annum on October 1, 1976,".

(b) (1) Effective on October 1, 1976, the second and third sentences of section 5(c) of such Act are amended to read as follows: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1976, and approved in appropriation Acts, the Secretary shall (A) make available at least \$60,000,000 for the modernization of low-income housing projects, and (B) make available at least \$140,000,000 to assist in financing low-income housing projects for ownership by public housing agencies other than under section 8, of which not less than \$100,000,000 shall be available only for the purpose of financing the construction or substantial rehabilitation of low-income housing projects. The Secretary, in utilizing the additional authority to enter into contracts for annual contributions provided on October 1, 1976, shall administer the programs authorized by this Act to provide assistance for new, substantially rehabilitated, and existing units, to the maximum extent practicable and consistent with section 213(d) of the Housing and Community Development Act of 1974, in accordance with the goals of units of general local government for such types of housing as reflected in their housing assistance plans prepared pursuant to section 104(a) (4) of such Act.".

New and
rehabilitated
housing units.

42 USC 1439.

42 USC 5304.

(2) Effective on October 1, 1976, the fourth sentence of section 5(c) of such Act is amended by striking out "to the amount of contracts for annual contributions required to be entered into by the Secretary under the second sentence of this subsection".

42 USC 1437c.

Appropriation
authorization.
42 USC 1437g.

(c) Section 9(c) of such Act is amended to read as follows:
“(c) There are authorized to be appropriated, for the purpose of providing annual contributions pursuant to this section not to exceed \$535,000,000 on or after July 1, 1975, not to exceed \$80,000,000 on or after July 1, 1976, and not to exceed \$576,000,000 on or after October 1, 1976.”.

42 USC 1437f.

(d) Section 8(c)(4) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “, and, subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period (i) if the unoccupied unit is in a project insured under the National Housing Act, except pursuant to section 244 of such Act, or (ii) if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.”.

12 USC 1701 and
note, 1715z-9.

42 USC 1437f.

(e) Section 8(f) of such Act is amended by striking out “and” at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof “; and”, and by adding the following new paragraph at the end thereof:

“Debt service.”

“(6) the term ‘debt service’ means the required payments for principal and interest made with respect to a mortgage secured by housing assisted under this Act.”.

42 USC 1437a.

(f) The third sentence of section 3(2) of such Act is amended by striking out the word “and” before “(C)” and inserting before the semicolon the following: “and (D) other single persons in circumstances described in regulations of the Secretary: *Provided*, That in no event shall more than 10 percent of the units under the jurisdiction of any public housing agency be occupied by single persons under this clause (D): *Provided further*, That in determining priority for admission to housing under this Act the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under this clause (D)”.

42 USC 1437f.

(g) Section 8(e)(1) of such Act is amended by inserting after “State or local agency” the following: “or the Farmers’ Home Administration”.

42 USC 1382
note.

42 USC 1430.

12 USC 1701 and
note.

12 USC 1701s.

42 USC 1471.

42 USC 1381.

(h) Notwithstanding any other provision of law, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949 may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of the benefits payable to, any person living in such unit for assistance under title XVI of the Social Security Act. This subsection shall become effective on October 1, 1976.

SECTION 235 HOMEOWNERSHIP PROGRAM

Mortgage
insurance,
termination.
12 USC 1715z.

SEC. 3. (a) Section 235(m) of the National Housing Act is amended by striking out “June 30, 1976” and inserting in lieu thereof “September 30, 1977”.

(b) The last proviso in section 235(b)(2) of such Act is amended by striking out "\$21,600", "\$25,200", "\$25,200", and "\$28,800" and inserting in lieu thereof "\$25,000", "\$29,000", "\$29,000", and "\$33,000", respectively. 12 USC 1715z.

(c) Section 235(i)(3)(B) of such Act is amended by striking out "\$21,600", "\$25,200", "\$25,200", and "\$28,800" and inserting in lieu thereof "\$25,000", "\$29,000", "\$29,000", and "\$33,000", respectively.

(d) Section 221(d)(2)(A) of such Act is amended—

(1) by striking out "\$21,600" and "\$25,200" in the matter preceding the first proviso and inserting in lieu thereof "\$25,000" and "\$29,000", respectively; and

Mortgage insurance, eligibility. 12 USC 1715l.

(2) by striking out "\$25,200" and "\$28,800" in the second proviso and inserting in lieu thereof "\$29,000" and "\$33,000", respectively.

(e) Section 235(h)(2) of such Act is amended by striking out "80 per centum" wherever it appears and inserting in lieu thereof "95 per centum". 12 USC 1715z.

(f) (1) Section 235(a) of such Act is amended—

(A) by inserting "(1)" immediately after "(a)"; and

(B) by adding at the end thereof the following:

"(2)(A) Notwithstanding any other provision of this section, the Secretary is authorized to make periodic assistance payments under this section on behalf of families whose incomes do not exceed the maximum income limits prescribed pursuant to subsection (h)(2) of this section for the purpose of assisting such families in acquiring ownership of a mobile home consisting of two or more modules and a lot on which such mobile home is or will be situated, except that periodic assistance payments pursuant to this paragraph shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this section after January 1, 1976. Assistance payments under this section pursuant to this paragraph shall be accomplished through payments on behalf of an owner of lower-income of a mobile home as described in the preceding sentence to the financial institution which makes the loan, advance of credit, or purchase of an obligation representing the loan or advance of credit to finance the purchase of the mobile home and the lot on which such mobile home is or will be situated, but only if insurance under section 2 of this Act covering such loan, advance of credit, or obligation has been granted to such institution.

Mobile homes, mortgage assistance payments.

"(B) Notwithstanding the provisions of subsection (c) of this section, assistance payments provided pursuant to this paragraph shall be in an amount not exceeding the lesser of—

12 USC 1703.

"(i) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying 20 per centum of the mobile homeowner's income; or

"(ii) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the mobile homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate derived by subtracting from the interest rate applicable to such loan or advance of credit the interest rate differential between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under subsection

- (i) of this section at the time such loan or advance of credit is made and the interest rate which such mortgages are presumed, under regulations prescribed by the Secretary, to bear for purposes of subsection (c) (2) of this section.”
- 12 USC 1715z. (2) Section 235(e) of such Act is amended by inserting “(a) (2) (B),” immediately before “(c)”.

SECTION 236 AMENDMENTS

- 12 USC 1715z-1. SEC. 4. (a) Section 236(n) of the National Housing Act is amended by striking out “June 30, 1976” and inserting in lieu thereof “September 30, 1977”.
- (b) Section 236(f) (2) of such Act is amended—
- (1) by inserting “(including the amount allowed for utilities in the case of a project with separate utility metering)” immediately after “basic rentals” in the first sentence thereof and by striking out everything in such sentence which follows “of their income” and inserting in lieu thereof a period; and
- (2) by inserting “(including the amount allowed for utilities in the case of a project with separate utility metering)” immediately after “rental payment” in the second sentence thereof and by striking out everything in such sentence which follows “tenant’s income” and inserting in lieu thereof a period.

FHA SUPPLEMENTAL LOANS FOR HOSPITALS

- 12 USC 1715z-6. SEC. 5. Section 241(a) of the National Housing Act is amended—
- (1) by inserting “, hospital,” immediately after “multifamily project” in the first sentence thereof;
- (2) by inserting “, hospital,” immediately after “such project” in the material preceding the proviso in the second sentence thereof; and
- (3) by inserting “, hospital,” immediately before “or a group practice facility” and immediately before “or facility” in the proviso in the second sentence thereof.

CO-INSURANCE

- 12 USC 1715z-9. SEC. 6. (a) Section 244 of the National Housing Act is amended by inserting at the end thereof the following new subsection:
- Multifamily housing projects. “(g) (1) Where the mortgagee is a public housing agency or an insured depository institution and the mortgage covers a multifamily housing project, the co-insurance contract may provide that the mortgagee assume (i) the full amount of any loss on the insured mortgage up to an amount equal to a fixed percentage of the outstanding principal balance of the mortgage at the time of claim for insurance benefits, or (ii) the full amount of any losses on insured mortgages in a portfolio of mortgages approved by the Secretary up to an amount equal to a fixed percentage of the outstanding principal balance of all mortgages in such portfolio at the time of claim for insurance benefits on a mortgage in the portfolio, plus a share of any loss in excess of the amount under clause (i) or (ii), whichever is applicable.
- “(2) The second sentence of subsection (d) shall not apply to mortgages made to public housing agencies, but for purposes of such second sentence such mortgages shall not be counted in the aggregate principal amount of all mortgages insured under this title.

“(3) The Secretary may make loans, from the applicable insurance fund, to public housing agencies in connection with mortgages which have been insured pursuant to this subsection and which are in default.

“(4) The Secretary may insure and make a commitment to insure in connection with a co-insurance contract pursuant to this subsection (A) a mortgage on a project assisted under the second proviso in the first sentence of section 236(b) of this Act, and (B) a mortgage or advance on a mortgage made to a public housing agency on a project under construction which is not approved for insurance prior to construction.

12 USC 1715z-1.

“(5) As used in this subsection, the term ‘public housing agency’ has the same meaning as in section 3(6) of the United States Housing Act of 1937, and the term ‘insured depository institution’ means any savings bank, savings and loan association, commercial bank or other such depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or by an agency or instrumentality of a State.

“Public housing agency.”

42 USC 1437a.

“Insured depository institution.”

“(6) Notwithstanding any other provision of this Act, the Secretary may include in the determination of replacement cost of a project to be covered by a mortgage made to a public housing agency and insured pursuant to this subsection, such reserves and development costs, not to exceed 5 per centum of the amount otherwise allowable, as may be established or authorized by the public housing agency consistent with such agency’s procedures and underwriting standards.”

12 USC 1715z-9.

(b) Section 244(a) of such Act is amended by adding the following new sentence at the end thereof: “A mortgagee which enters into a contract of co-insurance under this section shall not by reason of such contract, or its adherence to such contract or applicable regulations of the Secretary, including provisions relating to the retention of risks in the event of sale or assignment of a mortgage, be made subject to any State law regulating the business of insurance.”

EXPERIMENTAL FINANCING

SEC. 7. Section 245 of the National Housing Act is amended by striking out “June 30, 1976” and inserting in lieu thereof “September 30, 1977”.

12 USC
1715z-10.

MULTIFAMILY MORTGAGE LIMITS

SEC. 8. (a) The National Housing Act is amended by striking out “by not to exceed 75 per centum in any geographical area” where it appears in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) and inserting in lieu thereof in each such section “by not to exceed 50 per centum in any geographical area”.

12 USC 1713,
1715e, 1715k,
1715f, 1715v,
1715y.

(b)(1)(A) Section 207(c)(3) of the National Housing Act is amended by striking out “\$13,000”, “\$18,000”, “\$21,500”, “\$26,500”, “\$30,000”, and “\$3,250” in the matter preceding the first semicolon and inserting in lieu thereof “\$19,500”, “\$21,600”, “\$25,800”, “\$31,800”, “\$36,000”, and “\$3,900”, respectively.

(B) Section 207(c)(3) of such Act is further amended by striking out “\$15,000”, “\$21,000”, “\$25,750”, “\$32,250”, and “\$36,465” in the matter following the first semicolon and inserting in lieu thereof “\$22,500”, “\$25,200”, “\$30,900”, “\$38,700”, and “\$43,758”, respectively.

(2)(A) Section 213(b)(2) of such Act is amended by striking out “\$13,000”, “\$18,000”, “\$21,500”, “\$26,500”, and “\$30,000” in the matter preceding the first proviso and inserting in lieu thereof “\$19,500”, “\$21,600”, “\$25,800”, “\$31,800”, and “\$36,000”, respectively.

12 USC 1715e.

- 12 USC 1715e. (B) Section 213(b)(2) of such Act is further amended by striking out “\$15,000”, “\$21,000”, “\$25,750”, “\$32,250”, and “\$36,465” in the first proviso and inserting in lieu thereof “\$22,500”, “\$25,200”, “\$30,900”, “\$38,700”, and “\$43,758”, respectively.
- 12 USC 1715k. (3) (A) Section 220(d)(3)(B)(iii) of such Act is amended by striking out “\$13,000”, “\$18,000”, “\$21,500”, “\$26,500”, and “\$30,000” in the matter preceding “except” where it first appears and inserting in lieu thereof “\$19,500”, “\$21,600”, “\$25,800”, “\$31,800”, and “\$36,000”, respectively.
- (B) Section 220(d)(3)(B)(iii) of such Act is further amended by striking out “\$15,000”, “\$21,000”, “\$25,750”, “\$32,250”, and “\$36,465” in the matter following “except” where it first appears and inserting in lieu thereof “\$22,500”, “\$25,200”, “\$30,900”, “\$38,700”, and “\$43,758”, respectively.
- 12 USC 1715l. (4) Section 221(d)(3)(ii) of such Act is amended—
- (A) by striking out “\$11,240”, “\$15,540”, “\$18,630”, “\$23,460”, and “\$26,570” and inserting in lieu thereof “\$16,860”, “\$18,648”, “\$22,356”, “\$28,152”, and “\$31,884”, respectively; and
- (B) by striking out “\$13,120”, “\$18,630”, “\$22,080”, “\$27,600”, and “\$32,000” and inserting in lieu thereof “\$19,680”, “\$22,356”, “\$26,496”, “\$33,120”, and “\$38,400”, respectively.
- (5) (A) Section 221(d)(4)(ii) of such Act is amended by striking out “\$12,300”, “\$17,188”, “\$20,525”, “\$24,700”, and “\$29,038” in the matter preceding the first semicolon and inserting in lieu thereof “\$18,450”, “\$20,625”, “\$24,630”, “\$29,640”, and “\$34,846”, respectively.
- (B) Section 221(d)(4)(ii) of such Act is further amended by striking out “\$13,975”, “\$20,025”, “\$24,350”, “\$31,500”, and “\$34,578” in the matter following the first semicolon and inserting in lieu thereof “\$20,962”, “\$24,030”, “\$29,220”, “\$37,800”, and “\$41,494”, respectively.
- 12 USC 1715v. (6) (A) Section 231(c)(2) of such Act is amended by striking out “\$12,300”, “\$17,188”, “\$20,525”, “\$24,700”, and “\$29,038” in the matter preceding the first semicolon and inserting in lieu thereof “\$18,450”, “\$20,625”, “\$24,630”, “\$29,640”, and “\$34,846”, respectively.
- (B) Section 231(c)(2) of such Act is further amended by striking out “\$13,975”, “\$20,025”, “\$24,350”, “\$31,500”, and “\$34,578” in the matter following the first semicolon and inserting in lieu thereof “\$20,962”, “\$24,030”, “\$29,220”, “\$37,800”, and “\$41,494”, respectively.
- 12 USC 1715y. (7) (A) Section 234(c)(3) of such Act is amended by striking out “\$13,000”, “\$18,000”, “\$21,500”, “\$26,500”, and “\$30,000” in the matter preceding the first semicolon and inserting in lieu thereof “\$19,500”, “\$21,600”, “\$25,800”, “\$31,800”, and “\$36,000”, respectively.
- (B) Section 234(c)(3) of such Act is further amended by striking out “\$15,000”, “\$21,000”, “\$25,750”, “\$32,250”, and “\$36,465” in the matter following the first semicolon and inserting in lieu thereof “\$22,500”, “\$25,200”, “\$30,900”, “\$38,700”, and “\$43,758”, respectively.

CORRECTION OF DEFECTS

- 12 USC 1735b. SEC. 9. (a)(1) Section 518(b) of the National Housing Act is amended by striking out “not more than nineteen months after the date of enactment of the Housing and Community Development Act of 1974” in the first sentence thereof and inserting in lieu thereof “not more than four months after the date of enactment of the Housing Authorization Act of 1976”.

(2) Section 518(b) of such Act is amended by striking out the last sentence and inserting in lieu thereof the following: "Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for."

12 USC 1735b.

Appropriation
authorization.

(b) Section 518 of the National Housing Act is amended by adding at the end thereof the following new subsections:

"(d) The Secretary is authorized to make expenditures to correct or to reimburse the owner for the correction of structural or other major defects which so seriously affect use and liveability as to create a serious danger to the life or safety of inhabitants of any one-, two-, three-, or four-family dwelling which is more than one year old on the date of issuance of the insurance commitment, is located in an older, declining urban area, and is covered by a mortgage insured under section 203 or 221 on or after January 1, 1973, but prior to the date of enactment of this subsection if (1) the owner requests assistance from the Secretary not more than one year after the date of enactment of this subsection, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably have been expected to have disclosed. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for.

Corrected
defects,
expenditures.12 USC 1709,
1715f.Appropriation
authorization.

"(e) The Secretary of Housing and Urban Development is authorized and directed to conduct a full and complete investigation and study and report to Congress, with recommendations, not later than March 1, 1977, with respect to an effective program for protecting home buyers from hidden or undisclosed defects seriously affecting the use and livability of the home, which would be applicable to existing homes financed with mortgages insured under this Act. In the study and report the Secretary shall particularly investigate the need for, cost and feasible structure of, a national home inspection and warranty program, with respect to such homes, to be operated by the Federal Government out of fees assessed on the home buyer and amortized over a period of two years. The Secretary's report shall also present an analysis of alternative Federal programs to meet these needs, and the cost and means of financing such programs. In the report the Secretary shall also outline administrative steps which can be taken to provide disclosure to purchasers of existing homes financed with mortgages insured under this Act of the actual condition of the home and the types of repairs or replacements likely to be needed within a period of two years, such as repairs or replacement of furnace, roof or major appliances, based on age and useful life expectancy of such appurtenances."

Investigation and
study; report to
Congress.

GENERAL INSURANCE FUND AUTHORIZATION

SEC. 10. Section 519 of the National Housing Act is amended by adding at the end thereof the following new subsection:

12 USC 1735c.

"(f) There are authorized to be appropriated to cover losses sustained by the General Insurance Fund not to exceed \$500,000,000."

Appropriation
authorization.

HOUSING FOR THE ELDERLY

12 USC 1701q.

SEC. 11. (a) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking out “\$800,000,000” in the first sentence and inserting in lieu thereof “\$1,475,000,000, which amount shall be increased to \$2,387,500,000 on October 1, 1977, and to \$3,300,000,000 on October 1, 1978”; and

(2) by inserting the following new sentence at the end thereof: “The Secretary may not issue notes or other obligations to the Secretary of the Treasury pursuant to this section in an aggregate amount exceeding \$800,000,000 except as approved in appropriation Acts.”.

“Elderly or
handicapped
families.”

(b) Section 202(d)(4) of such Act is amended by adding the following new sentence at the end thereof: “Notwithstanding the preceding provisions of this paragraph, the term ‘elderly or handicapped families’ includes two or more elderly or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to their care or well-being, and the surviving member or members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the family at the time of his or her death.”.

(c) (1) Section 202(a)(3) of such Act is amended by striking out “current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans” and inserting in lieu thereof the following: “average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made”.

(2) The second sentence of section 202(a)(4)(B)(i) of such Act is amended by striking out “the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations”, and inserting in lieu thereof the following: “the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made”.

REHABILITATION LOAN PROGRAM

42 USC 1452b.

SEC. 12. (a) Section 312(d) of the Housing Act of 1964 is amended—

(1) by striking out “and not to exceed \$100,000,000 for the fiscal year beginning on July 1, 1975” and inserting in lieu thereof “not to exceed \$100,000,000 for the fiscal year beginning on July 1, 1975, and not to exceed \$100,000,000 for the fiscal year beginning on October 1, 1976”; and

(2) by adding at the end thereof the following new sentence: “The amount of commitments to make loans pursuant to this section entered into after August 22, 1976, shall not exceed amounts approved in appropriation Acts.”.

Termination date.

(b) Section 312(h) of such Act is amended to read as follows: “(h) No loan shall be made under this section after September 30, 1977, except pursuant to a contract, commitment, or other obligation entered into pursuant to this section prior to October 1, 1977.”.

EMERGENCY HOUSING

SEC. 13. (a) Section 109(b) of the Emergency Homeowners' Relief Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "September 30, 1977". 12 USC 2708.

(b) The first sentence of section 110(a) of such Act is amended— 12 USC 2709.

(1) by striking out "Until one year from the date of enactment of this title, each" and inserting in lieu thereof "Each";

(2) by inserting "prior to October 1, 1977," immediately after "(1)"; and

(3) by inserting "until one year from the date of enactment of this title," immediately after "(2)".

(c) Section 111 of such Act is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977". 12 USC 2710.

(d) Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "July 1, 1976" and inserting in lieu thereof "October 1, 1977". 12 USC 1723e note.

(e) (1) Section 313(b) of the National Housing Act is amended by striking out the period at the end thereof and inserting in lieu thereof "; and", and by inserting the following at the end thereof: 12 USC 1723e.

"(D) such mortgage involves a principal residence the sales price of which does not exceed \$48,000 (\$52,000 in high-cost areas as determined by the Secretary) per family residence or dwelling unit, except that such sales price in Alaska, Hawaii, and Guam may not exceed \$65,000."

(2) The amendment made by paragraph (1) shall apply only with respect to mortgages purchased pursuant to commitments made after the date of the enactment of this Act. 12 USC 1723e note.

FLOOD INSURANCE

SEC. 14. (a) Section 202(b) of the Flood Disaster Protection Act of 1973 is amended by striking out all that follows "shall not apply to" and inserting in lieu thereof the following: "42 USC 4106.
(1) any loan made to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) any loan, which does not exceed an amount prescribed by the Secretary, to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed \$5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm."

(b) Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1977". 42 USC 4056.

(c) Section 1376 of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new subsection: 42 USC 4127.

"(c) There are authorized to be appropriated for studies under this title not to exceed \$100,000,000 for the fiscal year 1977." Appropriation authorization.

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Appropriation
authorization.
42 USC 5303.

SEC. 15. (a) Section 103(a)(2) of the Housing and Community Development Act of 1974 is amended by inserting “, and \$200,000,000 for the fiscal year 1977, not more than 50 per centum of which amount may be used under section 106(d)(1),” immediately after “1976”.

42 USC 5305.

(b) Paragraph (2) of section 105(a) of such Act is amended by inserting immediately after “neighborhood facilities,” the following: “centers for the handicapped.”

Discretionary
fund.

42 USC 5307.

12 USC 1749aa.

42 USC 4501.

(c) Section 107(a)(1) of such Act is amended by inserting the following immediately before the semicolon at the end thereof: “or in behalf of new community projects assisted under title X of the National Housing Act which meet the eligibility standards set forth in title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication under such title prior to January 14, 1975”.

42 USC 5316.

(d) Section 116 of such Act is amended by adding at the end thereof the following new subsection:

Transition
provisions.

“(h) In the event that the total amount available for distribution in fiscal year 1977 in metropolitan areas is insufficient to meet all basic grant and hold-harmless entitlement needs, as provided by section 106(a), and funds are not otherwise appropriated to meet such deficiency, the Secretary shall meet the deficiency, first, from amounts available for use under section 107 and, if such amounts are exhausted, through a ratable reduction of all entitlements under section 106(a).”.

COMPREHENSIVE PLANNING

40 USC 461.

SEC. 16. (a) The first sentence of section 701(e) of the Housing Act of 1954 is amended by striking out “and not to exceed \$150,000,000 for the fiscal year 1976” and inserting in lieu thereof “not to exceed \$150,000,000 for the fiscal year 1976, and not to exceed \$100,000,000 for the fiscal year 1977”.

40 USC 461 note.

(b) No eligible recipient under section 701 of the Housing Act of 1954 may be excluded from qualifying for funds under such section solely on the basis of participation or nonparticipation under such section prior to fiscal year 1977.

CONFIRMATION OF GOVERNMENT NATIONAL MORTGAGE ASSOCIATION
PRESIDENT

12 USC 1723.

SEC. 17. (a) The National Housing Act is amended by striking out the third sentence of section 308(a) and inserting in lieu thereof the following: “There is hereby established in the Department of Housing and Urban Development the position of President, Government National Mortgage Association, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall select and effect the appointment of qualified persons to fill the offices of vice president, and such other offices as may be provided for in the bylaws. Persons appointed under the preceding sentence shall perform such executive functions, powers, and duties as may be prescribed by the bylaws or by the Secretary, and such persons shall be executive officers of the Association and shall discharge all such executive functions, powers, and duties.”.

12 USC 1723a.

(b) Section 309(d) of such Act is amended by striking out the word “The” immediately preceding “Secretary” in the first sentence and inserting in lieu thereof “Subject to the provisions of section 308(a), the”.

(c) Section 5315 of title 5, United States Code, is amended by adding at the ending thereof the following new paragraph:

“(108) President, Government National Mortgage Association, Department of Housing and Urban Development.”.

(d) Section 7(c) of the Department of Housing and Urban Development Act is amended by striking out “seven” in the proviso and substituting in lieu thereof “six”. 42 USC 3535.

(e) Notwithstanding the amendment made by subsection (a), the rights, powers, and duties of the position of President, Government National Mortgage Association, as in effect on the day preceding the date of enactment of this Act shall remain in effect until the position established hereunder has been filled in accordance with the terms of this Act. 12 USC 1723 note.

SPECIAL ASSISTANT FOR COOPERATIVE HOUSING

SEC. 18. The first sentence of section 102(h) of the Housing Amendments of 1955 is amended—

12 USC 1715e note.

(1) by inserting after “section 221(d)(3)” a comma and the following: “section 235, section 236, section 241, section 243, section 246, and section 203(n)”;

(2) by inserting after “Housing and Urban Development Act of 1965” the following: “or section 8 of the United State Housing Act of 1937”; and

(3) by inserting before the period the following: “and Assistant Secretary for Housing Management”.

12 USC 1715z, 1715z-1, 1715z-6, 1715z-8, 1715z-11, 1709. 42 USC 1408.

NEW COMMUNITIES

SEC. 19. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out “June 30, 1975” and inserting in lieu thereof “October 1, 1977”. 42 USC 4521.

URBAN HOMESTEADING

SEC. 20. Section 810(g) of the Housing and Community Development Act of 1974 is amended by striking out “and not to exceed \$5,000,000 for the fiscal year 1976” and inserting in lieu thereof “not to exceed \$6,250,000 for the fiscal year 1976, and for the transition quarter, not to exceed \$5,000,000 for fiscal year 1977, and not to exceed \$5,000,000 for the fiscal year 1978”. 12 USC 1706e.

DAY CARE

SEC. 21. Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection: 42 USC 3535.

“(n) Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip and operate a day care center facility for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by such a day care center.”. HUD employees, day care center.

HOME OWNER'S LOAN ACT

SEC. 22. The twelfth undesignated paragraph of section 5(c) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by adding in the first sentence, immediately after the words "made pursuant to either of such sections" and before the period the following language: "and in the share capital and capital reserve of the Inter-American Savings and Loan Bank".

RESEARCH AUTHORIZATION

- Appropriation authorization.
12 USC 1701z-1. SEC. 23. (a) Section 501 of the Housing and Urban Development Act of 1970 is amended by striking out the second sentence and inserting in lieu thereof the following: "There are authorized to be appropriated for activities under this title not to exceed \$65,000,000 for the fiscal year 1977.".
- 12 USC 1701z-3. (b) Section 504(b) of such Act is amended by striking out the first, third, and fourth sentences.
- 12 USC 1701z-2. (c) Section 502(f) of such Act is amended by striking out the period at the end of the second sentence and inserting in lieu thereof the following: "and such departments and agencies are hereby authorized to execute such contracts and grants.".

NATIONAL INSTITUTE OF BUILDING SCIENCES

- 12 USC 1701j-2. SEC. 24. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting ", and \$5,000,000 for each of the fiscal years 1977 and 1978" immediately after "fiscal year 1976".

RURAL HOUSING

- Interest rates.
42 USC 1490a. SEC. 25. (a) Section 521(a)(1) of the Housing Act of 1949 is amended by striking out "rate determined annually by the Secretary of the Treasury" and inserting in lieu thereof "rate determined by the Secretary of the Treasury upon the request of the Secretary".
- 42 USC 1490. (b) Section 520(3)(B) of such Act is amended by inserting "for lower and moderate-income families" immediately after "has a serious lack of mortgage credit".
- 42 USC 1480. (c) Section 510 of such Act is amended by redesignating subsections (f) and (g) as subsections (h) and (i), respectively, and by inserting the following new subsections immediately after subsection (e):
- 42 USC 1490. " (f) continue processing as expeditiously as possible applications on hand received prior to the time an area has been determined by the Secretary not to be 'rural' or a 'rural area', as those terms are defined in section 520, and make loans or grants to such applicants who are found to be eligible on the same basis as though the area were still rural;
- " (g) notwithstanding that an area ceases, or has ceased, to be 'rural', in a 'rural area', or an eligible area, make assistance under this title available in connection with transfers and assumptions of property securing any loan made, insured, or held by the Secretary or in connection with any property held by the Secretary under this title on the same basis as though the area were still rural;".

COUNSELING

- 12 USC 1701z-1. SEC. 26. Title V of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following new section:

“COUNSELING TO MORTGAGORS

“SEC. 508. (a) In carrying out activities under section 501, the Secretary is directed to undertake programs of studies and demonstrations within at least three standard metropolitan statistical areas to determine the extent of need for and cost effectiveness of providing pre-purchase, default and delinquency counseling and related services to owners and purchasers of single-family dwellings insured or to be insured under the unsubsidized mortgage insurance programs of the National Housing Act. 12 USC 1701z-7.
12 USC 1701z-1.

“(b) Within one year from enactment of this section, the Secretary shall submit an interim report to the Congress with respect to the progress made under such studies and demonstrations, including an estimate as to the date when a final report on the results of such demonstrations will be made available to the Congress.”. 12 USC 1701 note.
Report to Congress.

Approved August 3, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-545 accompanying H.R. 9852 and No. 94-1091 and No. 94-1091, pt. II, accompanying H.R. 12945 (Comm. on Banking, Currency and Housing) and Nos. 94-1291 and 94-1304 (Comm. of Conference).

SENATE REPORTS: No. 94-520 accompanying H.R. 9852 and No. 94-749 (Comm. on Banking, Housing and Urban Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 20, H.R. 9852 considered and passed House.

Vol. 122 (1976): Jan. 23, H.R. 9852 considered and passed Senate, amended.

Apr. 27, considered and passed Senate.

May 26, considered and passed House, amended, in lieu of H.R. 12945.

June 30, House agreed to conference report.

July 20, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 32 (1976): Aug. 4, Presidential statement.

Public Law 94-376
94th Congress

An Act

Aug. 4, 1976

[S. 2054]

Communications
Act of 1934,
amendments.
Common carriers,
notice to change
charges.

To amend sections 203 and 204 of the Communications Act of 1934.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 (b) of the Communications Act of 1934 (47 U.S.C. 203 (b)) is amended to read as follows:

“(b) (1) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after ninety days notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may by regulations prescribe.

“(2) The Commission may, in its discretion and for good cause shown, modify any requirement made by or under the authority of this section either in particular instances or by general order applicable to special circumstances or conditions except that the Commission may not require the notice period specified in paragraph (1) to be more than ninety days.”.

SEC. 2. Section 204 of the Communications Act of 1934 (47 U.S.C. 204) is amended to read as follows:

New charges,
hearings.

“SEC. 204. (a) Whenever there is filed with the Commission any new or revised charge, classification, regulation, or practice, the Commission may either upon complaint or upon its own initiative without complaint, upon reasonable notice, enter upon a hearing concerning the lawfulness thereof; and pending such hearing and the decision thereon the Commission, upon delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such charge, classification, regulation, or practice, in whole or in part but not for a longer period than five months beyond the time when it would otherwise go into effect; and after full hearing the Commission may make such order with reference thereto as would be proper in a proceeding initiated after such charge, classification, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of the suspension, the proposed new or revised charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed charge for a new service or an increased charge, the Commission may by order require the interested carrier or carriers to keep accurate account of all amounts received by reason of such charge for a new service or increased charge, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such charge for a new service or increased charges as by its decision shall be found not justified. At any hearing involving a charge increased, or sought to be increased, the burden of proof to show that the increased charge, or proposed charge, is just and reasonable shall be upon the carrier, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

“(b) Notwithstanding the provisions of subsection (a) of this section, the Commission may allow part of a charge, classification, regulation, or practice to go into effect, based upon a written showing by the carrier or carriers affected, and an opportunity for written comment thereon by affected persons, that such partial authorization is just, fair, and reasonable. Additionally, or in combination with a partial authorization, the Commission, upon a similar showing, may allow all or part of a charge, classification, regulation, or practice to go into effect on a temporary basis pending further order of the Commission. Authorizations of temporary new or increased charges may include an accounting order of the type provided for in subsection (a).”.

Approved August 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1315 accompanying H.R. 13961 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-918 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 27, considered and passed Senate.

July 20, considered and passed House, amended, in lieu of H.R. 13961.

July 21, Senate concurred in House amendment.

Public Law 94-377
94th Congress

An Act

To amend the Mineral Leasing Act of 1920, and for other purposes.

Aug. 4, 1976

[S. 391]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Federal Coal Leasing Amendments Act of 1975".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of the Mineral Lands Leasing Act, the reference shall be considered to be made to a section or other provision of the Act of February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" (41 Stat. 437).

SEC. 2. The first sentence of section 2(a) of the Mineral Lands Leasing Act (30 U.S.C. 201(a)) is amended to read as follows:

"(1) The Secretary of the Interior is authorized to divide any lands subject to this Act which have been classified for coal leasing into leasing tracts of such size as he finds appropriate and in the public interest and which will permit the mining of all coal which can be economically extracted in such tract and thereafter he shall, in his discretion, upon the request of any qualified applicant or on his own motion, from time to time, offer such lands for leasing and shall award leases thereon by competitive bidding. No less than 50 per centum of the total acreage offered for lease by the Secretary in any one year shall be leased under a system of deferred bonus payment. Upon default or cancellation of any coal lease for which bonus payments are due, any unpaid remainder of the bid shall be immediately payable to the United States. A reasonable number of leasing tracts shall be reserved and offered for lease in accordance with this section to public bodies, including Federal agencies, rural electric cooperatives, or non-profit corporations controlled by any of such entities: *Provided*, That the coal so offered for lease shall be for use by such entity or entities in implementing a definite plan to produce energy for their own use or for sale to their members or customers (except for short-term sales to others). No bid shall be accepted which is less than the fair market value, as determined by the Secretary, of the coal subject to the lease. Prior to his determination of the fair market value of the coal subject to the lease, the Secretary shall give opportunity for and consideration to public comments on the fair market value. Nothing in this section shall be construed to require the Secretary to make public his judgment as to the fair market value of the coal to be leased, or the comments he receives thereon prior to the issuance of the lease."

SEC. 3. The last sentence of section 2(a) of the Mineral Lands Leasing Act (30 U.S.C. 201(a)) is amended to read as follows:

"(2) (A) The Secretary shall not issue a lease or leases under the terms of this Act to any person, association, corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation, where any such entity holds a lease or leases issued by the United States to coal deposits and has held such lease or leases for a period of ten years when such

Federal Coal
Leasing
Amendments Act
of 1975.

30 USC 181 note.

30 USC 181 note.

Fair market
value.

entity is not, except as provided for in section 7(b) of this Act, producing coal from the lease deposits in commercial quantities. In computing the ten-year period referred to in the preceding sentence, periods of time prior to the date of enactment of the Federal Coal Leasing Amendments Act of 1975 shall not be counted.

“(B) Any lease proposal which permits surface coal mining within the boundaries of a National Forest which the Secretary proposes to issue under this Act shall be submitted to the Governor of each State within which the coal deposits subject to such lease are located. No such lease may be issued under this Act before the expiration of the sixty-day period beginning on the date of such submission. If any Governor to whom a proposed lease was submitted under this subparagraph objects to the issuance of such lease, such lease shall not be issued before the expiration of the six-month period beginning on the date the Secretary is notified by the Governor of such objection. During such six-month period, the Governor may submit to the Secretary a statement of reasons why such lease should not be issued and the Secretary shall, on the basis of such statement, reconsider the issuance of such lease.

Land-use plans.

“(3) (A) (i) No lease sale shall be held unless the lands containing the coal deposits have been included in a comprehensive land-use plan and such sale is compatible with such plan. The Secretary of the Interior shall prepare such land-use plans on lands under his responsibility where such plans have not been previously prepared. The Secretary of the Interior shall inform the Secretary of Agriculture of substantial development interest in coal leasing on lands within the National Forest System. Upon receipt of such notification from the Secretary of the Interior, the Secretary of Agriculture shall prepare a comprehensive land-use plan for such areas where such plans have not been previously prepared. The plan of the Secretary of Agriculture shall take into consideration the proposed coal development in these lands: *Provided*, That where the Secretary of the Interior finds that because of non-Federal interest in the surface or because the coal resources are insufficient to justify the preparation costs of a Federal comprehensive land-use plan, the lease sale can be held if the lands containing the coal deposits have been included in either a comprehensive land-use plan prepared by the State within which the lands are located or a land use analysis prepared by the Secretary of the Interior.

Proposed plans;
hearing.

“(ii) In preparing such land-use plans, the Secretary of the Interior or, in the case of lands within the National Forest System, the Secretary of Agriculture, or in the case of a finding by the Secretary of the Interior that because of non-Federal interests in the surface or insufficient Federal coal, no Federal comprehensive land-use plans can be appropriately prepared, the responsible State entity shall consult with appropriate State agencies and local governments and the general public and shall provide an opportunity for public hearing on proposed plans prior to their adoption, if requested by any person having an interest which is, or may be, adversely affected by the adoption of such plans.

“(iii) Leases covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon consent of the other Federal agency and upon such conditions as it may prescribe with respect to the use and protection of the nonmineral interests in those lands.

“(B) Each land-use plan prepared by the Secretary (or in the case of lands within the National Forest System, the Secretary of

Agriculture pursuant to subparagraph (A)(i)) shall include an assessment of the amount of coal deposits in such land, identifying the amount of such coal which is recoverable by deep mining operations and the amount of such coal which is recoverable by surface mining operations.

“(C) Prior to issuance of any coal lease, the Secretary shall consider effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural and other economic activities, and on public services. Prior to issuance of a lease, the Secretary shall evaluate and compare the effects of recovering coal by deep mining, by surface mining, and by any other method to determine which method or methods or sequence of methods achieves the maximum economic recovery of the coal within the proposed leasing tract. This evaluation and comparison by the Secretary shall be in writing but shall not prohibit the issuance of a lease; however, no mining operating plan shall be approved which is not found to achieve the maximum economic recovery of the coal within the tract. Public hearings in the area shall be held by the Secretary prior to the lease sale.

Hearings.

“(D) No lease sale shall be held until after the notice of the proposed offering for lease has been given once a week for three consecutive weeks in a newspaper of general circulation in the county in which the lands are situated in accordance with regulations prescribed by the Secretary.

Notice,
publication in
newspaper.

“(E) Each coal lease shall contain provisions requiring compliance with the Federal Water Pollution Control Act (33 U.S.C. 1151-1175) and the Clean Air Act (42 U.S.C. 1857 and following).”.

Compliance.
33 USC 1251 *et*
seq.

SEC. 4. Subject to valid existing rights, section 2(b) of the Mineral Lands Leasing Act (30 U.S.C. 201(b)) is amended to read as follows:

Exploration
license,
regulations.

“(b) (1) The Secretary may, under such regulations as he may prescribe, issue to any person an exploration license. No person may conduct coal exploration for commercial purposes for any coal on lands subject to this Act without such an exploration license. Each exploration license shall be for a term of not more than two years and shall be subject to a reasonable fee. An exploration license shall confer no right to a lease under this Act. The issuance of exploration licenses shall not preclude the Secretary from issuing coal leases at such times and locations and to such persons as he deems appropriate. No exploration license will be issued for any land on which a coal lease has been issued. A separate exploration license will be required for exploration in each State. An application for an exploration license shall identify general areas and probable methods of exploration. Each exploration license shall contain such reasonable conditions as the Secretary may require, including conditions to insure the protection of the environment, and shall be subject to all applicable Federal, State, and local laws and regulations. Upon violation of any such conditions or laws the Secretary may revoke the exploration license.

Conditions.

Revocation.

“(2) A licensee may not cause substantial disturbance to the natural land surface. He may not remove any coal for sale but may remove a reasonable amount of coal from the lands subject to this Act included under his license for analysis and study. A licensee must comply with all applicable rules and regulations of the Federal agency having jurisdiction over the surface of the lands subject to this Act. Exploration licenses covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon such conditions as it may prescribe with respect to the use and protection of the nonmineral interests in those lands.

Data.	“(3) The licensee shall furnish to the Secretary copies of all data (including, but not limited to, geological, geophysical, and core drilling analyses) obtained during such exploration. The Secretary shall maintain the confidentiality of all data so obtained until after the areas involved have been leased or until such time as he determines that making the data available to the public would not damage the competitive position of the licensee, whichever comes first.
Penalty.	“(4) Any person who willfully conducts coal exploration for commercial purposes on lands subject to this Act without an exploration license issued hereunder shall be subject to a fine of not more than \$1,000 for each day of violation. All data collected by said person on any Federal lands as a result of such violation shall be made immediately available to the Secretary, who shall make the data available to the public as soon as it is practicable. No penalty under this subsection shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation.”.
Notice and hearing.	
Repeal. 30 USC 201-1 note.	SEC. 5. (a) Subject to valid existing rights, subsections 2(c) and 2(d) of the Act of August 31, 1964 (78 Stat. 710; 30 U.S.C. 201-1) are hereby repealed.
Logical mining unit. 30 USC 201. 30 USC 202a. Hearing.	(b) Section 2 of the Mineral Lands Leasing Act is amended by the addition of the following new subsection at the end thereof: “(d) (1) The Secretary, upon determining that maximum economic recovery of the coal deposit or deposits is served thereby, may approve the consolidation of coal leases into a logical mining unit. Such consolidation may only take place after a public hearing, if requested by any person whose interest is or may be adversely affected. A logical mining unit is an area of land in which the coal resources can be developed in an efficient, economical, and orderly manner as a unit with due regard to conservation of coal reserves and other resources. A logical mining unit may consist of one or more Federal leaseholds, and may include intervening or adjacent lands in which the United States does not own the coal resources, but all the lands in a logical mining unit must be under the effective control of a single operator, be able to be developed and operated as a single operation and be contiguous.
Reserves.	“(2) After the Secretary has approved the establishment of a logical mining unit, any mining plan approved for that unit must require such diligent development, operation, and production that the reserves of the entire unit will be mined within a period established by the Secretary which shall not be more than forty years. “(3) In approving a logical mining unit, the Secretary may provide, among other things, that (i) diligent development, continuous operation, and production on any Federal lease or non-Federal land in the logical mining unit shall be construed as occurring on all Federal leases in that logical mining unit, and (ii) the rentals and royalties for all Federal leases in a logical mining unit may be combined, and advanced royalties paid for any lease within a logical mining unit may be credited against such combined royalties.
	“(4) The Secretary may amend the provisions of any lease included in a logical mining unit so that mining under that lease will be consistent with the requirements imposed on that logical mining unit. “(5) Leases issued before the date of enactment of this Act may be included with the consent of all lessees in such logical mining unit, and, if so included, shall be subject to the provisions of this section.
Regulation.	“(6) By regulation the Secretary may require a lessee under this Act to form a logical mining unit, and may provide for determination of participating acreage within a unit.

“(7) No logical mining unit shall be approved by the Secretary if the total acreage (both Federal and non-Federal) of the unit would exceed twenty-five thousand acres.

“(8) Nothing in this section shall be construed to waive the acreage limitations for coal leases contained in section 27(a) of the Mineral Lands Leasing Act (30 U.S.C. 184(a)).”

SEC. 6. Section 7 of the Mineral Lands Leasing Act (30 U.S.C. 207) is amended to read as follows:

“SEC. 7. (a) A coal lease shall be for a term of twenty years and for so long thereafter as coal is produced annually in commercial quantities from that lease. Any lease which is not producing in commercial quantities at the end of ten years shall be terminated. The Secretary shall by regulation prescribe annual rentals on leases. A lease shall require payment of a royalty in such amount as the Secretary shall determine of not less than 12½ per centum of the value of coal as defined by regulation, except the Secretary may determine a lesser amount in the case of coal recovered by underground mining operations. The lease shall include such other terms and conditions as the Secretary shall determine. Such rentals and royalties and other terms and conditions of the lease will be subject to readjustment at the end of its primary term of twenty years and at the end of each ten-year period thereafter if the lease is extended.

Terms and conditions.

Regulation.
Royalty.

“(b) Each lease shall be subject to the conditions of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee. The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties. Such advance royalties shall be no less than the production royalty which would otherwise be paid and shall be computed on a fixed reserve to production ratio (determined by the Secretary). The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed ten. The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year. No advance royalty paid during the initial twenty-year term of a lease shall be used to reduce a production royalty after the twentieth year of a lease. The Secretary may, upon six months' notification to the lessee cease to accept advance royalties in lieu of the requirement of continued operation. Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of ten years.

Advance royalties.

“(c) Prior to taking any action on a leasehold which might cause a significant disturbance of the environment, and not later than three years after a lease is issued, the lessee shall submit for the Secretary's approval an operation and reclamation plan. The Secretary shall approve or disapprove the plan or require that it be modified. Where the land involved is under the surface jurisdiction of another Federal agency, that other agency must consent to the terms of such approval.”

Operation and reclamation plan, submittal to Secretary.

SEC. 7. The Mineral Lands Leasing Act is amended by inserting after section 8 the following new section 8A:

“SEC. 8A. (a) The Secretary is authorized and directed to conduct a comprehensive exploratory program designed to obtain sufficient data and information to evaluate the extent, location, and potential for developing the known recoverable coal resources within the coal lands

Exploratory program.
30 USC 208-1.

subject to this Act. This program shall be designed to obtain the resource information necessary for determining whether commercial quantities of coal are present and the geographical extent of the coal fields and for estimating the amount of such coal which is recoverable by deep mining operations and the amount of such coal which is recoverable by surface mining operations in order to provide a basis for—

“(1) developing a comprehensive land use plan pursuant to section 2;

“(2) improving the information regarding the value of public resources and revenues which should be expected from leasing;

“(3) increasing competition among producers of coal, or products derived from the conversion of coal, by providing data and information to all potential bidders equally and equitably;

“(4) providing the public with information on the nature of the coal deposits and the associated stratum and the value of the public resources being offered for sale; and

“(5) providing the basis for the assessment of the amount of coal deposits in those lands subject to this Act under subparagraph (B) of section 2(a) (3).

“(b) The Secretary, through the United States Geological Survey, is authorized to conduct seismic, geophysical, geochemical, or stratigraphic drilling, or to contract for or purchase the results of such exploratory activities from commercial or other sources which may be needed to implement the provisions of this section.

“(c) Nothing in this section shall limit any person from conducting exploratory geophysical surveys including seismic, geophysical, chemical surveys to the extent permitted by section 2(b). The information obtained from the exploratory drilling carried out by a person not under contract with the United States Government for such drilling prior to award of a lease shall be provided the confidentiality pursuant to subsection (d).

“(d) The Secretary shall make available to the public by appropriate means all data, information, maps, interpretations, and surveys which are obtained directly by the Department of the Interior or under a service contract pursuant to subsection (b). The Secretary shall maintain a confidentiality of all proprietary data or information purchased from commercial sources while not under contract with the United States Government until after the areas involved have been leased.

“(e) All Federal departments or agencies are authorized and directed to provide the Secretary with any information or data that may be deemed necessary to assist the Secretary in implementing the exploratory program pursuant to this section. Proprietary information or data provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary is authorized and directed to utilize the existing capabilities and resources of other Federal departments and agencies by appropriate agreement.

“(f) The Secretary is directed to prepare, publish, and keep current a series of detailed geological, and geophysical maps of, and reports concerning, all coal lands to be offered for leasing under this Act, based on data and information compiled pursuant to this section. Such maps and reports shall be prepared and revised at reasonable intervals beginning eighteen months after the date of enactment of this Act. Such maps and reports shall be made available on a continuing basis to any person on request.

Information,
availability to
public.

Maps and
reports,
publication.

“(g) Within six months after the date of enactment of this Act, the Secretary shall develop and transmit to Congress an implementation plan for the coal lands exploration program authorized by this section, including procedures for making the data and information available to the public pursuant to subsection (d), and maps and reports pursuant to subsection (f). The implementation plan shall include a projected schedule of exploratory activities and identification of the regions and areas which will be explored under the coal lands exploration program during the first five years following the enactment of this section. In addition, the implementation plan shall include estimates of the appropriations and staffing required to implement the coal lands exploration program.

Implementation
plan, transmittal
to Congress.

“(h) The stratigraphic drilling authorized in subsection (b) shall be carried out in such a manner as to obtain information pertaining to all recoverable reserves. For the purpose of complying with subsection (a), the Secretary shall require all those authorized to conduct stratigraphic drilling pursuant to subsection (b) to supply a statement of the results of test boring of core sampling including logs of the drill holes; the thickness of the coal seams found; an analysis of the chemical properties of such coal; and an analysis of the strata layers lying above all the seams of coal. All drilling activities shall be conducted using the best current technology and practices.”

SEC. 8. The Mineral Lands Leasing Act is further amended by adding after section 8A the following new section 8B:

“SEC. 8B. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress a report on the leasing and production of coal lands subject to this Act during such fiscal year; a summary of management, supervision, and enforcement activities; and recommendations to the Congress for improvements in management, environmental safeguards, and amount of production in leasing and mining operations on coal lands subject to this Act. Each submission shall also contain a report by the Attorney General of the United States on competition in the coal and energy industries, including an analysis of whether the antitrust provisions of this Act and the antitrust laws are effective in preserving or promoting competition in the coal or energy industry.”

Report to
Congress.
30 USC 208-2.

SEC. 9. (a) Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. 191) is further amended by deleting “52½ per centum thereof shall be paid into, reserved” and inserting in lieu thereof: “40 per centum thereof shall be paid into, reserved”, and is further amended by striking the period at the end of the proviso and inserting in lieu thereof the following language: “: *Provided further*, That an additional 12½ per centum of all moneys received from sales, bonuses, royalties, and rentals of public lands under the provisions of this Act and the Geothermal Steam Act of 1970 shall be paid by the Secretary of the Treasury as soon as practicable after December 31 and June 30 of each year to the State within the boundaries of which the leased lands or deposits are or were located; said additional 12½ per centum of all moneys paid to any State on or after January 1, 1976, shall be used by such State and its subdivisions as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services: *Provided further*, That such funds now held or to be received, by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as ‘C-A’; ‘C-B’; ‘U-A’ and ‘U-B’ shall be used by such States and subdivisions as the legislature of each State may direct

30 USC 1001
note.

giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.”

30 USC 191. (b) In the first sentence of section 35 of the Mineral Lands Leasing Act, before the words “shall be paid into the Treasury of the United States” insert “and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof.”; before the words “from lands within the naval petroleum reserves” insert “and the Geothermal Steam Act of 1970”; and, in the second sentence, before the words “not otherwise disposed of” insert “and the Geothermal Steam Act of 1970”.

Study.
30 USC 201 note. SEC. 10. The Director of the Office of Technology Assessment is authorized and directed to conduct a complete study of coal leases entered into by the United States under section 2 of the Act of February 25, 1920 (commonly known as the Mineral Lands Leasing Act).
30 USC 201. Such study shall include an analysis of all mining activities, present and potential value of said coal leases, receipts of the Federal Government from said leases, and recommendations as to the feasibility of the use of deep mining technology in said leased area. The Director shall submit the results of his study to the Congress within one year after the date of enactment of this Act.
Submittal to Congress.

SEC. 11. (a) Section 27(a)(1) of the Mineral Lands Leasing Act (30 U.S.C. 184(a)(1)), is amended to read as follows:

“(1) No person, association, or corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation shall take, hold, own or control at one time, whether acquired directly from the Secretary under this Act or otherwise, coal leases or permits on an aggregate of more than forty-six thousand and eighty acres in any one State and in no case greater than an aggregate of one hundred thousand acres in the United States: *Provided*, That any person, association, or corporation currently holding, owning, or controlling more than an aggregate of one hundred thousand acres in the United States on the date of enactment of this section shall not be required on account of this section to relinquish said leases or permits: *Provided, further*, That in no case shall such person, association, or corporation be permitted to take, hold, own, or control any further Federal coal leases or permits until such time as their holdings, ownership, or control of Federal leases or permits has been reduced below an aggregate of one hundred thousand acres within the United States.”

Repeal.
30 USC 184 note. (b) Subject to valid existing rights, section 27(a)(2) of the Mineral Lands Leasing Act (30 U.S.C. 184(a)(2)) is hereby repealed.

SEC. 12. (a) Section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352) is amended by striking out “(b) set apart for military or naval purposes, or (c)” and insert in lieu thereof “or (b)”.

(b) Such section 3 is further amended by inserting the following after the first sentence thereof: “Coal or lignite under acquired lands set apart for military or naval purposes may be leased by the Secretary, with the concurrence of the Secretary of Defense, to a governmental entity (including any corporation primarily acting as an agency or instrumentality of a State) which produces electrical energy for sale to the public if such governmental entity is located in the State in which such lands are located.”

Repeal.
30 USC 204 note. SEC. 13. (a) Subject to valid existing rights, section 4 of the Mineral Lands Leasing Act (30 U.S.C. 204) is hereby repealed.

(b) Subject to valid existing rights, section 3 of the Mineral Lands Leasing Act (30 U.S.C. 203) is amended to read as follows:

"SEC. 3. Any person, association, or corporation holding a lease of coal lands or coal deposits under the provisions of this Act may with the approval of the Secretary of the Interior, upon a finding by him that it would be in the interest of the United States, secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous to those embraced in such lease, but in no event shall the total area added by such modifications to an existing coal lease exceed one hundred sixty acres, or add acreage larger than that in the original lease. The Secretary shall prescribe terms and conditions which shall be consistent with this Act and applicable to all of the acreage in such modified lease."

Lease
modifications.

Terms and
conditions.

SEC. 14. Section 39 of the Mineral Lands Leasing Act (30 U.S.C. 209) is amended by adding the following sentence at the end thereof: "Nothing in this section shall be construed as granting to the Secretary the authority to waive, suspend, or reduce advance royalties."

SEC. 15. Section 27 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 184) is amended by adding at the end thereof the following new subsection:

"(1) (1) At each stage in the formulation and promulgation of rules and regulations concerning coal leasing pursuant to this Act, and at each stage in the issuance, renewal, and readjustment of coal leases under this Act, the Secretary of the Interior shall consult with and give due consideration to the views and advice of the Attorney General of the United States.

Consultation.

"(2) No coal lease may be issued, renewed, or readjusted under this Act until at least thirty days after the Secretary of the Interior notifies the Attorney General of the proposed issuance, renewal, or readjustment. Such notification shall contain such information as the Attorney General may require in order to advise the Secretary of the Interior as to whether such lease would create or maintain a situation inconsistent with the antitrust laws. If the Attorney General advises the Secretary of the Interior that a lease would create or maintain such a situation, the Secretary of the Interior may not issue such lease, nor may he renew or readjust such lease for a period not to exceed one year, as the case may be, unless he thereafter conducts a public hearing on the record in accordance with the Administrative Procedures Act and finds therein that such issuance, renewal, or readjustment is necessary to effectuate the purposes of this Act, that it is consistent with the public interest, and that there are no reasonable alternatives consistent with this Act, the antitrust laws, and the public interest.

Notification.

Hearing.

5 USC 551 prec.
note.

"(3) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(4) As used in this subsection, the term 'antitrust law' means—

"Antitrust law."

"(A) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

"(B) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

“(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

“(D) sections 73 and 74 of the Act entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes’, approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; or

“(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).”.

30 USC 201 note.

30 USC 181 note.

30 USC 351 note.

16 USC 1276.

SEC. 16. Nothing in this Act, or the Mineral Lands Leasing Act and the Mineral Leasing Act for Acquired Lands which are amended by this Act, shall be construed as authorizing coal mining on any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, and the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act.

CARL ALBERT

Speaker of the House of Representatives.

LEE METCALF

Acting President of the Senate pro tempore.

IN THE SENATE OF THE UNITED STATES,

August 3, 1976.

The Senate having proceeded to reconsider the bill (S. 391) entitled “An Act to amend the Mineral Leasing Act of 1920, and for other purposes”, returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO

Secretary.

I certify that this Act originated in the Senate.

FRANCIS R. VALEO

Secretary.

IN THE U.S. HOUSE OF REPRESENTATIVES

August 4, 1976.

The House of Representatives having proceeded to reconsider the bill (S. 391) entitled “An Act to amend the Mineral Leasing Act of 1920, and for other purposes”, returned by the President of the United States with his objections, to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDMUND L. HENSHAW, JR.
Clerk.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-681 accompanying H.R. 6721 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-296 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 31, considered and passed Senate.

Vol. 122 (1976): Jan. 21, considered and passed House, amended, in lieu of H.R. 6721.

June 21, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 27 (1976): July 3, vetoed; Presidential message.

CONGRESSIONAL RECORD:

Vol. 122 (1976): Aug. 3, Senate overrode veto.

Aug. 4, House overrode veto.

Public Law 94-378
94th Congress

An Act

Making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes.

Aug. 9, 1976

[H.R. 14233]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes, namely:

Department of
Housing and
Urban Develop-
ment—Inde-
pendent Agencies
Appropriation
Act, 1977.

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The additional amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), entered into after September 30, 1976, shall not exceed \$675,000,000 including not more than \$35,000,000 for the modernization of existing low-income housing projects, which amounts shall be in addition to balances of authorization heretofore made available for such contracts: *Provided*, That the total new budget authority obligated under such contracts entered into after September 30, 1976, shall not exceed \$14,870,400,000, which amount shall not include budget authority obligated under balances of authorization heretofore made available: *Provided further*, That of the total herein provided, excluding funds for modernization, not more than \$120,000,000 shall be used only for contracts for annual contributions to assist in financing the development or acquisition of low-income housing projects to be owned by public housing agencies other than under section 8 of the above Act: *Provided further*, That of the amount set forth in the second proviso, not more than \$85,000,000 shall be used only for projects on which construction or substantial rehabilitation is commenced after the effective date of this Act except in the case of amendments to existing contracts: *Provided further*, That of the amount set forth in the second proviso, not less than 15 per centum shall be used only with respect to new construction in non-metropolitan areas.

42 USC 1437f.

HOUSING FOR THE ELDERLY OR HANDICAPPED

The limitation on the aggregate loans that may be made under section 202 of the Housing Act of 1959, as amended, from the fund authorized by subsection (a) (4) of such section, is hereby established for the fiscal year 1977 at \$750,000,000 in accordance with paragraph (C) of such subsection, which funds shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with

12 USC 1701q.

any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein.

HOUSING PAYMENTS

42 USC 1440. For the payment of annual contributions, not otherwise provided for, in accordance with section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); for payments authorized by title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.); for rent supplement payments authorized by section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s); for payments as authorized by sections 235 and 236, of the National Housing Act, as amended (12 U.S.C. 1715z, 1715z-1); and for payments as authorized by section 802 of the Housing and Community Development Act of 1974 (88 Stat. 633), \$2,975,000,000: *Provided*, That excess rental charges credited to the Secretary in accordance with section 236(g) of the National Housing Act, as amended, shall be available, in addition to amounts appropriated herein, for the payments on contracts entered into pursuant to the authorities enumerated above.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For annual contributions to public housing agencies for the payment of operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), \$575,600,000: *Provided*, That the aggregate amount of contracts for annual contributions entered into for such payments shall not exceed \$575,600,000.

MOBILE HOME STANDARDS PROGRAM

For necessary expenses, not otherwise provided for, to carry out the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5401-5426), \$1,000,000.

FEDERAL HOUSING ADMINISTRATION FUND

12 USC 1701. For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and the General Insurance Fund, \$135,000,000, to remain available until expended, as authorized by the National Housing Act, as amended.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, of providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as author-

ized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, \$3,000,000. 12 USC 1701x.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations in assets of the Department of Housing and Urban Development (including the Government National Mortgage Association) authorized by the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1968, to be issued pursuant to section 302 (c) of the Federal National Mortgage Association Charter Act, as amended, \$21,265,000.

81 Stat. 341.

12 USC 1717.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For contracts with and payments to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by Title I of the Housing and Community Development Act of 1974 (P.L. 93-383, 88 Stat. 633), \$3,148,000,000 of which \$200,000,000 shall be used for the purposes stated in section 103(a)(2) of said Act except that not more than \$100,000,000 of the amount so provided may be used for the purposes of section 106 (d)(1), to remain available until September 30, 1979.

42 USC 5301.

42 USC 5303.

42 USC 5306.

For grants to units of general local government for urgent community development needs pursuant to section 103(b) of Title I of the Housing and Community Development Act of 1974, \$100,000,000, to remain available until September 30, 1979.

COMPREHENSIVE PLANNING GRANTS

For comprehensive planning grants as authorized by section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), \$62,500,000, to remain available until expended.

REHABILITATION LOAN FUND

For the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), \$50,000,000, which amount shall be augmented by any previously appropriated funds which would otherwise become unavailable after August 22, 1976: *Provided*, That the aggregate amount of commitments for loans made from the fund for the fiscal year 1977 shall not exceed the total of loan repayments and other income available during such period, less operating costs, plus the aggregate amount provided herein.

FEDERAL INSURANCE ADMINISTRATION

FLOOD INSURANCE

For necessary expenses, not otherwise provided for in carrying out the National Flood Insurance Act of 1968, as amended (42 U.S.C. Chap. 50), \$75,000,000.

42 USC 4001
note.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

49 USC 1608
note.

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, \$55,000,000, to remain available until September 30, 1978.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES, DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed \$2,500 for official reception and representation expenses, \$419,000,000, of which \$223,630,000 shall be provided from the various funds of the Federal Housing Administration.

FUNDS APPROPRIATED TO THE PRESIDENT

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

DISASTER RELIEF

42 USC 4401
note.
42 USC 5121
note.
50 USC app.
2271 note.

For expenses necessary to carry out the functions of the Department of Housing and Urban Development under the Disaster Relief Act of 1970, as amended, the Disaster Relief Act of 1974, and Reorganization Plan No. 1 of 1973, authorizing assistance to States and local governments, \$100,000,000, to remain available until expended: *Provided*, That not to exceed 3 per centum of the foregoing amount shall be available for administrative expenses.

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

36 USC 121b.

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchase and repair of uniforms for caretakers of national cemeteries and monuments, outside of the United States and its territories and possessions; not to exceed \$70,000 for expenses of travel; rent of office and garage space in foreign countries; purchase (two for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries when required by law of such countries; \$5,824,000: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby

made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

36 USC 122.

36 USC 122a.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including rent in the District of Columbia and hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed \$500 for official reception and representation, \$39,000,000: *Provided*, That funds provided by this appropriation for laboratories shall be available only for the acquisition or conversion of existing laboratories.

5 USC 5332 note.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of maintenance, operation, and improvement of the cemetery at the Soldiers' and Airmen's Home and Arlington National Cemetery, \$6,161,000, to remain available until expended: *Provided*, That reimbursement shall be made to the applicable military appropriation for the pay and allowances of any military personnel performing services primarily for the purposes of this appropriation.

ENVIRONMENTAL PROTECTION AGENCY

AGENCY AND REGIONAL MANAGEMENT

For agency and regional management expenses, including official reception and representation expenses (not to exceed \$2,500); hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; \$73,000,000.

RESEARCH AND DEVELOPMENT

For research and development activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate of GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; \$259,900,000, to remain available for obligation until September 30, 1978.

ABATEMENT AND CONTROL

For abatement and control activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; to remain available for obligation until September 30, 1978, \$376,844,000 and for liquidation of obligations incurred in carrying out section 208 of the Federal Water Pollution Control Act, as amended, \$49,182,000, to remain available until expended.

5 USC 5332 note.

33 USC 1288.

ENFORCEMENT

For enforcement activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; \$56,561,000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment of facilities of or used by the Environmental Protection Agency, \$2,100,000, to remain available until expended.

CONSTRUCTION GRANTS

For liquidation of obligations incurred pursuant to authority contained in section 203 of the Federal Water Pollution Control Act, as amended, \$3,800,000,000, to remain available until expended.

33 USC 1283.

For an additional amount for liquidation of obligations, "Construction grants", for the period July 1, through September 30, 1976, \$200,000,000, to remain available until expended.

33 USC 1286.

For payment of reimbursement claims pursuant to section 206(a) of the Federal Water Pollution Control Act, as amended, \$200,000,000, to remain available until expended.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Environmental Protection Agency in the conduct of scientific activities overseas in connection with environmental pollution, as authorized by law, \$5,000,000, to remain available until expended: *Provided*, That this appropriation shall be available in addition to other appropriations to such Agency, for payments in the foregoing currencies.

GENERAL PROVISIONS

Transfer of funds. Not to exceed 7 per centum of any appropriation made available to the Environmental Protection Agency by this Act (except appropria-

tions for "Construction Grants") may be transferred to any other such appropriation.

No part of any budget authority made available to the Environmental Protection Agency by this Act or for the fiscal year 1976 and the period ending September 30, 1976, shall be used for any grant to cover in excess of 75 per centum of the total cost of the purposes to be carried out by such grant made pursuant to the authority contained in section 208 of the Federal Water Pollution Control Act (P.L. 92-500). 33 USC 1288.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For expenses necessary for the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190) and the National Environmental Improvement Act of 1970 (Public Law 91-224), including official reception and representation expenses (not to exceed \$1,000), hire of passenger vehicles, and support of the Citizens' Advisory Committee on Environmental Quality, \$2,800,000.

42 USC 4321
note.
42 USC 4371
note.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SALARIES AND EXPENSES

For expenses necessary for the Office of Science and Technology Policy, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, \$2,300,000.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, \$1,073,000.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, \$1,581,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; tracking and data relay satellite services as authorized by law; and purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration, \$2,761,425,000, to remain available until expended.

CONSTRUCTION OF FACILITIES

For construction, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, \$118,090,000, to remain available for obligation until September 30, 1979: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this head by this appropriation Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; hire, maintenance and operation of administrative aircraft; purchase (not to exceed nineteen for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of \$25,000 per project for construction of new facilities and additions to existing facilities, and not in excess of \$50,000 per project for rehabilitation and modification of facilities; \$813,000,000: *Provided*, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That not to exceed \$35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For expenses necessary to carry out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876-1879), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; hire of passenger motor vehicles; not to exceed \$5,000 for official reception and representation expenses; not to exceed \$43,500,000 for program development and management; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; \$710,000,000, to remain available until September 30, 1978: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers may be credited to this appropriation: *Provided further*, That if an institution of higher edu-

Funds to campus
disrupters,
prohibition.

cation receiving funds hereunder determines after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has, after the date of enactment of this Act, willfully refused to obey a lawful regulation or order of such institution and that such refusal was of a serious nature and contributed to the disruption of the administration of such institution, then the institution shall deny any further payment to, or for the benefit of, such individual: *Provided further*, That of the foregoing amounts, funds available to meet minima authorized by any other Act shall be available only to the extent such funds are not in excess of amounts provided herein: *Provided further*, That unless otherwise specified by this appropriation, the ratio of amounts made available under this Act for a program or minima to the amounts specified for a program or minima in any other Act, for the activity for which the limitation applies, shall not exceed the ratio that the total funds appropriated in this Act bear to the total funds authorized in such Act, for the activity for which the limitation applies.

SCIENCE EDUCATION ACTIVITIES

For expenses necessary to carry out science education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia, and including \$3,000,000 for pre-college science teacher training seminars and \$1,000,000 for advanced teacher workshops, \$59,000,000: *Provided further*, That of the foregoing amounts, funds available to meet minima authorized by any other Act shall be available only to the extent such funds are not in excess of amounts provided herein: *Provided further*, That unless otherwise specified by this appropriation, the ratio of amounts made available under this Act for a program or minima to the amounts specified for a program or minima in any other Act, for the activity for which the limitation applies, shall not exceed the ratio that the total funds appropriated in this Act bear to the total funds authorized in such Act, for the activity for which the limitation applies.

SCIENTIFIC ACTIVITIES (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for scientific activities, as authorized by law, \$4,600,000, to remain available until September 30, 1978: *Provided*, That this appropriation shall be available in addition to other appropriations to the National Science Foundation, for payments in the foregoing currencies.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed \$1,000 for official reception and representation expenses; \$6,800,000: *Provided*, That during the current fiscal year, the President may

31 USC 665. exempt this appropriation from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

DEPARTMENT OF THE TREASURY

NEW YORK CITY SEASONAL FINANCING FUND, ADMINISTRATIVE EXPENSES

31 USC 1501
note. For necessary expenses in carrying out the administration of Public Law 94-143, \$1,250,000.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

50 USC app.,
note prec. 540. For the payment of compensation, pensions, gratuities, and allowances, including burial awards, plot allowances, burial flags, headstones and grave markers, emergency and other officers' retirement pay, adjusted-service credits and certificates, and other benefits as authorized by law; and for payment of amounts of compromises or settlements under 28 U.S.C. 2677 of tort claims potentially subject to the offset provisions of 38 U.S.C. 351, and for payment of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, \$8,153,400,000, to remain available until expended.

TRANSFER OF UNEXPENDED BALANCES

The unexpended balances remaining in the Soldiers' and Sailors' Civil Relief Fund on September 30, 1976, shall be transferred to the "Compensation and pensions" account.

READJUSTMENT BENEFITS

38 USC 801 *et seq.*, 1501 *et seq.*, 1601 *et seq.*, 1651 *et seq.*, 1701 *et seq.*, 1770 *et seq.*, 1801 *et seq.*, 1901 *et seq.* For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 31, and 33-39), \$4,873,000,000, to remain available until expended, and on June 1, 1977, the foregoing amount shall be reduced by \$60,000,000 and funds under this appropriation shall be available for payment only at the end or after the end of a month in which entitlement for payment is earned, but advance payments may be provided when requested.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, \$7,000,000, to remain available until expended.

MEDICAL CARE

For expenses necessary for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and

equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowance therefor as authorized by law (5 U.S.C. 5901-5902); and aid to State homes as authorized by law (38 U.S.C. 641); \$4,218,032,000, plus reimbursements: *Provided*, That allotments and transfers may be made from this appropriation to the Public Health Service of the Department of Health, Education, and Welfare, and the Army, Navy, and Air Force of the Department of Defense, for disbursements by them under the various headings of their applicable appropriations, of such amounts as are necessary for the care and treatment of beneficiaries of the Veterans Administration.

MEDICAL AND PROSTHETIC RESEARCH

For expenses necessary for carrying out programs of medical and prosthetic research and development, as authorized by law, to remain available until expended, \$101,633,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For expenses necessary for administration of the medical, hospital, domiciliary, construction and supply, research, employee education and training activities, as authorized by law, and for carrying out the provisions of section 5055, title 38, United States Code, relating to pilot programs and grants for exchange of medical information, \$39,941,000, plus reimbursements.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed \$2,500 for official reception and representation expenses; cemetery expenses as authorized by law, purchase of ten passenger motor vehicles, for use in cemetery operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services; \$508,383,000.

CONSTRUCTION OF HOSPITAL AND DOMICILIARY FACILITIES TRANSFER OF UNEXPENDED BALANCES

The unexpended balances in this account are transferred to the accounts under the heads "Construction, major projects" and "Construction, minor projects" as appropriate.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5001, 5002 and 5004 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is \$1,000,000 or more, \$405,681,000, to remain available until expended: *Provided*, That \$5,800,000 shall be available

for construction of a research and education facility at Dallas, Texas; \$10,000,000 for construction of facilities on government-owned land for a TARGET data processing center; \$534,000 for design of nursing home care facilities at Wilkes-Barre, Pennsylvania; \$500,000 for design of a new blind rehabilitation center and eye, ear, nose and throat clinic at Birmingham, Alabama; \$3,500,000 for the design of a clinical and ambulatory care addition and renovation of existing areas at the Oklahoma City, Oklahoma, Veterans Administration Hospital; and \$460,000 for the design of a new clinical building at the Mountain Home, Tennessee, Veterans Administration Hospital: *Provided further*, That none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5001, 5002 and 5004 of title 38, United States Code, where the estimated cost of a project is less than \$1,000,000, and for necessary expenses of the Office of Construction, \$92,001,000, to remain available until expended.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to construct State nursing home facilities and to remodel, modify or alter existing hospital and domiciliary facilities in State homes, for furnishing care to veterans, as authorized by law (38 U.S.C. 644 and 5031-5037), \$10,000,000, to remain available until September 30, 1979.

ASSISTANCE FOR HEALTH MANPOWER TRAINING INSTITUTIONS

For pilot programs for assistance in the establishment of new State medical schools, grants to affiliated medical schools, assistance to public and nonprofit institutions of higher learning, hospitals and other health manpower institutions affiliated with the Veterans Administration to increase the production of professional and other health personnel, and for expansion of Veterans Administration hospital education and training capacity as authorized by 38 U.S.C. chapter 82, \$35,000,000, to remain available until September 30, 1983.

38 USC 5070 *et seq.*

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants as authorized by law (38 U.S.C. 631-634), \$2,100,000, of which \$50,000 for hospital equipment, plant, and facilities rehabilitation grants shall remain available until expended.

LOAN GUARANTY REVOLVING FUND

During the current fiscal year, the Loan guaranty revolving fund shall be available for expenses, but not to exceed \$550,000,000, for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations under chapter 37, title 38, United States Code, except administrative expenses, as authorized by section 1824 of such title: *Provided*, That the unobligated balances including retained earnings of the Direct loan revolving fund

38 USC 1801 *et seq.*

shall be available, during the current fiscal year, for transfer to the Loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

ADMINISTRATIVE PROVISIONS

Not to exceed 5 per centum of any appropriation for the current fiscal year for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Transfer of funds.

Appropriations available to the Veterans Administration for the current fiscal year for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

TITLE III

CORPORATIONS

The following corporations and agencies, respectively, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency except as hereinafter provided.

31 USC 849.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of \$17,100,000 shall be available for administrative expenses of the Federal Home Loan Bank Board, which may procure services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board, revolving fund and receipts of the Board for the current fiscal year and prior fiscal years, and the Board may utilize and may make payment for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan

12 USC 1425a,
1426.
12 USC 1464.
15 USC 78I.
12 USC 1729-
1730a.

12 USC 1421.

12 USC 1428a
note.

Mortgage Corporation, and other agencies of the Government (including payment for office space): *Provided*, That all necessary expenses in connection with the conservatorship or liquidation of institutions insured by the Federal Savings and Loan Insurance Corporation, liquidation or handling of assets of or derived from such insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of such insured institutions, or activities relating to section 5A (f) or 6(i) of the Federal Home Loan Bank Act, section 5(d) of the Home Owners' Loan Act of 1933, section 12(i) of the Securities Exchange Act of 1934, or section 406(c), 407, or 408 of the National Housing Act and all necessary expenses (including services performed on a contract or fee basis, but not including other personal services) in connection with the handling, including the purchase, sale, and exchange, of securities on behalf of Federal home loan banks, and the sale, issuance, and retirement of, or payment of interest on, debentures or bonds, under the Federal Home Loan Bank Act, as amended, shall be considered as non-administrative expenses for the purposes hereof: *Provided further*, That members and alternates of the Federal Savings and Loan Advisory Council shall be entitled to reimbursement from the Board as approved by the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703 (d) (1): *Provided further*, That expenses of any functions of supervision (except of Federal home loan banks) vested in or exercisable by the Board shall be considered as nonadministrative expenses: *Provided further*, That not to exceed \$1,000 shall be available for official reception and representation expenses: *Provided further*, That, not withstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of July 22, 1932, as amended (12 U.S.C. 1421-1449): *Provided further*, That the nonadministrative expenses (except such part as the Board determines not to be field expense, which part shall be treated as if expenses of supervision and examination were not as such excluded from administrative expense, and except those included in the first proviso hereof) for the supervision and examination of Federal and State chartered institutions (other than special examinations determined by the Board to be necessary) shall not exceed \$23,620,000.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

12 USC 1729-
1730a.

Not to exceed \$875,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Fed-

eral home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730b).

TITLE IV

GENERAL PROVISIONS

SEC. 401. Where appropriations in titles I and II of this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed ten per centum above the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That the limitations may be increased by the Secretary when necessary to allow for travel performed by employees of the Department of Housing and Urban Development as a result of increased Federal Housing Administration inspection and appraisal workload.

Travel expenses.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

Uniforms.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

Legal and
banking services.
31 USC 841 note.
12 USC 1749a.

SEC. 404. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals for projects not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

Research
projects.

SEC. 405. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Fiscal year
limitation.

SEC. 406. No part of the funds appropriated under this Act may be used by the Environmental Protection Agency to administer or promulgate, directly or indirectly, any program to tax, limit or otherwise regulate parking that is not specifically required pursuant to subsequent legislation.

SEC. 407. None of the funds provided by this Act shall be used to deny or fail to act upon, on the basis of noise contours set forth in an Air Installation Compatible Use Zone Map, an otherwise acceptable application for Federal Housing Administration mortgage insurance in connection with construction in an area zoned for residential use in Merced County, California.

SEC. 408. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

Audit.

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such an audit.

Short title.

This Act may be cited as the “Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1977”.

Approved August 9, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1220 (Comm. on Appropriations) and No. 94-1362 (Comm. of Conference).

SENATE REPORT No. 94-974 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 22, considered and passed House.

June 26, considered and passed Senate, amended.

July 27, House and Senate agreed to conference report; resolved amendments in disagreement.

Public Law 94-379
94th Congress

An Act

To permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

Aug. 10, 1976

[H.R. 14514]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8 of Public Law 93-233 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

SSI program.
California
supplementary
payment level.
42 USC 1382e
notes.

“(d) Upon the request of the State of California the Secretary shall find, for purposes of the provisions specified in subsection (c) of this section, that the level of such State’s supplementary payments of the type described in section 1616(a) of the Social Security Act has been specifically increased for any month after June 1976 so as to include the bonus value of food stamps if—

42 USC 1382e.

“(1) the State law as in effect for such month specifically provides for increases in such payments on account of increases in the level of benefits payable under title XVI of the Social Security Act in a manner designed to assure that, whenever a cost-of-living increase in the level of benefits payable under such title XVI becomes effective for any month after June 1976, the amount of the State supplementary payment payable, for each month with respect to which such cost-of-living increase is effective, to any individual or to any individual with an eligible spouse, will be increased by such amount as is necessary to assure that—

“(A) the aggregate of (i) the amount payable for such month to such individual, or to such individual with an eligible spouse, under such title XVI, and (ii) the amount payable for such month to such individual, or to such individual with an eligible spouse, under the State’s supplementary payments program,

will exceed, by an amount which is not less than the monthly amount of such cost-of-living increase (plus the monthly amount of any previous cost-of-living increases in the level of benefits payable under title XVI of the Social Security Act which became effective for months after June 1976)—

“(B) the aggregate of the amounts which would otherwise have been payable, to such individual (or to such individual with an eligible spouse), under such title XVI and under the State’s supplementary payments program for such month under the law as in effect on June 1, 1976; and

“(2) such month is (A) the month of July 1976, or (B) a month thereafter which is in a period of consecutive months the first of which is July 1976 and each of which is a month with respect to which the conditions of paragraph (1) are met.

As used in this subsection, the term ‘cost-of-living increase in the level of benefits payable under title XVI of the Social Security Act’ means an increase in benefits payable under such title XVI by reason of the

Definition.

42 USC 1382f.

42 USC 1381.

operation of section 1617 of such Act; except that the cost-of-living increase in the level of benefits payable under such title XVI which became effective for the month of July 1976 shall be deemed (for purposes of determining the amount of the required excess referred to in the matter following subparagraph (A) and preceding subparagraph (B) in paragraph (1)) to have provided an increase of \$3.00 per month in the case of an individual without an eligible spouse and \$4.50 per month in the case of an individual with an eligible spouse.”.

42 USC 1382e
note.

(b) The provision of section 8 of Public Law 93-233 redesignated as subsection (f) by subsection (a) of this section is amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (e)”.

Approved August 10, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1310 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 29, considered and passed House and Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 33:

Aug. 11, Presidential statement.

Public Law 94-380
94th Congress

An Act

To amend the Public Health Service Act to authorize the establishment and implementation of an emergency national swine flu immunization program and to provide an exclusive remedy for personal injury or death arising out of the manufacture, distribution, or administration of the swine flu vaccine under such program.

Aug. 12, 1976
[S. 3735]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Swine Flu Immunization Program of 1976".

National Swine
Flu Immuniza-
tion Program of
1976.

SEC. 2. Section 317 of the Public Health Service Act (42 U.S.C. 247b) is amended by inserting after subsection (i) the following new subsections:

42 USC 201 note.

"(j)(1) The Secretary is authorized to establish, conduct, and support (by grant or contract) needed activities to carry out a national swine flu immunization program until August 1, 1977 (hereinafter in this section referred to as the 'swine flu program'). The swine flu program shall be limited to the following:

"(A) The development of a safe and effective swine flu vaccine.

"(B) The preparation and procurement of such vaccine in sufficient quantities for the immunization of the population of the States.

"(C) The making of grants to State health authorities to assist in meeting their costs in conducting or supporting, or both, programs to administer such vaccine to their populations, and the furnishing to State health authorities of sufficient quantities of such swine flu vaccine for such programs.

Grants.

"(D) The furnishing to Federal health authorities of appropriate quantities of such vaccine.

"(E) The conduct and support of training of personnel for immunization activities described in subparagraphs (C) and (D) of this paragraph and the conduct and support of research on the nature, cause, and effect of the influenza against which the swine flu vaccine is designed to immunize, the nature and effect of such vaccine, immunization against and treatment of such influenza, and the cost and effectiveness of immunization programs against such influenza.

"(F) The development, in consultation with the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, and implementation of a written informed consent form and procedures for assuring that the risks and benefits from the swine flu vaccine are fully explained to each individual to whom such vaccine is to be administered. Such consultation shall be completed within two weeks after enactment of this Act, or by September 1, 1976, whichever is sooner. Such procedures shall include the information necessary to advise individuals with respect to their rights and remedies arising out of the administration of such vaccine.

Informed consent
form and
procedures.

"(G) Such other activities as are necessary to implement the swine flu program.

Reports to
Congress.

"(2) The Secretary shall submit quarterly reports to the Congress on the administration of the swine flu program. Each such report shall provide information on—

"(A) the current supply of the swine flu vaccine to be used in the program;

"(B) the number of persons inoculated with such vaccine since the last report was made under this paragraph and the immune status of the population;

"(C) the amount of funds expended for the swine flu program by the United States, each State, and any other entity participating in the program and the costs of each such participant which are associated with the program, during the period with respect to which the report is made; and

"(D) the epidemiology of influenza in the United States during such period.

Contracts.

"(3) Any contract for procurement by the United States of swine flu vaccine from a manufacturer of such vaccine shall (notwithstanding any other provision of law) be subject to renegotiation to eliminate any profit realized from such procurement (except that with respect to vaccine against the strain of influenza virus known as influenza A/Victoria/75 profit shall be allowed but limited to an amount not exceeding a reasonable profit), as determined pursuant to criteria prescribed by the Secretary, and the contract shall expressly so provide. Such criteria shall specify that any insurance premium amount which is included in the price of such procurement contract and which is refunded to the manufacturer under any retrospective, experience-rating plan or similar rating plan shall in turn be refunded to the United States.

Insurance
premium
amounts, refund.

"(4) No funds are authorized to be appropriated to carry out the activities of the swine flu program authorized in subparagraphs (A), (B), (D), (E), and (F) of paragraph (1) of this subsection in addition to the funds appropriated by Public Law 94-266.

Ante, p. 362.
Claims against
the United States.

"(k) (1) (A) The Congress finds that—

"(i) in order to achieve the participation in the program of the agencies, organizations, and individuals who will manufacture, distribute, and administer the swine flu vaccine purchased and used in the swine flu program and to assure the availability of such vaccine in interstate commerce, it is necessary to protect such agencies, organizations, and individuals against liability for other than their own negligence to persons alleging personal injury or death arising out of the administration of such vaccine;

"(ii) to provide such protection and to establish an orderly procedure for the prompt and equitable handling of claims by persons alleging such injury or death, it is necessary that an exclusive remedy for such claimants be provided against the United States because of its unique role in the initiation, planning, and administration of the swine flu program; and

"(iii) in order to be prepared to meet the potential emergency of a swine flu epidemic, it is necessary that a procedure be instituted for the handling of claims by persons alleging such injury or death until Congress develops a permanent approach for handling claims arising under programs of the Public Health Service Act.

“(B) To—

“(i) assure an orderly procedure for the prompt and equitable handling of any claim for personal injury or death arising out of the administration of such vaccine; and

“(ii) achieve the participation in the swine flu program of (I) the manufacturers and distributors of the swine flu vaccine, (II) public and private agencies or organizations that provide inoculations without charge for such vaccine or its administration and in compliance with the informed consent form and procedures requirements prescribed pursuant to subparagraph (F) of paragraph (1) of this subsection, and (III) medical and other health personnel who provide or assist in providing inoculations without charge for such vaccine or its administration and in compliance with such informed consent form and procedures requirements,

it is the purpose of this subsection to establish a procedure under which all such claims will be asserted directly against the United States under section 1346(b) of title 28, United States Code, and chapter 171 of such title (relating to tort claims procedure) except as otherwise specifically provided in this subsection.

28 USC 2671 *et seq.*

“(2)(A) The United States shall be liable with respect to claims submitted after September 30, 1976 for personal injury or death arising out of the administration of swine flu vaccine under the swine flu program and based upon the act or omission of a program participant in the same manner and to the same extent as the United States would be liable in any other action brought against it under such section 1346(b) and chapter 171, except that—

Liability.

“(i) the liability of the United States arising out of the act or omission of a program participant may be based on any theory of liability that would govern an action against such program participant under the law of the place where the act or omission occurred, including negligence, strict liability in tort, and breach of warranty;

“(ii) the exceptions specified in section 2680(a) of title 28, United States Code, shall not apply in an action based upon the act or omission of a program participant; and

“(iii) notwithstanding section 2401(b) of title 28, United States Code, if a civil action or proceeding for personal injury or death arising out of the administration of swine flu vaccine under the swine flu program is brought within two years of the date of the administration of such vaccine and is dismissed because the plaintiff in such action or proceeding did not file an administrative claim with respect to such injury or death as required by such chapter 171, the plaintiff in such action or proceeding shall have 30 days from the date of such dismissal or two years from the date the claim arose, whichever is later, in which to file such administrative claim.

Administrative claim, filing deadline.

“(B) For purposes of this subsection, the term ‘program participant’ as to any particular claim means the manufacturer or distributor of the swine flu vaccine used in an inoculation under the swine flu program, the public or private agency or organization that provided an inoculation under the swine flu program without charge for such vaccine or its administration and in compliance with the

“Program participant.”

informed consent form and procedures requirements prescribed pursuant to subparagraph (F) of paragraph (1) of this subsection, and the medical and other health personnel who provided or assisted in providing an inoculation under the swine flu program without charge for such vaccine or its administration and in compliance with such informed consent form and procedures requirements.

“(3) The remedy against the United States prescribed by paragraph (2) of this subsection for personal injury or death arising out of the administration of the swine flu vaccine under the swine flu program shall be exclusive of any other civil action or proceeding for such personal injury or death against any employee of the Government (as defined in section 2671 of title 28, United States Code) or program participant whose act or omission gave rise to the claim.

Attorney
General, civil
action defense.

“(4) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government (as defined in such section 2671) or program participant (or any liability insurer thereof) based upon a claim alleging personal injury or death arising out of the administration of vaccine under the swine flu program. Any such person against whom such civil action or proceeding is brought shall deliver all process served upon him (or an attested true copy thereof) to whoever is designated by the Secretary to receive such papers, and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the civil action or proceeding is brought, to the Attorney General, and to the Secretary.

“(5) (A) Upon certification by the Attorney General that a civil action or proceeding brought in any court against any employee of the Government (as defined in such section 2671) or program participant is based upon a claim alleging personal injury or death arising out of the administration of vaccine under the swine flu program, such action or proceeding shall be deemed an action against the United States under the provisions of title 28, United States Code, and all references thereto. If such action or proceeding is brought in a district court of the United States, then upon such certification the United States shall be substituted as the party defendant.

“(B) Upon a certification by the Attorney General under subparagraph (A) of this paragraph with respect to a civil action or proceeding commenced in a State court, such action or proceeding shall be removed, without bond at any time before trial, by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and be deemed an action brought against the United States under the provisions of title 28, United States Code, and all references thereto; and the United States shall be substituted as the party defendant. The certification of the Attorney General with respect to program participant status shall conclusively establish such status for purposes of such initial removal. Should a district court of the United States determine on a hearing on a motion to remand held before a trial on the merits that an action or proceeding is not one to which this subsection applies, the case shall be remanded to the State court.

“(C) Where an action or proceeding under this subsection is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided

by any other law, the action or proceeding shall be dismissed, but in that event the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this subsection.

“(6) A program participant shall cooperate with the United States in the processing or defense of a claim or suit under such section 1346(b) and chapter 171 based upon alleged acts or omissions of the program participant. Upon the motion of the United States or any other party, the status as a program participant shall be revoked by the district court of the United States upon finding that the program participant has failed to so cooperate, and the court shall substitute such former participant as the party defendant in place of the United States and, upon motion, remand any such suit to the court in which it was instituted.

Cooperation.

28 USC 1346,
2671 *et seq.*

“(7) Should payment be made by the United States to any claimant bringing a claim under this subsection, either by way of administrative settlement or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as any costs of litigation, resulting from the failure of any program participant to carry out any obligation or responsibility assumed by it under a contract with the United States in connection with the program or from any negligent conduct on the part of any program participant in carrying out any obligation or responsibility in connection with the swine flu program. The United States may maintain such action against such program participant in the district court of the United States in which such program participant resides or has its principal place of business.

Payment.

“(8) Within one year of the date of the enactment of the National Swine Flu Immunization Program of 1976, and semiannually thereafter, the Secretary shall submit to the Congress a report on the conduct of settlement and litigation activities under this subsection, specifying the number, value, nature, and status of all claims made thereunder, including the status of claims for recovery made under paragraph (7) of this subsection and a detailed statement of the reasons for not seeking such recovery.

Report to
Congress.

“(1) For the purposes of subsections (j) and (k) of this section—

Definitions.

“(1) the phrase ‘arising out of the administration’ with reference to a claim for personal injury or death under the swine flu program includes a claim with respect to the manufacture or distribution of such vaccine in connection with the provision of an inoculation using such vaccine under the swine flu program;

“(2) the term ‘State’ includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

“(3) the term ‘swine flu vaccine’ means the vaccine against the strain of influenza virus known as influenza A/New Jersey/76 (Hsw 1N1), or a combination of such vaccine and the vaccine against the strain of influenza virus known as influenza A/Victoria/75.”.

Study.
42 USC 247b
note.

Report to
Congress.

SEC. 3. The Secretary of Health, Education, and Welfare shall conduct, or provide for the conduct of, a study of the scope and extent of liability for personal injuries or death arising out of immunization programs and of alternative approaches to providing protection against such liability (including a compensation system) for such injuries. Within one year of the date of the enactment of this Act, the Secretary shall report to the Congress the findings of such study and such recommendations for legislation (including proposed drafts to carry out such recommendations) as the Secretary deems appropriate.

Approved August 12, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-1147 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 10, considered and passed Senate and House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 33:

Aug. 12, Presidential statement.

Public Law 94-381
94th Congress

An Act

To improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes.

Aug. 12, 1976

[S. 537]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2281 of title 28, United States Code, is repealed.

SEC. 2. That section 2282 of title 28, United States Code, is repealed.

SEC. 3. That section 2284 of title 28, United States Code, is amended to read as follows:

“2284. Three-judge court; when required; composition; procedure

“(a) A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.

“(b) In any action required to be heard and determined by a district court of three judges under subsection (a) of this section, the composition and procedure of the court shall be as follows:

“(1) Upon the filing of a request for three judges, the judge to whom the request is presented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge. The judges so designated, and the judge to whom the request was presented, shall serve as members of the court to hear and determine the action or proceeding.

“(2) If the action is against a State, or officer or agency thereof, at least five days' notice of hearing of the action shall be given by registered or certified mail to the Governor and attorney general of the State. The hearing shall be given precedence and held at the earliest practicable day.

“(3) A single judge may conduct all proceedings except the trial, and enter all orders permitted by the rules of civil procedure except as provided in this subsection. He may grant a temporary restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted, which order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the district court of three judges of an application for a preliminary injunction. A single judge shall not appoint a master, or order a reference, or hear and determine any application for a preliminary or permanent injunction or motion to vacate such an injunction, or enter judgment on the merits. Any action of a single judge may be reviewed by the full court at any time before final judgment.”.

SEC. 4. The analysis of chapter 155 of title 28, United States Code, is amended to read as follows:

“Sec.

“2281. Repealed.

“2282. Repealed.

“2283. Stay of State court proceedings.

“2284. Three-judge district court; when required; composition; procedure.”.

U.S. District
Courts.

Three-judge court
requirement for
certain actions.

Repeal.
Repeal.

Notification.

Notice and
hearing.

SEC. 5. (a) Section 2403 of title 28, United States Code is amended—
(1) by inserting the subsection “(a)” immediately before “In”
and

(2) by adding at the end thereof the following new subsection:
“(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.”.

(b) The catchline to section 2403 of title 28, United States Code, is amended to read as follows:

“§ 2403. Intervention by United States or a State; constitutional question”.

SEC. 6. Item 2403 of the analysis of chapter 161, of title 28, United States Code, is amended to read as follows:

“2403. Intervention by United States or a State; constitutional question.”.

28 USC 2284
note.

SEC. 7. This Act shall not apply to any action commenced on or before the date of enactment.

Approved August 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1379 accompanying H.R. 6150 (Comm. on the Judiciary).
SENATE REPORT No. 94-204 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 20, considered and passed Senate.

Vol. 122 (1976): Aug. 2, considered and passed House, in lieu of H.R. 6150.

Public Law 94-382
94th Congress

An Act

To designate the Federal office building located in Manchester, New Hampshire,
as the "Norris Cotton Building".

Aug. 12, 1976
[S. 3589]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building in Manchester, New Hampshire, is designated as the "Norris Cotton Building", in honor of Senator Norris Cotton.

Norris Cotton
Building, N.H.
Designation.

SEC. 2. Any reference to such building in any law, rule, document, map, or other record of the United States is deemed to be a reference to such building by the name designated for such building by the first section of this Act.

Approved August 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1332 accompanying H.R. 14545 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-984 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 25, considered and passed Senate.

Aug. 2, considered and passed House, in lieu of H.R. 14545.

Public Law 94-383
94th Congress

An Act

Aug. 12, 1976

[H.R. 5360]

Southeast Asia.
American civilian
internees.
Benefits,
increase.

To increase benefits provided to American civilian internees in Southeast Asia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(i)(3) of the War Claims Act of 1948 (50 App. U.S.C. 2004(i)(3)) is amended by striking out "\$60" and inserting in lieu thereof "\$150".

Approved August 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-484 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-820 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 6, considered and passed House.

Vol. 122 (1976): July 30, considered and passed Senate.

Public Law 94-384
94th Congress

An Act

To make additional funds available for purposes of certain public lands in northern Minnesota, and for other purposes.

Aug. 13, 1976

[S. 1526]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act of June 22, 1948 (62 Stat. 568, as amended; 16 U.S.C. 577h), is amended to read as follows:

Boundary Waters
Canoe Area,
Minn., land
acquisition.
Appropriation
authorization.

“SEC. 6. (a) There are authorized to be appropriated annually such sums as are necessary to implement this Act: *Provided*, That the total appropriations under the authority of this Act shall not exceed \$9,000,000 for the purchase and condemnation of lands, water, or interests therein, and that funds made available through the provisions of the Land and Water Conservation Fund Act (78 Stat. 897), as amended, may also be used for such acquisitions: *Provided further*, That such appropriations may be used for the payment of court judgments in condemnation actions brought under authority of this Act without regard to the date such actions were initially instituted.

16 USC 460l-4
note.

“(b) Not later than March 1 of each year 1977 through 1980, the Secretary of Agriculture shall submit to the Congress a report concerning the acquisition of lands or interests in lands under this Act. The final report of the Secretary shall specify whether additional authorizations or appropriations are necessary to carry out the purposes of this Act.”

Report to
Congress.

Approved August 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1171 accompanying H.R. 10546 (Comm. on Agriculture).

SENATE REPORTS: No. 94-681 (Comm. on Agriculture and Forestry) and No. 94-759 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 27, considered and passed Senate.

Aug. 2, considered and passed House, in lieu of H.R. 10546.

Public Law 94-385
94th Congress

An Act

To amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes.

Aug. 14, 1976
[H.R. 12169]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Energy Conservation and Production Act”.

Energy
Conservation and
Production Act.
42 USC 6801
note.

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Federal Energy
Administration
Act Amendments
of 1976.

PART A—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS

SHORT TITLE

SEC. 101. This title may be cited as the “Federal Energy Administration Act Amendments of 1976”. 15 USC 761 note.

LIMITATION ON DISCRETION OF ADMINISTRATOR WITH RESPECT TO ENERGY ACTIONS

SEC. 102. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

15 USC 764.

“(c) (1) The Administrator shall not exercise the discretion delegated to him by the President, pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973, to submit to the Congress as one energy action any amendment to the regulation under section 4(a) of such Act, pursuant to section 12 of such Act, which amendment exempts any oil, refined petroleum product, or refined product category from both the allocation and pricing provisions of the regulation under section 4 of such Act.

15 USC 754.

15 USC 753,
760a.

“(2) Nothing in this subsection shall prevent the Administrator from concurrently submitting an energy action relating to price together with an energy action relating to allocation of the same oil, refined petroleum product, or refined product category.”.

ENVIRONMENTAL PROTECTION AGENCY COMMENT PERIOD AND NOTICE OF WAIVER

SEC. 103. Paragraphs (1) and (2) of section 7(c) of the Federal Energy Administration Act of 1974 are amended to read as follows:

15 USC 766.

“(1) The Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

Rules and
regulations.

“(2) The review required by paragraph (1) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires making effective the action proposed to be taken at a date earlier than would permit the Administrator of the Environmental Protection Agency the five working days opportunity for prior comment required by paragraph (1). Notice of any such waiver shall be given to the Administrator of the Environmental Protection Agency and filed with the Federal Register with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as the Administrator determines will apprise such agency and the public of the reasons for such waiver.”.

GUIDELINES FOR HARDSHIP AND INEQUITY AND HEARING AT APPEALS

15 USC 766.
Rules and
regulations.

SEC. 104. Section 7(i) (1) (D) of the Federal Energy Administration Act of 1974 is amended to read as follows:

15 USC 761 note.

Review.

“(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. Such officer or agency shall, within ninety days after the date of the enactment of the Federal Energy Administration Act Amendments of 1976, establish criteria and guidelines by which such special hardship, inequity, or unfair distribution of burdens shall be evaluated. Such officer or agency shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, he may request a review of such denial by the agency and may obtain judicial review in accordance with paragraph (2) of this subsection when such a denial becomes final. The agency shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where deemed advisable by the agency, for considering other requests for action under this paragraph, except that no review of a denial under this subparagraph shall be controlled by the same officer denying the adjustment pursuant to this subparagraph.”

REQUIREMENTS FOR HEARING IN THE GEOGRAPHIC AREA AFFECTED BY
RULES AND REGULATIONS OF THE ADMINISTRATOR

15 USC 766.

SEC. 105. Section 7(i) (1) is amended by adding after subparagraph (E) the following new subparagraph:

“(F) (i) With respect to any rule or regulation of the Administrator the effects of which, except for indirect effects of an inconsequential nature, are confined to—

“(I) a single unit of local government or the residents thereof;

“(II) a single geographic area within a State or the residents thereof; or

“(III) a single State or the residents thereof;

the Administrator shall, in any case where he is required by law, or where he determines, to afford an opportunity for a hearing or the oral presentation of views, provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in subclauses (I) through (III), as the case may be.

Definitions.

“(ii) For purposes of this subparagraph—

“(I) the term ‘unit of local government’ means a county, municipality, town, township, village, or other unit of general government below the State level; and

“(II) the term ‘geographic area within a State’ means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

“(iii) Nothing in this subparagraph shall be construed as requiring a hearing or an oral presentation of views where none is required by law or, in the absence of such a requirement, where the Administrator determines a hearing or oral presentation is not appropriate.”.

LIMITATION ON THE ADMINISTRATOR'S AUTHORITY WITH RESPECT TO
ENFORCEMENT OF REGULATIONS AND RULINGS

SEC. 106. Section 7 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

15 USC 766.

“(k) The Administrator or his delegate may not exercise discretion to maintain a civil action (other than an action for injunctive relief) or issue a remedial order against any person whose sole petroleum industry operation relates to the marketing of petroleum products, for any violation of any rule or regulation if—

“(1) such civil action or order is based upon a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

“(2) such person relied in good faith upon rules, regulations, or rulings interpreting such rules or regulations, in effect on the date of the violation.”.

MAINTAINING ACCOUNTS OR RECORDS FOR COMPLIANCE PURPOSES; AND
ALLEVIATION OF SMALL BUSINESS REPORTING BURDENS

SEC. 107. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

15 USC 772.

“(g) With respect to any person who is subject to any rule, regulation, or order promulgated by the Administrator or to any provision of law the administration of which is vested in or transferred or delegated to the Administrator, the Administrator may require, by rule, the keeping of such accounts or records as he determines are necessary or appropriate for determining compliance with such rule, regulation, order, or any applicable provision of law.

“(h) In exercising his authority under this Act and any other provision of law relating to the collection of energy information, the Administrator shall take into account the size of businesses required to submit reports with the Administrator so as to avoid, to the greatest extent practicable, overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns required to submit reports to the Administrator.”.

PENALTIES FOR FAILURE TO FILE INFORMATION

SEC. 108. Section 13 of the Federal Energy Administration Act of 1974 as amended by this Act is further amended by adding at the end thereof the following new subsection:

“(i) Any failure to make information available to the Administrator under subsection (b), any failure to comply with any general or special order under subsection (c), or any failure to allow the Administrator to act under subsection (d) shall be subject to the same penalties as any violation of section 11 of the Energy Supply and Environmental Coordination Act of 1974 or any rule, regulation, or order issued under such section.”.

15 USC 796.

REPORTS

- 15 USC 774. SEC. 109. (a) Section 15 of the Federal Energy Administration Act of 1974 is amended—
- (1) by striking out subsection (a) thereof; and
 - (2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.
- (b) Section 15(b) of such Act (as redesignated by subsection (a) of this section) is amended—
- (1) by striking out “and” in paragraph (4) after “period;”;
 - (2) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof “; and”; and
 - (3) by inserting at the end of such subsection the following:
- “ (6) an analysis of the energy needs of the United States and the methods by which such needs can be met, including both tax and nontax proposals and energy conservation strategies.
- In the first annual report submitted after the date of enactment of the Energy Conservation and Production Act, the Administrator shall include in such report with respect to the analysis referred to in paragraph (6) a specific discussion of the utility and relative benefits of employing a Btu tax as a means for obtaining national energy goals.”.
- (c) Section 15 of such Act (as amended by this section) is further amended by adding at the end thereof the following:
- “(e) The analysis referred to in subsection (b) (6) shall include, for each of the next five fiscal years following the year in which the annual report is submitted and for the tenth fiscal year following such year—
- “(1) the effect of various conservation programs on such energy needs;
 - “(2) the alternate methods of meeting the energy needs identified in such annual report and of—
- “(A) the relative capital and other economic costs of each such method;
 - “(B) the relative environmental, national security, and balance-of-trade risks of each such method;
 - “(C) the other relevant advantages and disadvantages of each such method; and
- “(3) recommendations for the best method or methods of meeting the energy needs identified in such annual report and for legislation needed to meet those needs.
- Notwithstanding the termination of this Act, the President shall designate an appropriate Federal agency to conduct the analysis specified in subsection (b) (6).”.
- (d) Section 18(d) of the Federal Energy Administration Act of 1974 is amended by striking out “a report every six months” and inserting in lieu thereof “an annual report”.
- 15 USC 777.
- Energy analysis.
- Legislative recommendations.

AUTHORIZATIONS OF APPROPRIATIONS

- 15 USC 761 note. SEC. 110. Section 29 of the Federal Energy Administration Act of 1974 is amended to read as follows:
- “SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:
- “(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

“(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed \$8,655,000; and

“(B) for the fiscal year ending September 30, 1977, not to exceed \$33,086,000.

“(2) to carry out the functions identified as assigned to the Office of Energy Policy and Analysis as of January 1, 1976—

“(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed \$8,137,000; and

“(B) for the fiscal year ending September 30, 1977, not to exceed \$34,971,000.

“(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

“(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed \$13,238,000; and

“(B) for the fiscal year ending September 30, 1977, not to exceed \$62,459,000.

“(4) to carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976 (other than functions described in title II of the Energy Conservation and Production Act)—

“(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed \$7,386,000; and

“(B) for the fiscal year ending September 30, 1977, not to exceed \$37,000,000.

“(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

“(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed \$3,052,000; and

“(B) for the fiscal year ending September 30, 1977, not to exceed \$16,934,000.

“(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

“(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed \$300,000; and

“(B) for the fiscal year ending September 30, 1977, not to exceed \$1,921,000.

“(7) subject to the restriction specified in subsection (c), to carry out a program to develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy and to provide overall coordination of Federal solar energy commercialization activities—

“(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed \$500,000; and

“(B) for the fiscal year ending September 30, 1977, not to exceed \$2,500,000.

“(8) for the purpose of permitting public use of the Project Independence Evaluation System pursuant to section 31 of this Act, not to exceed the aggregate amount of the fees estimated to be charged for such use.

“(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a)—

“(1) amounts to carry out the functions identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed \$607,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed \$2,036,000 for the fiscal year ending September 30, 1977; and

Post, p. 1142.

Post, p. 1132.

Restrictions.

“(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

“(c) No amounts authorized to be appropriated in paragraph (7) of subsection (a) may be used to carry out solar energy research, development, or demonstration activities.”.

COLLECTION OF INFORMATION CONCERNING EXPORTS OF COAL OR
PETROLEUM PRODUCTS

15 USC 784. SEC. 111. Section 25 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new subsection:

“(d) The Administrator shall not be required to collect independently information described in subsection (a) if he can secure the information described in subsection (a) from other Federal agencies and the information secured from such agencies is available to the Congress pursuant to a request under subsection (b).”.

FEDERAL ENERGY ADMINISTRATION ACT EXTENSION

15 USC 761 note. SEC. 112. (a) The second sentence of section 30 of the Federal Energy Administration Act of 1974 is amended to read as follows: “This Act shall terminate December 31, 1977.”.

Effective date. (b) The amendment made by subsection (a) to section 30 of the Federal Energy Administration Act of 1974 shall take effect on July 30, 1976.

PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND
ACCESS

15 USC 761 note. SEC. 113. The Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new section:

“PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND
ACCESS

15 USC 787. “SEC. 31. The Administrator of the Federal Energy Administration shall—

“(1) submit to the Congress, not later than September 1, 1976, full and complete structural and parametric documentation, and not later than January 1, 1977, operating documentation, of the Project Independence Evaluation System computer model;

“(2) provide access to such model to representatives of committees of the Congress in an expeditious manner; and

“(3) permit the use of such model on the computer system maintained by the Federal Energy Administration by any member of the public upon such reasonable terms and conditions as the Administrator shall, by rule, prescribe. Such rules shall provide that any member of the public who uses such model may be charged a fair and reasonable fee, as determined by the Administrator, for using such model.”.

PART B—PRODUCTION ENHANCEMENT AND OTHER RELATED MATTERS

EXEMPTION OF STRIPPER WELL PRODUCTION

15 USC 757. SEC. 121. Section 8 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

“(i) (1) The first sale price of stripper well crude oil shall be exempt from the regulation promulgated under section 4 of this Act as amended pursuant to the requirements of this section. For the purpose of this section, the President shall include in the computation of the actual weighted average first sale price for crude oil produced in the United States in any month subsequent to August 1976 the actual volume of stripper well crude oil produced in the United States in such subsequent month and such actual volume shall be deemed to have been sold at a first sale price equal to \$11.63 per barrel plus the difference between the actual weighted average first sale price in August 1976, for crude oil, other than stripper well crude oil, produced in the United States, and the actual average first sale price in such subsequent month of all classifications of crude oil, other than stripper well crude oil, produced in the United States, weighted as if each such classification were produced in such subsequent month in the same proportion as such classification, or the most nearly comparable classification which existed on August 1, 1976, was produced in August 1976.

15 USC 753.

“(2) For the purposes of this subsection, ‘stripper well crude oil’ means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive 12-month period beginning after December 31, 1972, does not exceed 10 barrels.

“Stripper well crude oil.”

“(3) To qualify for the exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the 12-month qualifying period and in accordance with recognized conservation practices.

Qualification.

“(4) The President may define terms used in this subsection consistent with the purposes thereof.”.

ENHANCEMENT OF DOMESTIC PRODUCTION

SEC. 122. Section 8 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 121 of this Act) is further amended—

15 USC 757.

(1) in subsection (d) (1), by striking out “any adjustment as a production incentive shall not permit an increase in the maximum weighted average first sale price in excess of 3 per centum per annum (compounded annually), unless modified pursuant to this section, and”;

(2) in subsection (d) (3) (C), by striking out “, including production from stripper wells”;

(3) in subsection (e) (1), by striking out “(A) a production incentive adjustment to the maximum weighted average first sale price in excess of the 3 per centum limitation specified in subsection (d) (1), (B)”, and by striking out “such subsection, or (C) both.”, and inserting in lieu thereof “subsection (d) (1).”;

(4) in subsection (e) (2), by striking out “an additional adjustment as a production incentive, or”, and by striking out “, or both.”;

(5) in subsection (f) (1), by adding before the period at the end thereof the following: “and an analysis of the effects on price and the production of domestic crude oil resulting from the amendments made to this section by sections 121 and 122 of the Energy Conservation and Production Act”;

(6) in subsection (f) (2), by striking out "The President may" and inserting in lieu thereof "On March 15, 1977, the President may";

(7) in subsection (f) (2) (A), by striking out "or modification", and by striking out "as may have been amended pursuant to subsection (e)";

(8) in subsection (f) (5), by striking out "or modify", and by striking out "or of a modification of such adjustment"; and

(9) by adding at the end thereof the following new subsection:

15 USC 753.

"(j) (1) As soon as practicable after the date of enactment of this subsection, taking into consideration the greater flexibility provided by the amendments relating to the production incentive adjustment under section 122 of the Energy Conservation and Production Act, the President shall promulgate such amendments to the regulation under section 4(a) (relating to price) as shall (A) provide additional price incentives for bona fide tertiary enhanced recovery techniques and (B) provide for the adjustment of differentials in ceiling prices for crude oil that are the result of gravity differentials which are arbitrary, discriminatory, applied on a regional or local basis without reasonable justification, or fail substantially to reflect current relative market valuations of such differentials.

"Tertiary enhanced recovery techniques."

"(2) As used in this subsection, the term 'tertiary enhanced recovery techniques' means extraordinary and high cost enhancement technologies of a type associated with tertiary applications including, to the extent that such techniques would be uneconomical without additional price incentives, miscible fluid or gas injection, chemical flooding, steam flooding, microemulsion flooding, in situ combustion, cyclic steam injection, polymer flooding, and caustic flooding and variations of the same. The President shall have authority to further define the term by rule."

Rule.

CONSTRUCTION OF REFINERIES BY SMALL AND INDEPENDENT REFINERS

15 USC 753 note.

SEC. 123. (a) It is the intent of the Congress that, for the purpose of fostering construction of new refineries by small and independent refiners in the United States, the Administrator of the Federal Energy Administration shall take such action, within his authority under other law consistent with the attainment, to the maximum extent practicable, of the objectives under section 4(b) (1) (D) of the Emergency Petroleum Allocation Act of 1973, as the Administrator determines necessary to insure that rules, regulations, or orders issued by him do not impose unreasonably, unnecessary, or discriminatory barriers to entry for small refiners and independent refiners.

15 USC 753.

Report to Congress.

(b) Not later than April 1, 1977, the Administrator shall report to the Congress with respect to actions taken to carry out the policies in subsection (a).

"Small refiner" and "independent refiner."

(c) For the purposes of this section the terms "small refiner" and "independent refiner" have the same meaning as such terms have under the Emergency Petroleum Allocation Act of 1973.

EFFECTIVE DATE OF EPAA AMENDMENTS

15 USC 757 note.
15 USC 757.

SEC. 124. The amendments made to section 8 of the Emergency Petroleum Allocation Act by section 122 of this Act shall take effect on the date of enactment of this Act. The amendments made to section 8 of such Act by section 121 of this Act shall take effect on the first day of the first full month which begins after the date of enactment of this Act.

PART C—OFFICE OF ENERGY INFORMATION AND ANALYSIS

FINDINGS AND PURPOSE

SEC. 141. (a) The Congress finds that the public interest requires that decisionmaking, with respect to this Nation's energy requirements and the sufficiency and availability of energy resources and supplies, be based on adequate, accurate, comparable, coordinated, and credible energy information. 15 USC 790 note.

(b) The purpose of this title is to establish within the Federal Energy Administration an Office of Energy Information and Analysis and a National Energy Information System to assure the availability of adequate, comparable, accurate, and credible energy information to the Federal Energy Administration, to other Government agencies responsible for energy-related policy decisions, to the Congress, and to the public.

OFFICE OF ENERGY INFORMATION AND ANALYSIS

SEC. 142. The Federal Energy Administration Act of 1974 is amended by inserting "PART A—FEDERAL ENERGY ADMINISTRATION" after the enacting clause and by adding at the end thereof the following: 15 USC 761 note.

"PART B—OFFICE OF ENERGY INFORMATION AND ANALYSIS

"ESTABLISHMENT OF OFFICE OF ENERGY INFORMATION AND ANALYSIS

"SEC. 51. (a) (1) There is established within the Federal Energy Administration an Office of Energy Information and Analysis (hereinafter in this Act referred to as the 'Office') which shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. Director, appointment. 15 USC 790.

"(2) The Director shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.

"(b) The Administrator shall delegate (which delegation may be on a nonexclusive basis as the Administrator may determine may be necessary to assure the faithful execution of his authorities and responsibilities under law) the authority vested in him under section 11 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act and the Director may act in the name of the Administrator under section 12 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act for the purpose of obtaining enforcement of the authorities delegated to him. 15 USC 796.
15 USC 772.
15 USC 797.

"(c) As used in this Act the term 'energy information' shall have the meaning described in section 11 of the Energy Supply and Environmental Coordination Act of 1974. "Energy information."

"NATIONAL ENERGY INFORMATION SYSTEM

"SEC. 52. (a) It shall be the duty of the Director to establish a National Energy Information System (hereinafter referred to in this Act as the 'System'), which shall be operated and maintained by the Office. The System shall contain such information as is required to provide a description of and facilitate analysis of energy supply and Establishment. 15 USC 790a.

consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate to meet adequately the needs of—

“(1) the Federal Energy Administration in carrying out its lawful functions;

“(2) the Congress; and

“(3) other officers and employees of the United States in whom have been vested, or to whom have been delegated, energy-related policy decisionmaking responsibilities.

“(b) At a minimum, the System shall contain such energy information as is necessary to carry out the Administration's statistical and forecasting activities, and shall include, at the earliest date and to the maximum extent practical subject to the resources available and the Director's ordering of those resources to meet the responsibilities of his Office, such energy information as is required to define and permit analysis of—

“(1) the institutional structure of the energy supply system including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels and electricity;

“(2) the consumption of mineral fuels, nonmineral energy resources, and electricity by such classes, sectors, and regions as may be appropriate for the purposes of this Act;

“(3) the sensitivity of energy resource reserves, exploration, development, production, transportation, and consumption to economic factors, environmental constraints, technological improvements, and substitutability of alternate energy sources;

“(4) the comparability of energy information and statistics that are supplied by different sources;

“(5) industrial, labor, and regional impacts of changes in patterns of energy supply and consumption;

“(6) international aspects, economic and otherwise, of the evolving energy situation; and

“(7) long-term relationships between energy supply and consumption in the United States and world communities.

“ADMINISTRATIVE PROVISIONS

Compensation.
15 USC 790b.

“SEC. 53. (a) The Director of the Office shall receive compensation at the rate now or hereafter prescribed for offices and positions at level IV of the Executive Schedule as specified in section 5315 of title 5, United States Code.

“(b) To carry out the functions of the Office, the Director, on behalf of the Administrator, is authorized to appoint and fix the compensation of such professionally qualified employees as he deems necessary, including up to ten of the employees in grade GS-16, GS-17, or GS-18 authorized by section 7 of this Act.

5 USC 5332 note.
15 USC 766.

“(c) The functions and powers of the Office shall be vested in or delegated to the Director, who may from time to time, and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate. Such delegation may be made, upon request, to any officer or agency of the Federal Government.

“(d) (1) The Director shall be available to the Congress to provide testimony on such subjects under his authority and responsibility as the Congress may request, including but not limited to energy information and analyses thereof.

"(2) Any request for appropriations for the Federal Energy Administration submitted to the Congress shall identify the portion of such request intended for the support of the Office, and a statement of the differences, if any, between the amounts requested and the Director's assessment of the budgetary needs of the Office.

"ANALYTICAL CAPABILITY

"Sec. 54. (a) The Director shall establish and maintain the scientific, engineering, statistical, or other technical capability to perform analysis of energy information to—

15 USC 790c.

"(1) verify the accuracy of items of energy information submitted to the Director; and

"(2) insure the coordination and comparability of the energy information in possession of the Office and other Federal agencies.

"(b) The Director shall establish and maintain the professional and analytic capability to evaluate independently the adequacy and comprehensiveness of the energy information in possession of the Office and other agencies of the Federal Government in relation to the purposes of this Act and for the performance of the analyses described in section 52 of this Act. Such analytic capability shall include—

Ante, p. 1135.

"(1) expertise in economics, finance, and accounting;

"(2) the capability to evaluate estimates of reserves of mineral fuels and nonmineral energy resources utilizing alternative methodologies;

"(3) the development and evaluation of energy flow and accounting models describing the production, distribution, and consumption of energy by the various sectors of the economy and lines of commerce in the energy industry;

"(4) the development and evaluation of alternative forecasting models describing the short- and long-term relationships between energy supply and consumption and appropriate variables; and

"(5) such other capabilities as the Director deems necessary to achieve the purposes of this Act.

"PROFESSIONAL AUDIT REVIEW OF PERFORMANCE OF OFFICE

"Sec. 55. (a) The procedures and methodology of the Office shall be subject to a thorough annual performance audit review. Such review shall be conducted by a Professional Audit Review Team which shall prepare a report describing its investigation and reporting its findings to the President and to the Congress.

15 USC 790d.
Report to
President and
Congress.

"(b) The Professional Audit Review Team shall consist of at least seven professionally qualified persons who shall be officers or employees of the United States and of whom at least—

"one shall be designated by the Chairman of the Council of Economic Advisers;

"one shall be designated by the Commissioner of Labor Statistics;

"one shall be designated by the Administrator of Social and Economic Statistics;

"one shall be designated by the Chairman of the Securities and Exchange Commission;

"one shall be designated by the Chairman of the Federal Trade Commission;

"one shall be designated by the Chairman of the Federal Power Commission; and

"one, who shall be the Chairman of the Professional Audit

- Cooperation. Review Team, shall be designated by the Comptroller General.
- “(c) The Director and the Administrator shall cooperate fully with the Professional Audit Review Team and notwithstanding any other provisions of law shall make available to the Team such data, information, documents, and services as the Team determines are necessary for successful completion of its performance audit review.
- Penalty. “(d) Except as authorized by law, any person who—
- “(1) obtains, in the course of exercising the functions of the Professional Audit Review Team, information which constitutes a trade secret or confidential commercial information, the disclosure of which could result in significant competitive injury to the person to which such information relates; and
- “(2) willfully discloses such information;
- shall be fined not more than \$40,000, or imprisoned not more than one year, or both.

“COORDINATION OF ENERGY INFORMATION ACTIVITIES

15 USC 790e.

“SEC. 56. (a) In carrying out the purposes of this Act the Director shall, as he deems appropriate, review the energy information gathering activities of Federal agencies with a view toward avoiding duplication of effort and minimizing the compliance burden on business enterprises and other persons.

“(b) In exercising his responsibilities under subsection (a) of this section, the Director shall recommend policies which, to the greatest extent practicable—

“(1) provide adequately for the energy information needs of the various departments and agencies of the Federal Government, the Congress, and the public;

“(2) minimize the burden of reporting energy information on businesses, other persons, and especially small businesses;

“(3) reduce the cost to Government of obtaining information; and

“(4) utilize files of information and existing facilities of established Federal agencies.

“(c) (1) At the earliest practicable date after the date of enactment of this section, each Federal agency which is engaged in the gathering of energy information as a part of an established program, function, or other activity shall promptly provide the Administrator with a report on energy information which—

“(A) identifies the statutory authority upon which the energy information collection activities of such agency is based;

“(B) lists and describes the energy information needs and requirements of such agency; and

“(C) lists and describes the categories, definitions, levels of detail, and frequency of collection of the energy information collected by such agency.

Such agencies shall cooperate with the Administrator and provide such other descriptive information with respect to energy information activities as the Administrator may request. The Administrator shall prepare a report on his activities under this subsection, which report shall include recommendations with respect to the coordination of energy information activities of the Federal Government. Such report shall be available to the Congress and shall be transmitted to the President and to the Energy Resources Council for use in preparation of the plan required under subsection (c) of section 108 of the Energy Reorganization Act of 1974.

Report to
Congress,
transmittal to
President.
42 USC 5818.

"REPORTS

"SEC. 57. (a) The Director shall make periodic reports and may make special reports to the Congress and the public, including but not limited to—

Reports to
Congress.
15 USC 790f.

"(1) such reports as the Director determines are necessary to provide a comprehensive picture of the quarterly, monthly, and, as appropriate, weekly supply and consumption of the various non-mineral energy resources, mineral fuels, and electricity in the United States; the information reported may be organized by company, by States, by regions, or by such other producing and consuming sectors, or combinations thereof, and shall be accompanied by an appropriate discussion of the evolution of the energy supply and consumption situation and such national and international trends and their effects as the Director may find to be significant; and

"(2) an annual report which includes, but is not limited to, a description of the activities of the Office and the National Energy Information System during the preceding year; a summary of all special reports published during the preceding year; a summary of statistical information collected during the preceding year; short-, medium-, and long-term energy consumption and supply trends and forecasts under various assumptions; and, to the maximum extent practicable, a summary or schedule of the amounts of mineral fuel resources, nonmineral energy resources, and mineral fuels that can be brought to market at various prices and technologies and their relationship to forecasted demands.

"(b) (1) The Director, on behalf of the Administrator, shall insure that adequate documentation for all statistical and forecast reports prepared by the Director is made available to the public at the time of publication of such reports. The Director shall periodically audit and validate analytical methodologies employed in the preparation of periodic statistical and forecast reports.

"(2) The Director shall, on a regular basis, make available to the public information which contains validation and audits of periodic statistical and forecast reports.

Information,
availability to
public.

"(c) Prior to publication, the Director may not be required to obtain the approval of any other officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports which he has prepared in accordance with law.

"ENERGY INFORMATION IN POSSESSION OF OTHER FEDERAL AGENCIES

"SEC. 58. (a) In furtherance and not in limitation of any other authority, the Director, on behalf of the Administrator, shall have access to energy information in the possession of any Federal agency except information—

15 USC 790g.

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

"(b) In the event that energy information in the possession of another Federal agency which is required to achieve the purposes of this Act is denied the Director or the Administrator pursuant to paragraph (1) or paragraph (2) of subsection (a) of this section, the

Administrator, or the Director, on behalf of the Administrator, shall take appropriate action, pursuant to authority granted by law, to obtain said information from the original sources or a suitable alternate source. Such source shall be notified of the reason for this request for information.

“CONGRESSIONAL ACCESS TO INFORMATION IN POSSESSION OF THE OFFICE

15 USC 790h.

“SEC. 59. The Director shall promptly provide upon request any energy information in the possession of the Office to any duly established committee of the Congress. Such information shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of such committee and the Rules of the House of Representatives or the Senate and as permitted by law.”.

EFFECTIVE DATE

15 USC 790 note.

15 USC 761 note.

Ante, p. 1138.

SEC. 143. The amendments made by this part C to the Federal Energy Administration Act of 1974 shall take effect 150 days after the date of enactment of this Act, except that section 56(c) of the Federal Energy Administration Act of 1974 (as added by this part) shall take effect on the date of enactment of this Act.

PART D—AMENDMENTS TO OTHER ENERGY-RELATED LAW

APPLIANCE PROGRAM

42 USC 6295.

SEC. 161. (a) Section 325(a)(1)(A) of the Energy Policy and Conservation Act is amended to read as follows:

42 USC 6292.
Rule.

“(a) (1) (A) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a). Not later than 90 days after the date of enactment of the Energy Conservation and Production Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of covered product.”.

(b) Section 325(a)(2) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following:

Rule.

“(2) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (11), (12), and (13) of section 322(a). Not later than one year after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of product.”.

ENERGY RESOURCES COUNCIL REPORTS

42 USC 5818.

SEC. 162. (a) Section 108(b) of the Energy Reorganization Act of 1974 is amended—

(1) by striking out “and” at the end of paragraph (2);

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

Report to
President and
Congress.

“(4) prepare a report on national energy conservation activities which shall be submitted to the President and the Congress annually, beginning on July 1, 1977, and which shall include—

“(A) a review of all Federal energy conservation expenditures and activities, the purpose of each such activity, the

relation of the activity to national conservation targets and plans, and the success of the activity and the plans for the activity in future years;

“(B) an analysis of all conservation targets established for industry, residential, transportation, and public sectors of the economy, whether the targets can be achieved or whether they can be further improved, and the progress toward their achievement in the past year;

“(C) a review of the progress made pursuant to the State energy conservation plans under sections 361 through 366 of the Energy Policy and Conservation Act and other similar efforts at the State and local level, and whether further conservation can be carried on by the States or by local governments, and whether further Federal assistance is required;

42 USC
6321-6326.

“(D) a review of the principal conservation efforts in the private sector, the potential for more widespread implementation of such efforts and the Federal Government’s efforts to promote more widespread use of private energy conservation initiatives; and

“(E) an assessment of whether existing conservation targets and goals are sufficient to bridge the gap between domestic energy production capacity and domestic energy needs, whether additional incentives or programs are necessary or useful to close that gap further, and a discussion of what mandatory measures might be useful to further bring domestic demand into harmony with domestic supply.

The Chairman of the Energy Resources Council shall coordinate the preparation of the report required under paragraph (5).”.

(b) Section 108 of the Energy Reorganization Act of 1974 is amended— 42 USC 5818.

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

“(c) The President, through the Energy Resources Council, shall—

Energy and
natural resources
activities, plan.

“(1) prepare a plan for the reorganization of the Federal Government’s activities in energy and natural resources, including, but not limited to, a study of—

“(A) the principal laws and directives that constitute the energy and natural resource policy of the United States;

“(B) prospects of developing a consolidated national energy policy;

“(C) the major problems and issues of existing energy and natural resource organizations;

“(D) the options for Federal energy and natural resource organizations;

“(E) an overview of available resources pertinent to energy and natural resource organization;

“(F) recent proposals for a national energy and natural resource policy for the United States; and

“(G) the relationship between energy policy goals and other national objectives;

“(2) submit to Congress—

Recommendations,
submittal to
Congress.

“(A) no later than December 31, 1976, the plan prepared pursuant to subsection (c)(1) and a report containing his recommendations for the reorganization of the Federal Government’s responsibility for energy and natural resource

matters together with such proposed legislation as he deems necessary or appropriate for the implementation of such plans or recommendations; and

“(B) not later than April 15, 1977, such revisions to the plan and report described in subparagraph (A) of this paragraph as he may consider appropriate; and

“(3) provide interim and transitional policy planning for energy and natural resource matters in the Federal Government.”.

EXTENSION OF ENERGY RESOURCES COUNCIL

Ante, p. 1141.
42 USC 5818.

SEC. 163. Section 108(e) of the Energy Reorganization Act of 1974, as redesignated by subsection (b) (1) of this section, is amended by striking out “two years after such effective date,” and inserting in lieu thereof “not later than September 30, 1977,”.

DEVELOPMENT OF UNDERGROUND COAL MINES

42 USC 6211.

SEC. 164. Section 102 of the Energy Policy and Conservation Act is amended by adding at the end of subsection (c) the following new paragraph:

“Developing new underground coal mine.”

“(4) The term ‘developing new underground coal mine’ includes expansion of any existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mine which had previously been closed.”.

TITLE II—ELECTRIC UTILITY RATE DESIGN INITIATIVES

FINDINGS

42 USC 6801.

SEC. 201. (a) The Congress finds that improvement in electric utility rate design has great potential for reducing the cost of electric utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation and better use of existing electrical generating facilities.

Proposals,
transmittal to
Congress.

(b) It is the purpose of this title to require the Federal Energy Administration to develop proposals for improvement of electric utility rate design and transmit such proposals to Congress; to fund electric utility rate demonstration projects; to intervene or participate, upon request, in the proceedings of utility regulatory commissions; and to provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

DEFINITIONS

42 USC 6802.

SEC. 202. As used in this title:

(1) The term “Administrator” means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term “electric utility” means any person, State agency, or Federal agency which sells electric energy.

(3) The term “Federal agency” means any agency or instrumentality of the United States.

(4) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(5) The term "State utility regulatory commission" means (A) any utility regulatory commission which is a State agency or (B) the Tennessee Valley Authority.

(6) The term "State" means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(7) The term "utility regulatory commission" means any State agency or Federal agency which has authority to fix, modify, approve, or disapprove rates for the sale of electric energy by any electric utility (other than by such agency).

ELECTRIC UTILITY RATE DESIGN PROPOSALS

SEC. 203. (a) The Administrator shall develop proposals to improve electric utility rate design. Such proposals shall be designed to encourage energy conservation, minimize the need for new electrical generating capacity, and minimize costs of electric energy to consumers, and shall include (but not be limited to) proposals which provide for the development and implementation of—

- (1) load management techniques which are cost effective;
- (2) rates which reflect marginal cost of service, or time of use of service, or both;
- (3) ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel; and
- (4) rates (or other regulatory policies) which encourage electric utility system reliability and reliability of major items of electric utility equipment.

(b) The proposals prepared under subsection (a) shall be transmitted to each House of Congress not later than 6 months after the date of enactment of this Act, for review and for such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

- (1) the projected savings (if any) in consumption of petroleum products, natural gas, electric energy, and other energy resources,
- (2) the reduction (if any) in the need for new electrical generating capacity, and of the demand for capital by the electric utility industry, and
- (3) changes (if any) in the cost of electric energy to consumers, which are likely to result from the implementation nationally of each of the proposals transmitted under this subsection.

Transmittal to Congress.

RATE DESIGN INNOVATION AND FEDERAL ENERGY ADMINISTRATION INTERVENTION

SEC. 204. The Administrator may—

(1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and

(3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under paragraph (2), intervene and participate in such action.

42 USC 6804.

GRANTS FOR OFFICES OF CONSUMER SERVICES

42 USC 6805.

SEC. 205. (a) The Administrator may make grants to States, or otherwise as provided in subsection (c), under this section to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of any such utility regulatory commission and which is empowered to—

(1) make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

(b) Grants pursuant to subsection (a) of this section shall be made only to States which furnish such assurances as the Administrator may require that funds made available under such section will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

(c) Assistance may be provided under this section to an office of consumer services established by the Tennessee Valley Authority, if such office is operated independently of the Tennessee Valley Authority.

REPORTS

Report to
Congress.
42 USC 6806.

SEC. 206. Not later than the last day in December in each year, the Administrator shall transmit to the Congress a report with respect to activities conducted under this title and recommendations as to the need for and types of further Federal legislation.

AUTHORIZATIONS OF APPROPRIATIONS

42 USC 6807.

SEC. 207. (a) There are authorized to be appropriated to carry out this title (other than section 205) for the period beginning July 1, 1976, and ending September 30, 1977, not to exceed \$13,056,000, of which not more than \$1,000,000 may be assigned for purposes of section 204 (2) and (3).

(b) There are authorized to be appropriated to carry out section 205 for such period not to exceed \$2,000,000.

Energy
Conservation
Standards for
New Buildings
Act of 1976.

TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SHORT TITLE

42 USC 6831
note.

SEC. 301. This title may be cited as the “Energy Conservation Standards for New Buildings Act of 1976”.

FINDINGS AND PURPOSES

42 USC 6831.

SEC. 302. (a) The Congress finds that—

(1) large amounts of fuel and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and com-

mercial buildings because such buildings lack adequate energy conservation features;

(2) Federal performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

(3) the failure to provide adequate energy conservation measures in newly constructed buildings increases long-term operating costs that may affect adversely the repayment of, and security for, loans made, insured, or guaranteed by Federal agencies or made by federally insured or regulated instrumentalities; and

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features.

(b) The purposes of this title, therefore, are to—

(1) redirect Federal policies and practices to assure that reasonable energy conservation features will be incorporated into new commercial and residential buildings receiving Federal financial assistance;

(2) provide for the development and implementation, as soon as practicable, of performance standards for new residential and commercial buildings which are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of nondepletable sources of energy; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building codes and other construction control mechanisms, or to apply them through a special approval process.

DEFINITIONS

SEC. 303. As used in this title :

42 USC 6832.

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term "building" means any structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term "building code" means a legal instrument which is in effect in a State or unit of general purpose local government, the provisions of which must be adhered to if a building is to be considered to be in conformance with law and suitable for occupancy and use.

(4) The term "commercial building" means any building other than a residential building, including any building developed for industrial or public purposes.

(5) The term "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(6) The term "Federal building" means any building to be constructed by, or for the use of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

(7) The term "Federal financial assistance" means (A) any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing or formula grants made to States) approved by any Federal officer or agency; or (B) any loan made or purchased by any bank, savings and loan association, or similar institution subject to regulation by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

12 USC 1701j-2.

(8) The term "National Institute of Building Sciences" means the institute established by section 809 of the Housing and Community Development Act of 1974.

(9) The term "performance standards" means an energy consumption goal or goals to be met without specification of the methods, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements, criteria and evaluation methods to be used, and any necessary commentary.

(10) The term "residential building" means any structure which is constructed and developed for residential occupancy.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory and possession of the United States.

(13) The term "unit of general purpose local government" means any city, county, town, municipality, or other political subdivision of a State (or any combination thereof), which has a building code or similar authority over a particular geographic area.

PROMULGATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

Publication in
Federal Register.
42 USC 6833.

SEC. 304. (a) (1) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall develop and publish in the Federal Register for public comment proposed performance standards for new commercial buildings. Final performance standards shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

Publication in
Federal Register.

(2) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator and the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, shall develop and publish in the Federal Register for public comment proposed performance standards for new residential buildings. Final performance standards for such buildings shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(3) In the development of performance standards, the Secretary shall utilize the services of the National Institute of Building Sciences, under appropriate contractual arrangements.

(b) All performance standards promulgated pursuant to subsection (a) shall take account of, and make such allowance or particular exception as the Secretary determines appropriate for, climatic variations among the different regions of the country.

(c) The Secretary, in consultation with the Administrator, the Secretary of Commerce, the Administrator of the General Services Administration, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall periodically review and provide for the updating of performance standards promulgated pursuant to subsection (a).

Consultation.
Review.

(d) The Secretary, if he finds that the dates otherwise specified in this section for publication of proposed, or for promulgation of final, performance standards under subsection (a) (1) or (a) (2) cannot practicably be met, may extend the time for such publication or promulgation, but no such extension shall result in a delay of more than 6 months in promulgation.

Extension.

APPLICATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

SEC. 305. (a) Subject to the provisions of subsection (c) and after the effective date of final performance standards for new commercial and residential buildings pursuant to section 304(a), no Federal financial assistance shall be made available or approved with respect to the construction of any new commercial or residential building in any area of any State, unless—

42 USC 6834.

(1) such State has certified, in accordance with regulations of the Secretary, that—

Certification.

(A) the unit of general purpose local government which has jurisdiction over such area has adopted and is implementing a building code, or other construction control mechanism, which meets or exceeds the requirements of such final performance standards, or

(B) such State has adopted and is implementing, on a statewide basis or with respect to such area, a building code or other laws or regulations which provide for the effective application of such final performance standards;

(2) such new building has been determined, pursuant to any applicable approval process described in subsection (b), to be in compliance with such final performance standards; or

(3) such new building is to be located in any area in which the construction of new buildings is not of a magnitude to warrant the costs of implementing final performance standards, as determined by the Secretary after receiving a request for such a determination (and material justifying such request) from the State in which the area is located; except that the Secretary may rescind such a determination whenever the Secretary finds that the amount of construction of new buildings has increased in such area to an extent that such costs are warranted.

The Secretary shall review and conduct such investigations as are deemed necessary to determine the accuracy of such certifications and shall provide for the periodic updating thereof. The Secretary may reject, disapprove, or require the withdrawal of any such certification after notice to such State and an opportunity for a hearing.

Investigations.

Notice and
hearing.

(b) (1) The provisions of this subsection shall not apply to any area subject to the jurisdiction of a unit of general purpose local government or of a State described in subsection (a) (1), and the provisions of this subsection and the approval process applicable under this subsection shall cease to apply to any area at such time as the Secretary receives a certification under subsection (a) (1) with respect to such area.

(2) The Secretary shall have overall responsibility for the effective application of the applicable approval process described in this subsection in any area not exempted therefrom pursuant to paragraph (1).

“Approval
process.”

(3) As used in this section, the term “approval process” means a mechanism and procedure for the consideration and approval of an application to construct a new building and which involves (A) determining whether such proposed building would be in compliance with the final performance standards for new buildings promulgated under section 304, and (B) administration by the level and agency of government specified by the Secretary pursuant to paragraph (4).

Administration.

(4) The level and agency of government which shall administer the approval process described in this subsection is—

(A) first, the agency which grants building permits on behalf of the unit of general purpose local government which has jurisdiction over the area in which new construction is proposed, if such agency is willing and able to administer such approval process;

(B) second, if the agency described in subparagraph (A) is not willing and able to administer such approval process, any other agency of the unit of general purpose local government described in such paragraph which has authority to administer such approval process, if such agency is willing and able to administer such approval process; and

(C) third, if no agency described in subparagraphs (A) and (B) is willing and able to administer such approval process, any agency of the State in which new construction is proposed which has authority to administer such approval process, if such agency is willing and able to administer such approval process.

Transmittal to
Congress.

(c) The President shall transmit the final performance standards for new buildings to both Houses of Congress upon the date of promulgation of such standards pursuant to section 304(a), for review by the Congress under this subsection to determine whether the sanction set forth in the introductory clause to subsection (a) is necessary and appropriate to assure that such standards are in fact applied to all new buildings. Such sanction shall be deemed approved as necessary for such purpose (and shall thereafter be enforced, directly and indirectly, by each applicable person and governmental entity) if the use of such sanction is approved by a resolution of each House of Congress in accordance with the procedures specified in section 552 of the Energy Policy and Conservation Act; except that for purposes of this section the 60 calendar days described in section 552(b) and (c) (2) of such Act shall be lengthened to 90 calendar days.

42 USC 6422.

FEDERAL BUILDINGS

42 USC 6835.

SEC. 306. The head of each Federal agency responsible for the construction of any Federal building shall adopt such procedures as may be necessary to assure that any such construction meets or exceeds the applicable final performance standards promulgated pursuant to this title.

GRANTS

SEC. 307. (a) The Secretary may make grants to States and units of general purpose local government to assist them in meeting the costs of adopting and implementing performance standards or of administering State certification procedures or any applicable approval process to carry out the provisions of section 305. 42 USC 6836.

(b) There is authorized to be appropriated for the purpose of carrying out this section, not to exceed \$5,000,000 for the fiscal year ending September 30, 1977. Any amount appropriated pursuant to this subsection shall remain available until expended. Appropriation authorization.

TECHNICAL ASSISTANCE

SEC. 308. The Secretary (directly, by contract, or otherwise) may provide technical assistance to States and units of general purpose local government to assist them in meeting the requirements of this title. 42 USC 6837.

CONSULTATION WITH INTERESTED AND AFFECTED GROUPS

SEC. 309. In developing and promulgating performance standards and carrying out other functions under this title, the Secretary shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Secretary shall, to the extent practicable, make use of the National Institute of Building Sciences. The Secretary may also establish one or more advisory committees as may be appropriate. Any advisory committee or committees established pursuant to this section shall be subject to the provisions of the Federal Advisory Committee Act. 42 USC 6838. Advisory committees, establishment. 5 USC app. 1.

SUPPORT ACTIVITIES

SEC. 310. The Secretary, in cooperation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall carry out any activities which the Secretary determines may be necessary or appropriate to assist in the development of performance standards under section 304(a) and to facilitate the implementation of such standards by State and local governments. Such activities shall be designed to assure that such standards are adequately analyzed in terms of energy efficiency, stimulation of use of nondepletable sources of energy, institutional resources, habitability, economic cost and benefit, and impact upon affected groups. 42 USC 6839.

MONITORING OF STATE AND LOCAL ADOPTION OF ENERGY CONSERVATION STANDARDS FOR BUILDINGS

SEC. 311. The Secretary, with the advice and assistance of the National Institute of Building Sciences, shall— 42 USC 6840.

(1) monitor the progress made by the States and their political subdivisions in adopting and enforcing energy conservation standards for new buildings;

(2) identify any procedural obstacles or technical constraints inhibiting implementation of such standards;

Report to
Congress.

(3) evaluate the effectiveness of such prevailing standards; and

(4) within 12 months after the date of enactment of this title, and semiannually thereafter, report to the Congress on (A) the progress of the States and units of general purpose local government in adopting and implementing energy conservation standards for new buildings, and (B) the effectiveness of such standards.

Energy
Conservation in
Existing
Buildings Act of
1976.

TITLE IV—ENERGY CONSERVATION AND RENEWABLE-RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

SHORT TITLE

42 USC 6851
note.

SEC. 401. This title may be cited as the "Energy Conservation in Existing Buildings Act of 1976".

FINDINGS AND PURPOSE

42 USC 6851.

SEC. 402. (a) The Congress finds that—

(1) the fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units, nonresidential buildings, and industrial plants;

(2) current efforts to encourage and facilitate such measures are inadequate as a consequence of—

(A) a lack of adequate and available financing for such measures, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services pertaining to practicable energy conservation measures and renewable-resource energy measures and the cost savings that are likely if they are implemented in such units, buildings, and plants; and

(C) the absence of organized programs which, if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake such measures easily and with confidence in their economic value;

(3) major programs of financial incentives and assistance for energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers, particularly elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use; and

(C) increase, directly and indirectly, job opportunities and national economic output;

(4) the primary responsibility for the implementation of such major programs should be lodged with the governments of the States; the diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally

administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities; the State should be allowed flexibility within which to fashion such programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur;

(5) to the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs rather than through new programs that would necessitate new and separate administrative bureaucracies; and

(6) such programs should be designed and administered to supplement, and not to supplant or in any other way conflict with, State energy conservation programs under part C of title III of the Energy Policy and Conservation Act; the emergency energy conservation program carried out by community action agencies pursuant to section 222(a)(12) of the Economic Opportunity Act of 1964; and other forms of assistance and encouragement for energy conservation.

42 USC 6341.

42 USC 2809.

(b) It is, therefore, the purpose of this title to encourage and facilitate the implementation of energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants, through—

- (1) supplemental State energy conservation plans; and
- (2) Federal financial incentives and assistance.

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

FINDINGS AND PURPOSE

SEC. 411. (a) The Congress finds that—

42 USC 6861.

(1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;

(2) low-income persons, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

(4) States, through community action agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such low-income persons, to supplement other Federal programs serving such persons, and to conserve energy.

42 USC 2701
note.

(b) It is, therefore, the purpose of this part to develop and implement a supplementary weatherization assistance program to assist in achieving a prescribed level of insulation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

DEFINITIONS

- 42 USC 6862. SEC. 412. As used in this part:
- (1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.
 - (2) The term "Director" means the Director of the Community Services Administration.
 - (3) The term "elderly" means any individual who is 60 years of age or older.
 - (4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).
 - (5) The term "handicapped person" means any individual (A) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (B) who is under a disability as defined in section 1614 (a) (3) (A) or 223(d) (1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (C) who is receiving benefits under chapter 11 or 15 of title 38, United States Code.
 - (6) The terms "Indian", "Indian tribe", and "tribal organization" have the meanings prescribed for such terms by paragraphs (4), (5), and (6), respectively, of section 102 of the Older Americans Act of 1965.
 - (7) The term "low-income" means that income in relation to family size which (A) is at or below the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act or applicable State or local law.
 - (8) The term "State" means each of the States and the District of Columbia.
 - (9) The term "weatherization materials" means items primarily designed to improve the heating or cooling efficiency of a dwelling unit, including, but not limited to, ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment valued in excess of \$50 per dwelling unit.
- 29 USC 706.
- 42 USC 1382c, 423.
- 42 USC 6001.
- 42 USC 3002.
- 42 USC 601, 1381.

WEATHERIZATION PROGRAM

- 42 USC 6863. SEC. 413. (a) The Administrator shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Administrator may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, in which the head of the household is a low-income person.
- Grants.
- Proposed regulations; publication in Federal Register.
- (b) (1) The Administrator, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director

of the ACTION Agency, and the heads of such other Federal departments and agencies as the Administrator deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this part, proposed regulations to carry out the provisions of this part. The Administrator shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after the date of such enactment. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Director of the National Bureau of Standards in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balanced combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation; and

(B) designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units.

(c) If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Administrator which meets the requirements set forth in section 414, any unit of general purpose local government of sufficient size (as determined by the Administrator), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964, may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. If any such application submitted by a unit of general purpose local government proposes that the allocation requirement and the priority for an applicable community action agency, as set forth under section 415(b)(2)(B), be determined to be no longer applicable, the Administrator, as part of the notice and public hearing procedure carried out under section 418 with respect to such application, shall be responsible for making the necessary determination under the proviso in section 415(b)(2)(B). A State may, in accordance with regulations promulgated under this part, submit an amended application.

Applications,
submittal by
States.

42 USC 2781.

(d)(1) Notwithstanding any other provision of this part, in any State in which the Administrator determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part) that the low-income members of an Indian tribe are not receiving benefits under this part that are equivalent to the assistance provided to other low-income persons in such State under this part, and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from sums that would otherwise be

allocated to such State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Administrator on the basis of his determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part.

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Administrator an application meeting the requirements set forth in section 414.

42 USC 2809. (e) Notwithstanding any other provision of law, the Administrator may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a) (12) of the Economic Opportunity Act of 1964, which further the purpose of this part.

FINANCIAL ASSISTANCE

42 USC 6864. SEC. 414. (a) The Administrator shall provide financial assistance, from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 413 and (2) to carry out this section. The Administrator shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings.

(D) Such other factors as the Administrator may determine necessary in order to carry out the purpose and provisions of this part.

(b) The Administrator shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units; and

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1973, to work under the supervision of qualified supervisors and foremen, and (B) for complying with the limitations set forth in section 415.

29 USC 801 note.

LIMITATIONS

SEC. 415. (a) Financial assistance provided under this part shall, to the maximum extent practicable as determined by the Administrator, be used for the purchase of weatherization materials, except that not to exceed 10 percent of any grant made under this part may be used for the administration of weatherization projects under this part.

42 USC 6865.

(b) The Administrator shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 or to other appropriate and qualified public or nonprofit entities in such State or area so that—

42 USC 2781.

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors;

(B) (i) funds to be allocated for carrying out weatherization projects under this part in the geographical area served by the emergency energy conservation program carried out by a community action agency under section 222(a)(12) of the Economic Opportunity Act of 1964 will be allocated to such agency, and (ii) priority in the allocation of such funds for carrying out such projects under this part will be given such a community action agency in so much of the geographical area served by it as is not served by the emergency energy conservation program it is carrying out: *Provided*, That such allocation requirement and such priority shall no longer apply if the Governor of a State preparing an application for financial assistance under this part makes a determination, on the basis of the public hearing required by paragraph (1) of this subsection, or if the Administrator makes a determination, on the basis of a public hearing pursuant to section 413

42 USC 2809.

(c), that the emergency energy conservation program carried out by such agency has been ineffective in meeting the purpose of this part or is clearly not of sufficient size, and cannot in timely fashion develop the capacity, to support the scope of the project to be carried out in such area with funds under this part; and

(C) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 418.

(c) The cost of the weatherization materials provided with financial assistance under this part shall not exceed \$400 in the case of any dwelling unit unless the State policy advisory council, established pursuant to section 414(b)(1), provides for a greater amount with respect to specific categories of units or materials.

MONITORING, TECHNICAL ASSISTANCE, AND EVALUATION

42 USC 6866.

SEC. 416. The Administrator, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 417(a), through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Administrator shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Administrator may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed 10 percent of the sums appropriated for such year under this part.

ADMINISTRATIVE PROVISIONS

42 USC 6867.

SEC. 417. (a) The Administrator, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Administrator and the Director to carry out their functions under this part.

Recordkeeping.

(b) Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Administrator may prescribe in order to assure an effective financial audit and performance evaluation of such project.

Audit.

(c) The Administrator, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers,

information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

APPROVAL OF APPLICATIONS AND ADMINISTRATION OF STATE PROGRAMS

SEC. 418. (a) The Administrator shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 413(c), as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Administrator may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Administrator, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Administrator is satisfied that there is no longer any such failure to comply.

Notice and
hearing.
42 USC 6868.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

JUDICIAL REVIEW

SEC. 419. (a) If any applicant is dissatisfied with the Administrator's final action with respect to the application submitted by it under section 414 or with a final action under section 418, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. The Administrator thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

42 USC 6869.

(b) The findings of fact by the Administrator, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Administrator to take further evidence, and the Administrator may thereupon make new or modified findings of fact and may modify his previous action. The Administrator shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Administrator or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

NONDISCRIMINATION

42 USC 6870.

SEC. 420. (a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.

(b) Whenever the Administrator determines that a recipient of financial assistance under this part has failed to comply with subsection (a) or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Administrator shall—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

42 USC 2000d.

(2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 and any other applicable Federal nondiscrimination law; or

(3) take such other action as may be authorized by law.

ANNUAL REPORT

Submittal to
Congress and
President.
42 USC 6871.

SEC. 421. The Administrator and (with respect to the operation and effectiveness of activities carried out through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter through 1979, a report to the Congress and the President describing the weatherization assistance program carried out under this part or any other provision of law, including the results of the periodic evaluations and monitoring activities required by section 416.

AUTHORIZATION OF APPROPRIATIONS

42 USC 6872.

SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed \$55,000,000 for the fiscal year ending September 30, 1977, not to exceed \$65,000,000 for the fiscal year ending September 30, 1978, and not to exceed \$80,000,000 for the fiscal year ending September 30, 1979, such sums to remain available until expended.

PART B—STATE ENERGY CONSERVATION PLANS

DEFINITIONS

42 USC 6326.

SEC. 431. Section 366 of the Energy Policy and Conservation Act is amended by (1) redesignating paragraphs (1) and (2) as paragraphs (7) and (8), respectively; and (2) inserting after “As used in this part—” the following new paragraphs:

“(1) The term ‘appliance’ means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Administrator classifies as an appliance for purposes of this part.

“(2) The term ‘building’ means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

“(3) The term ‘energy audit’ means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

“(A) is carried out in accordance with rules of the Administrator; and

“(B) imposes—

“(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 367, and

Post, p. 1160.

“(ii) only reasonable costs, as determined by the Administrator, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

“(4) The term ‘energy conservation measure’ means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to be likely to improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

“(A) the useful life of the modification involved, as determined by the Administrator, or

“(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Administrator, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Administrator determines does not have as its primary purpose an improvement in efficiency of energy use.

“(5) The term ‘industrial plant’ means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

“(6) The term ‘renewable-resource energy measure’ means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to—

Post, p. 1162.

“(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

“(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and

installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

“(i) the useful life of the modification involved, as determined by the Administrator, or

“(ii) 25 years after the purchase and installation of such measure,

whichever is less.

Such term does not include the purchase or installation of any appliance.”.

SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

42 USC 6321. SEC. 432. (a) Part C of the title 3 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new section:

“SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

Guidelines.
42 USC 6327. “SEC. 367. (a) (1) The Administrator shall, within 6 months after the date of enactment of the Energy Conservation and Production Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, supplemental State energy conservation plans. Such guidelines shall include the provisions of one or more model supplemental State energy conservation plans with respect to the requirements of this section.

Publication in
Federal Register. “(2) In prescribing such guidelines, the Administrator shall solicit and consider the recommendations of, and be available to consult with, the Governors of the States as to such guidelines. At least 60 days prior to the date of final publication of such guidelines, the Administrator shall publish proposed guidelines in the Federal Register and invite public comments thereon.

Rules. “(3) The Administrator shall invite the Governor of each State to submit to the Administrator a proposed supplemental State energy conservation plan which meets the requirements of subsection (b) and any guidelines applicable thereto.

“(4) The Administrator may prescribe rules applicable to supplemental State energy conservation plans under this section pursuant to which—

“(A) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section; and

42 USC 6322. “(B) such plan under this section may be administered; as if such plan was a part of the State energy conservation plan program under section 362. Such rules shall not have the effect of delaying funding of the program under section 362.

42 USC 6323.
Post, p. 1162. “(5) Section 363(b) (2) (A), the last sentence of section 363(b) (2), section 363(b) (3), and section 363(c) shall apply to the supplemental State energy conservation plans to the same extent as such provisions apply to State energy conservation plans.

Federal financial
assistance. “(6) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting any State in the development of any supplemental State energy conservation plan or in the implementation or modification of such a plan or part thereof which has been submitted to and approved by the Administrator pursuant to this section.

“(b) (1) Each proposed supplemental State energy conservation plan to be eligible for Federal financial assistance under this section shall include—

“(A) procedures for carrying out a continuing public education effort to increase significantly public awareness of—

“(i) the energy and cost savings which are likely to result from the implementation (including implementation through group efforts) of energy conservation measures and renewable-resource energy measures; and

“(ii) information and other assistance (including information as to available technical assistance) which is or may be available with respect to the planning, financing, installing, and with respect to monitoring the effectiveness of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures;

“(B) procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration;

“(C) procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants within such State; and

“(D) any procedures, programs, or other actions required by the Administrator pursuant to paragraph (2).

“(2) The Administrator may promulgate guidelines under this section to provide that, in order to be eligible for Federal assistance under this section, a supplemental State energy conservation plan shall include, in addition to the requirements of paragraph (1) of this subsection, one or more of the following:

Guidelines.

“(A) the formation of, and appointment of qualified individuals to be members of, a State energy conservation advisory committee. Such a committee shall have continuing authority to advise and assist such State and its political subdivisions, with respect to matters relating to energy conservation in such State, including the carrying out of such State's energy conservation plan, the development and formulation of any improvements or amendments to such plan, and the development and formulation of procedures which meet the requirements of subparagraphs (A), (B), and (C) of subsection (b)(1). The applicable guidelines shall be designed to assure that each such committee carefully considers the views of the various energy-consuming sectors within the State and of public and private groups concerned with energy conservation;

State energy conservation advisory committee.

“(B) an adequate program within such State for the purpose of preventing any unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures;

“(C) procedures for the periodic verification (by use of sampling or other techniques), at reasonable times, and under reasonable conditions, by qualified officials designated by such State of the purchase and installation and actual cost of energy conservation measures and renewable-resource energy measures for which financial assistance was obtained under section 509 of the Housing and Urban Development Act of 1970, or section 451 of the Energy Conservation and Production Act; and

“(D) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures.

Post, p. 1162.

Post, p. 1165.

- Appropriation authorization. “(c) There are authorized to be appropriated for supplemental State energy conservation plans which are approved under this section \$25,000,000 for fiscal year 1977, \$40,000,000 for fiscal year 1978, and \$40,000,000 for fiscal year 1979.”
- 42 USC 6323. (b) Section 363(b) (2) of the Energy Policy and Conservation Act is amended by adding at the end thereof the following:
 “No such plan shall be disapproved without notice and an opportunity to present views.”
 (c) Section 363(c) of the Energy Policy and Conservation Act is amended by (1) striking out “project or program” and “projects or programs” in the first sentence and inserting in lieu thereof “plan, program, projects, measures, or systems” in each case; and (2) striking out “examination” in the second sentence and inserting in lieu thereof “examination, at reasonable times and under reasonable conditions.”
- 42 USC 6325. (d) Section 365 of the Energy Policy and Conservation Act is amended—
 (1) by redesignating subsection (d) as subsection (f);
 (2) by adding immediately after subsection (c) the following two new subsections:
 “(d) The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act, to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.
 “(e) Within 90 days after the date of enactment of this subsection, the Administrator shall—
 “(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 509 of the Housing and Urban Development Act of 1970 or section 451 of the Energy Conservation and Production Act;
 “(2) designate, by rule, the types of, and requirements for, energy audits.”; and
 (3) in subsection (f), as redesignated by paragraph (1), by inserting “(other than section 367)” after “part”.
- Cooperation with State agencies. “(d) The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act, to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.
- 15 USC 58. “(e) Within 90 days after the date of enactment of this subsection, the Administrator shall—
 “(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 509 of the Housing and Urban Development Act of 1970 or section 451 of the Energy Conservation and Production Act;
 “(2) designate, by rule, the types of, and requirements for, energy audits.”; and
 (3) in subsection (f), as redesignated by paragraph (1), by inserting “(other than section 367)” after “part”.
- Infra.*
Post, p. 1165.
 Energy audits.
- Ante*, p. 1160.

PART C—NATIONAL ENERGY CONSERVATION AND RENEWABLE-RESOURCE
 DEMONSTRATION PROGRAM FOR EXISTING DWELLING UNITS

ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

- 12 USC 1701z-1 *et seq.* SEC. 441. Title V of the Housing and Urban Development Act of 1970 is amended by adding the following new section at the end thereof:

“ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

- 12 USC 1701z-8. “SEC. 509. (a) The Secretary shall undertake a national demonstration program designed to test the feasibility and effectiveness of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and

approved renewable-resource energy measures in existing dwelling units. The Secretary shall carry out such demonstration program with a view toward recommending a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

“(b) The Secretary is authorized to make financial assistance available pursuant to this section in the form of grants, low-interest-rate loans, interest subsidies, loan guarantees, and such other forms of assistance as the Secretary deems appropriate to carry out the purposes of this section. Assistance may be made available to both owners of dwelling units and tenants occupying such units.

Financial assistance.

“(c) In carrying out the demonstration program required by this section, the Secretary shall—

“(1) provide assistance in a wide variety of geographic areas to reflect differences in climate, types of dwelling units, and income levels of recipients in order to provide a national profile for use in designing a program which is to be operational and effective nationwide;

“(2) evaluate the appropriateness of various financial incentives for different income levels of owners and occupants of existing dwelling units;

“(3) take into account and evaluate any other financial assistance which may be available for the installation or implementation of energy conservation and renewable-resource energy measures;

“(4) make use of such State and local instrumentalities or other public or private entities as may be appropriate in carrying out the purposes of this section in coordination with the provisions of part C of title III of the Energy Policy and Conservation Act;

42 USC 6321.

“(5) consider, with respect to various forms of assistance and procedures for their application, (A) the extent to which energy conservation measures and renewable-resource energy measures are encouraged which would otherwise not have been undertaken, (B) the minimum amount of Federal subsidy necessary to achieve the objectives of a national program, (C) the costs of administering the assistance, (D) the extent to which the assistance may be encumbered by delays, redtape, and uncertainty as to its availability with respect to any particular applicant, (E) the factors which may prevent the assistance from being available in certain areas or for certain classes of persons, and (F) the extent to which fraudulent practices can be prevented; and

“(6) consult with the Administrator and the heads of such other Federal agencies as may be appropriate.

“(d) (1) The amount of any grant made pursuant to this section shall not exceed the lesser of—

Grant limitations.

“(A) with respect to an approved energy conservation measure, (i) \$400, or (ii) 20 per centum of the cost of installing or otherwise implementing such measure; and

“(B) with respect to an approved renewable-resource energy measure, (i) \$2,000, or (ii) 25 per centum of the cost of installing or otherwise implementing such measure.

The Secretary may, by rule, increase such percentages and amounts in the case of an applicant whose annual gross family income for the preceding taxable year is less than the median family income for the housing market area in which the dwelling unit which is to be modified by such measure is located, as determined by the Secretary. The Secretary may also modify the limitations specified in this paragraph if necessary in order to achieve the purposes of this section.

Rule.

- Eligibility.** “(2) No person shall be eligible for both financial assistance under this section and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.
- “(e) The Secretary may condition the availability of financial assistance with respect to the installation and implementation of any renewable-resource energy measure on such measure’s meeting performance standards for reliability and efficiency and such certification procedures as the Secretary may, in consultation with the Administrator and other appropriate Federal agencies, prescribe for the purpose of protecting consumers.
- Delegation of responsibilities.** “(f) In carrying out the demonstration program required by this section, the Secretary is authorized to delegate responsibilities to, or to contract with, other Federal agencies or with such State or local instrumentalities or other public or private bodies as the Secretary may deem desirable. Such demonstration program shall be coordinated, to the extent practicable, with the State energy conservation plans as described in, and implemented pursuant to, part C of title III of the Energy Policy and Conservation Act.
- 42 USC 6321. Report to Congress.** “(g) The Secretary shall submit an interim report to the Congress not later than 6 months after the date of enactment of this section (and every 6 months thereafter until the final report is made under this subsection) indicating the progress made in carrying out the demonstration program required by this section and shall submit a final report to the Congress, containing findings and legislative recommendations, not later than 2 years after the date of enactment of this section. As part of each report made under this subsection, the Secretary shall include an evaluation, based on the criteria described in subsection (h), of each demonstration project conducted under this section.
- Report to Congress.** “(h) Prior to undertaking any demonstration project under this section, the Secretary shall specify and report to the Congress the criteria by which the Secretary will evaluate the effectiveness of the project and the results to be sought.
- Definitions.** “(i) As used in this section:
- “(1) The term ‘Administrator’ means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this section.
- “(2) The term ‘approved’, with respect to an energy conservation measure or a renewable-resource energy measure, means any such measure which is included on a list of such measures which is published by the Administrator of the Federal Energy Administration pursuant to section 365(e)(1) of the Energy Policy and Conservation Act. The Administrator may, by rule, require that an energy audit be conducted as a condition of obtaining assistance under this section for a renewable-resource energy measure.
- Ante, p. 1162.** “(3) The terms ‘energy audit’, ‘energy conservation measure’, and ‘renewable-resource energy measure’ have the meanings prescribed for such terms in section 366 of the Energy Policy and Conservation Act.
- Ante, p. 1158. Appropriation authorization.** “(j) There is authorized to be appropriated, for purposes of this section, not to exceed \$200,000,000. Any amount appropriated pursuant to this subsection shall remain available until expended.”.

PART D—ENERGY CONSERVATION AND RENEWABLE-RESOURCE
OBLIGATION GUARANTEES

PROGRAM

SEC. 451. (a) (1) The Administrator may, in accordance with this section and such rules as he shall prescribe after consultation with the Secretary of the Treasury, guarantee and issue commitments to guarantee the payment of the outstanding principal amount of any loan, note, bond, or other obligation evidencing indebtedness, if—

Payment
guarantees.
42 USC 6881.

(A) such obligation is entered into or issued by any person or by any State, political subdivision of a State, or agency and instrumentality of either a State or political subdivision thereof; and

(B) the purpose of entering into or issuing such obligation is the financing of any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in any building or industrial plant owned or operated by the person or State, political subdivision of a State, or agency or instrumentality of either a State or political subdivision thereof, (i) which enters into or issues such obligation, or (ii) to which such measure is leased.

(2) No guarantee or commitment to guarantee may be issued under this subsection with respect to any obligation—

(A) which is a general obligation of a State; or

(B) which is entered into or issued for the purpose of financing any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in a residential building containing 2 or fewer dwelling units.

(3) Before prescribing rules pursuant to this subsection, the Administrator shall consult with the Administrator of the Small Business Administration in order to formulate procedures which would assist small business concerns in obtaining guarantees and commitments to guarantee under this section.

(b) No obligation may be guaranteed, and no commitment to guarantee an obligation may be issued, under subsection (a), unless the Administrator finds that the measure which is to be financed by such obligation—

(1) has been identified by an energy audit to be an energy conservation measure or a renewable-resource energy measure; or

(2) is included on a list of energy conservation measures and renewable-resource energy measures which the Administrator publishes under section 365(e)(1) of the Energy Policy and Conservation Act.

Ante, p. 1162.
Energy audit.

Before issuing a guarantee under subsection (a), the Administrator may require that an energy audit be conducted with respect to an energy conservation measure or a renewable-resource energy measure which is on a list described in paragraph (2) and which is to be financed by the obligation to be guaranteed under this section. The amount of any obligation which may be guaranteed under subsection (a) may include the cost of an energy audit.

(c) (1) The Administrator shall limit the availability of a guarantee otherwise authorized by subsection (a) to obligations entered into by or issued by borrowers who can demonstrate that financing is not otherwise available on reasonable terms and conditions to allow the measure to be financed.

Limitation.

(2) No obligation may be guaranteed by the Administrator under subsection (a) unless the Administrator finds—

(A) there is a reasonable prospect for the repayment of such obligation; and

(B) in the case of an obligation issued by a person, such obligation constitutes a general obligation of such person for such guarantee.

(3) The term of any guarantee issued under subsection (a) may not exceed 25 years.

(4) The aggregate outstanding principal amount which may be guaranteed under subsection (a) at any one time with respect to obligations entered into or issued by any borrower may not exceed \$5,000,000.

(d) The original principal amount guaranteed under subsection (a) may not exceed 90 percent of the cost of the energy conservation measure or the renewable-resource energy measure financed by the obligation guaranteed under such subsection; except that such amount may not exceed 25 percent of the fair market value of the building or industrial plant being modified by such energy conservation measure or renewable-resource energy measure. No guarantee issued, and no commitment to guarantee, which is issued under subsection (a) shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Administrator, after consultation with the Secretary of the Treasury and the Comptroller General, and contained in the written guarantee or commitment to guarantee. The full faith and credit of the United States is pledged to the payment of all guarantees made under subsection (a). Any such guarantee made by the Administrator shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

Recordkeeping.

(e)(1) No guarantee and no commitment to guarantee may be issued under subsection (a) unless the Administrator obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury and the Comptroller General) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the purpose of this title. The Administrator shall require that records be kept and made available to the Administrator or the Comptroller General, or any of their duly authorized representatives, in such detail and form as are determined necessary to facilitate (A) an effective financial audit of the energy conservation measure or renewable-resource energy measure investment involved, and (B) an adequate evaluation of the effectiveness of this section. The Administrator and the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent books, documents, papers, and records of any recipient of Federal assistance under this section.

Borrower fee.

(2) The Administrator may collect a fee from any borrower with respect to whose obligation a guarantee or commitment to guarantee is issued under subsection (a); except that the Administrator may waive any such fee with respect to any such borrower or class of borrowers. Fees shall be designed to recover the estimated administrative expenses incurred under this part; except that the total of the fees charged any such borrower may not exceed (A) one percent of the amount of the guarantee, or (B) one-half percent of the amount

of the commitment to guarantee, whichever is greater. Any amount collected under this paragraph shall be deposited in the miscellaneous receipts of the Treasury.

(f)(1) If there is a default by the obligor in any payment of principal due under an obligation guaranteed under subsection (a), and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Administrator of the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded within such period as may be specified in the guarantee or related agreements, which period shall expire not later than 90 days from the date of such default. If demand occurs within such specified period, then not later than 60 days from the date of such demand, the Administrator shall pay to such holder the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation; except that (A) the Administrator shall not be required to make any such payment if he finds, prior to the expiration of the 60-day period beginning on the date on which the demand is made, that there was no default by the obligor in the payment of principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon any security interest) exceeds the actual loss of principal by such holder.

(2) If the Administrator makes payment to a holder under paragraph (1), the Administrator shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement applicable to the guaranteed obligation.

(3) The Administrator may, in his discretion, take possession of, complete, recondition, reconstruct, renovate, repair, maintain, operate, remove, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this subsection. The terms of any such sale or other disposition shall be as approved by the Administrator.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a), the Administrator shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Administrator all records and evidence necessary to prosecute any such suit. The Administrator may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Administrator receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1), he shall pay such excess to the obligor.

(g)(1) The aggregate outstanding principal amount of obligations which may be guaranteed under this section may not at any one time exceed \$2,000,000,000. No guarantee or commitment to guarantee may be issued under subsection (a) after September 30, 1979.

(2) There is authorized to be appropriated for the payment of amounts to be paid under subsection (f), not to exceed \$60,000,000. Any amount appropriated pursuant to this paragraph shall remain available until expended.

Default.

Disposal of property.

Appropriation authorization.

Laborers and
mechanics,
wages.

40 USC 276a
note.

5 USC app.

Definitions.

(h) All laborers and mechanics employed in construction, alteration, or repair which is financed by an obligation guaranteed under subsection (a) shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Administrator shall not guarantee any obligations under subsection (a) without first obtaining adequate assurance that these labor standards will be maintained during such construction, alteration, or repair. The Secretary of Labor shall, with respect to the labor standards in this subsection, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40, United States Code.

(i) As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The terms "energy audit", "energy conservation measure", "renewable-resource energy measure", "building", and "industrial plant" have the meanings prescribed for such terms in section 366 of the Federal Energy Policy and Conservation Act.

Ante, p. 1158.

PART E—MISCELLANEOUS PROVISIONS

EXCHANGE OF INFORMATION

42 USC 6891.

SEC. 461. The Administrator shall (through conferences, publications, and other appropriate means) encourage and facilitate the exchange of information among the States with respect to energy conservation and increased use of nondepletable energy sources.

REPORT BY THE COMPTROLLER GENERAL

Report to
Congress.
42 USC 6892.

15 USC 771.

SEC. 462. (a) For each fiscal year ending before October 1, 1979, the Comptroller General shall report to the Congress on the activities of the Administrator and the Secretary under this title and any amendments to other statutes made by this title. The provisions of section 12 of the Federal Energy Administration Act of 1974 (relating to access by the Comptroller General to books, documents, papers, statistics, data, records, and information in the possession of the Administrator or of recipients of Federal funds) shall apply to data which relate to such activities.

(b) Each report submitted by the Comptroller General under subsection (a) shall include—

(1) an accounting, by State, of expenditures of Federal funds under each program authorized by this title or by amendments made by this title;

(2) an estimate of the energy savings which have resulted thereby;

(3) a thorough evaluation of the effectiveness of the programs authorized by this title or by amendments made by this title in achieving the energy conservation or renewable resource potential available in the sectors and regions affected by such programs;

(4) a review of the extent and effectiveness of compliance monitoring of programs established by this title or by amendments made by this title and any evidence as to the occurrence of fraud with respect to such programs; and

(5) the recommendations of the Comptroller General with respect to (A) improvements in the administration of programs authorized by this title or by amendments made by this title, and (B) additional legislation, if any, which is needed to achieve the purposes of this title.

(c) As used in this part:

Definitions.

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

Approved August 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1113 (Comm. on Interstate and Foreign Commerce) and No. 94-1392 (Comm. of Conference).

SENATE REPORTS: No. 94-874 accompanying S. 2872 (Comm. on Government Operations) and No. 94-1119 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 27, June 1, considered and passed House.

June 16, considered and passed Senate, amended, in lieu of S. 2872.

Aug. 5, Senate agreed to conference report.

Aug. 10, House agreed to conference report.

Public Law 94-386
94th Congress

An Act

Aug. 14, 1976
[H.R. 13121]

To direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter.

D.C. Code.
Publication.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (6) of section 205(c) of H. Res. 988, Ninety-third Congress (2 U.S.C. 285b(6)), as made permanent law by the first paragraph under the heading "Administrative Provisions" in chapter III of title I of the Act of December 27, 1974 (Public Law 93-554; 88 Stat. 1777), is amended by striking out "until such time as the District of Columbia Self-Government and Governmental Reorganization Act becomes effective" and inserting in lieu thereof "through publication of the fifth annual cumulative supplement to the 1973 edition of such Code".

2 USC 285b note;
D.C. Code
49-112.

SEC. 2. (a) After publication by the Law Revision Counsel of the fifth annual cumulative supplement to the 1973 edition of the District of Columbia Code, new editions of the District of Columbia Code (and annual cumulative supplements thereto) shall be prepared and published under the direction of the Council of the District of Columbia and shall set forth the general and permanent laws relating to or in force in the District of Columbia, whether enacted by the Congress or by the Council of the District of Columbia, except such laws as are of application in the District of Columbia by reason of being laws of the United States general and permanent in nature.

Future editions.

(b) After completion of the printing of the fifth annual cumulative supplement to the 1973 edition of the District of Columbia Code, the Public Printer shall, as the Council of the District of Columbia may request, either—

(1) furnish to the Council of the District of Columbia, on such terms as the Public Printer (in consultation with the Joint Committee on Printing) deems appropriate, the type used in preparing the 1973 edition of the District of Columbia Code and the fifth annual cumulative supplement to such edition; or

(2) make such arrangements with the Council of the District of Columbia as the Public Printer (in consultation with the Joint Committee on Printing) deems appropriate for the printing by the Government Printing Office of future editions of the District of Columbia Code, and annual cumulative supplements thereto, prepared under the direction of the Council of the District of Columbia.

Approved August 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1096 (Comm. on the District of Columbia).
SENATE REPORT No. 94-1059 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 122 (1976):
May 24, considered and passed House.
Aug. 5, considered and passed Senate.

Public Law 94-387
94th Congress

An Act

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

Aug. 14, 1976
[H.R. 14234]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes, namely:

Department of
Transportation
and Related
Agencies
Appropriation
Act, 1977.

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed \$27,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine, \$34,900,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, to remain available until expended, \$28,000,000.

TRANSPORTATION RESEARCH ACTIVITIES OVERSEAS (SPECIAL
FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses for conducting transportation research activities overseas, as authorized by law, \$100,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to the Department, for payments in the foregoing currencies.

GRANTS-IN-AID FOR NATURAL GAS PIPELINE SAFETY

For grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674), \$2,250,000, to remain available until expended.

COAST GUARD

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

14 USC 92 note. For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed sixteen passenger motor vehicles, for replacement only; and recreation and welfare; \$818,580,000 of which \$197,422 shall be applied to Capehart Housing debt reduction: *Provided*, That the number of aircraft on hand at any one time shall not exceed one hundred and seventy-nine exclusive of planes and parts stored to meet future attrition: *Provided further*, That amounts equal to the obligated balances against the appropriations for "Operating expenses" for the two preceding years, and the period July 1, 1976, through September 30, 1976, shall be transferred to and merged with this appropriation, and such merged appropriation shall be available as one fund, except for accounting purposes of the Coast Guard, for the payment of obligations properly incurred against such prior year appropriations and against this appropriation.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; \$241,000,000, of which not to exceed \$5,000,000 may be transferred to the appropriation "Pollution Fund" to remain available until September 30, 1979.

ALTERATION OF BRIDGES

For necessary expenses for alteration of obstructive bridges; \$10,900,000 to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans; \$147,103,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; \$34,650,000: *Provided*, That amounts equal to the obligated balances against the appropriations for "Reserve training" for the two preceding years and the period July 1, 1976, through September 30, 1976, shall be transferred to and merged with this appropriation, and such merged appropriation shall be available as one fund, except for accounting purposes of the Coast Guard, for the payment of obligations properly incurred against such prior year appropriations and against this appropriation.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$18,800,000, to remain available until expended.

STATE BOATING SAFETY ASSISTANCE

For financial assistance for State boating safety programs in accordance with the provisions of the Federal Boat Safety Act of 1971, as amended (46 U.S.C. 1451 et seq.), \$5,790,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act; purchase of four passenger motor vehicles for replacement only and purchase and repair of skis and snowshoes: \$1,666,000,000 of which \$250,000,000 shall be derived by transfer from the Airport and Airway Trust Fund, for the purposes of subsection (e) of section 14 of the Airport and Airway Development Act of 1970, as amended, and subject to the conditions of that subsection: *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities.

49 USC 1701
note.

49 USC 1714.

FACILITIES, ENGINEERING AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for and for acquisition and modernization of facilities and equipment and service testing in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, \$15,500,000, to remain available until expended; and, in addition, not to exceed \$1,900,000 from unobligated balances in the appropriations for "Civil Supersonic Aircraft Development" and "Civil Supersonic Aircraft Development Termination" may be transferred to this account for necessary expenses to conduct a study of high altitude pollution: *Provided*, That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for engineering and development.

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for; for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisi-

tion of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; \$200,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 1979: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That no part of the foregoing appropriation shall be available for the construction of a new wind tunnel, or to purchase any land for or in connection with the National Aviation Facilities Experimental Center, or to decommission in excess of five flight service stations.

RESEARCH, ENGINEERING AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided, for research, engineering and development in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant; \$74,350,000 to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering and development.

GRANTS-IN-AID FOR AIRPORTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (AIRPORT AND AIRWAY TRUST FUND)

49 USC 1714. For liquidation of obligations incurred for airport development under authority contained in section 14 of Public Law 91-258, as amended, to be derived from the Airport and Airway Trust Fund and to remain available until expended, \$355,000,000; and for airport planning grants \$15,000,000 to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That the sum appropriated for airport planning grants shall be available for obligation upon the date of enactment of this Act.

OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS

For expenses incident to the care, operation, maintenance, improvement, and protection of the federally owned civil airports in the vicinity of the District of Columbia, including purchase of ten passenger motor vehicles for police type use, for replacement only; and purchase of two motor bikes for replacement only; purchase, cleaning, and repair of uniforms; and arms and ammunition; \$20,700,000.

CONSTRUCTION, METROPOLITAN WASHINGTON AIRPORTS

For necessary expenses for construction at the federally owned civil airports in the vicinity of the District of Columbia, \$5,000,000, to remain available until September 30, 1979.

AVIATION WAR RISK INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958 (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for aviation war risk insurance activities under said Act.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration not to exceed \$150,400,000 shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That not to exceed \$32,170,000 of the amount provided herein shall remain available until expended.

MOTOR CARRIER SAFETY

For necessary expenses to carry out motor carrier safety functions of the Secretary, as authorized by the Department of Transportation Act (80 Stat. 939-40), \$6,949,000: *Provided*, That not to exceed \$400,000 of the amount appropriated herein shall remain available until expended and not to exceed \$799,000, shall be available for "Limitation on general operating expenses."

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out provisions of title 23, United States Code, to be derived from the Highway Trust Fund \$9,000,000, to remain available until expended.

HIGHWAY BEAUTIFICATION

For necessary expenses to carry out the provisions of title 23, United States Code, sections 131 and 136, and the Federal-Aid Highway Act of 1976, section 105(a)(11), \$28,000,000 to remain available until expended: *Provided*, That not to exceed \$1,085,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses".

Ante, p. 427.

HIGHWAY BEAUTIFICATION (LIQUIDATION OF CONTRACT
AUTHORIZATION)

For payment of obligations, authorized for 1976 and prior years, incurred in carrying out the provisions of title 23, United States Code, sections 131, 136, and 319(b), to remain available until expended, \$33,600,000.

HIGHWAY-RELATED SAFETY GRANTS (LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, \$26,820,000 of which \$20,320,000 shall be derived from the Highway Trust Fund: *Provided*, That not to exceed \$556,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

23 USC 130 note.
49 USC 1605
note.
23 USC 130 note.

For necessary expenses of railroad-highway crossings demonstration projects, as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, and Title III of the National Mass Transportation Assistance Act of 1974, to remain available until expended, \$10,000,000 of which \$6,666,667 shall be derived from the Highway Trust Fund: *Provided*, That section 163 of Public Law 93-87 is hereby amended to include projects at Terre Haute, Indiana.

TERRITORIAL HIGHWAY (LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, sections 215, 402, and 405, \$3,560,000, to remain available until expended: *Provided*, That not to exceed \$228,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses".

ALASKA HIGHWAY

For necessary expenses to carry out the provisions of section 218 of title 23, United States Code, \$15,000,000, to remain available until expended.

OFF-SYSTEM ROADS (LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 219, \$70,000,000, to remain available until expended: *Provided*, That not to exceed \$2,610,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses".

NATIONAL SCENIC AND RECREATIONAL HIGHWAY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 148, to remain available until expended, \$22,500,000, of which \$14,300,000 shall be derived from the Highway Trust Fund.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses not otherwise provided, to carry out the provisions of title 23, United States Code, section 155, \$4,767,000, to be derived from the appropriation for "Darien Gap Highway" and to remain available until September 30, 1979.

**FEDERAL-AID HIGHWAYS (LIQUIDATION OF CONTRACT AUTHORIZATION)
(TRUST FUND)**

For carrying out the provisions of title 23, United States Code, which are attributable to Federal-aid highways, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of section 308, title 23, United States Code, \$6,143,100,000 or so much thereof as may be available in and derived from the "Highway trust fund", to remain available until expended.

HIGHWAY SAFETY CONSTRUCTION PROGRAMS (LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, sections 130, 144, 151, 152, 153, and 405, \$385,000,000, to be derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND (LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 108(c), as authorized by section 7(c) of the Federal-Aid Highway Act of 1968, to remain available until expended, \$35,000,000, to be derived from the "Highway Trust Fund" at such times and in such amounts as may be necessary to meet current withdrawals.

HIGHWAYS CROSSING FEDERAL PROJECTS

For necessary expenses in carrying out the provisions of title 23, United States Code, section 156, \$35,000,000, to remain available until September 30, 1979.

BALTIMORE-WASHINGTON PARKWAY

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970, for the Baltimore-Washington Parkway, to remain available until expended, \$1,500,000 to be derived from the "Highway Trust Fund" and to be withdrawn therefrom at such times and in such amounts as may be necessary.

23 USC 101 note.

OVERSEAS HIGHWAY

For necessary expenses for construction of the Overseas Highway in accordance with the provisions of section 118, "Federal-Aid Highway Amendments of 1974", to remain available until expended, \$12,500,000, to be derived from the "Highway Trust Fund".

88 Stat. 2288.

PROJECT ACCELERATION DEMONSTRATION PROGRAM

For necessary expenses to enable the Secretary to conduct demonstration projects authorized by section 141 of the Federal-Aid Highway Act of 1976, \$10,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

Ante, p. 444.
23 USC 124 note.

ALASKA ROADS STUDY

Ante, p. 448.
23 USC 218 note.

For necessary expenses not otherwise provided to carry out the provisions of section 151, "Federal-Aid Highway Act of 1976," \$200,000 to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION

TRAFFIC AND HIGHWAY SAFETY

15 USC 1901
note.

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety and functions under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513), \$72,326,000, of which \$26,746,000 shall be derived from the Highway Trust Fund: *Provided*, That not to exceed \$29,876,000 shall remain available until expended, of which \$8,616,000 shall be derived from the Highway Trust Fund for contractual requirements of Research and Analysis activities.

STATE AND COMMUNITY HIGHWAY SAFETY (LIQUIDATION OF CONTRACT
AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, sections 402 and 406, to remain available until expended, \$88,500,000, of which \$83,360,000 shall be derived from the Highway Trust Fund.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, \$6,300,000.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, \$18,300,000, of which \$5,000,000 shall remain available until expended.

GRANTS-IN-AID FOR RAILROAD SAFETY

For grants-in-aid to carry out a railroad safety program \$1,000,000, to remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, \$52,900,000, to remain available until expended: *Provided*, That there may be credited to this appropriation, funds received from State and local governments, other public authorities, private sources and foreign countries for expenses incurred for engineering, testing and development.

RAIL SERVICE ASSISTANCE

Ante, p. 130.
45 USC 762.

For necessary expenses for rail service assistance authorized by section 803 of Public Law 94-210, section 402 of Public Law 93-236, as amended, and for necessary administrative expenses in connection

with Federal rail assistance programs not otherwise provided for, \$75,000,000, together with \$5,000,000 for the programs authorized by section 11(c) (6) and (7) of the Department of Transportation Act, as amended, and \$3,000,000 for the Minority Resource Center, as authorized by section 906 of Public Law 94-210, to remain available until expended.

Ante, p. 149.
49 USC 1657a.
Ante, p. 149.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements, \$150,000,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, \$575,700,000, to remain available until expended, of which not more than \$482,600,000 shall be available for operating losses incurred by the Corporation, including \$62,600,000 which shall be available for the payment of additional operating expenses of the National Railroad Passenger Corporation, resulting from the operation, maintenance, and ownership or control of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, and not more than \$93,100,000 shall be available for capital improvements: *Provided, however*, That none of the funds herein appropriated shall be used for the lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the President, of the National Railroad Passenger Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status.

Ante, p. 119.

THE ALASKA RAILROAD

ALASKA RAILROAD REVOLVING FUND

The Alaska Railroad Revolving Fund shall continue available until expended for the work authorized by law, including operation and maintenance of oceangoing or coastwise vessels by ownership, charter, or arrangement with other branches of the Government service, for the purpose of providing additional facilities for transportation of freight, passengers, or mail, when deemed necessary for the benefit and development of industries or travel in the area served; and payment of compensation and expenses as authorized by 5 U.S.C. 8146, to be reimbursed as therein provided: *Provided*, That no employee shall be paid an annual salary out of said fund in excess of the salaries prescribed by the Classification Act of 1949, as amended, for grade GS-15, except the general manager of said railroad, one assistant general manager at not to exceed the salaries prescribed by said Act for GS-17, and five officers at not to exceed the salaries prescribed by said Act for grade GS-16.

5 USC 5332 note.

PAYMENT TO THE ALASKA RAILROAD REVOLVING FUND

For payment to the Alaska Railroad Revolving Fund for capital replacements, improvements, and maintenance, \$6,000,000, to remain available until expended.

RAILROAD REHABILITATION AND IMPROVEMENT

FINANCING FUNDS

The Secretary of Transportation is hereby authorized to expend proceeds from the sale of Fund anticipation notes to the Secretary of the Treasury and any other monies deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505-507 and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) for the uses authorized for the Fund, in amounts not to exceed \$70,000,000, to remain available until September 30, 1978. The Secretary of Transportation is also authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) in such amounts and at such time as may be necessary to pay any amounts required pursuant to the guarantee not to exceed \$400,000,000 principal amount of obligations under sections 511 through 513 of such act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That the aggregate principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94-210 shall not exceed \$400,000,000.

Ante, pp. 67,
71-74, 76.

Ante, p. 79.

Ante, p. 76.

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN MASS TRANSPORTATION FUND

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq., as amended by Public Law 91-453 and Public Law 93-503); the Federal-Aid Highway Act of 1973 (Public Law 93-87) and the Federal-Aid Highway Act of 1976 (Public Law 94-280) in connection with the activities, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicle; and services as authorized by 5 U.S.C. 3109; \$12,600,000.

49 USC 1601b
note.
23 USC 101 note.
Ante, p. 425.
23 USC 101 note.

RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AND UNIVERSITY
RESEARCH AND TRAINING

For an additional amount for the urban mass transportation program, as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended; \$61,200,000: *Provided*, That \$58,700,000 shall be available for research, development, and demonstrations, \$2,000,000 shall be available for university research and training, not to exceed \$500,000 shall be available for managerial training as authorized under the authority of the said Act.

LIQUIDATION OF CONTRACT AUTHORIZATION

For payment to the urban mass transportation fund, for liquidation of contractual obligations incurred under authority of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq., as amended by Public Law 91-453 and Public Law 93-503) and section 142(c) of title 23, U.S.C., and of obligations incurred for projects substituted for Interstate System segments withdrawn prior to enactment of the Fed-

49 USC 1601b
note.

eral-Aid Highway Act of 1976; \$1,700,000,000, to remain available until expended: *Provided*, That none of these funds shall be made available for the establishment of depreciation reserves or reserves for replacement accounts: *Provided further*, That amounts for highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.

Ante, p. 425.

RAIL SERVICE OPERATING PAYMENTS

For an additional payment to the Urban Mass Transportation Fund there is hereby appropriated to remain available until expended, for the purposes of the Urban Mass Transportation Act of 1964, as amended by Public Law 94-210, \$55,000,000.

49 USC 1601
note.
Ante, p. 143.

PROJECTS SUBSTITUTED FOR INTERSTATE SYSTEM PROJECTS

For necessary expenses to carry out the provisions of title 23, U.S.C. 103(e)(4), to remain available until expended, \$400,000,000 for the Washington Metropolitan Area Transit Authority: *Provided*, That amounts for highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such Corporation except as hereinafter provided.

31 USC 849.

LIMITATION ON ADMINISTRATIVE EXPENSES, SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Not to exceed \$982,000 shall be available for administrative expenses which shall be computed on an accrual basis, including not to exceed \$3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: *Provided*, That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and \$15,000 for services as authorized by 5 U.S.C. 3109.

TITLE II

RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uni-

5 USC 5332 note.

forms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), \$13,800,000, of which not to exceed \$300 shall be used for official reception and representation expenses.

CIVIL AERONAUTICS BOARD

SALARIES AND EXPENSES

For necessary expenses of the Civil Aeronautics Board, including hire of aircraft; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); and not to exceed \$1,000 for official reception and representation expenses, \$21,450,000.

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376), as is payable by the Board, \$80,007,000, to remain available until expended.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, \$57,036,000, of which \$150,000 shall be available for valuation of pipelines, \$1,250,000 shall be available for necessary expenses of the Rail Services Planning Office, \$1,999,400 shall be available for necessary expenses of the Office of Rail Public Counsel: *Provided*, That Joint Board members and cooperating state commissioners may use Government transportation requests when traveling in connection with their official duties as such.

49 USC 305a.

THE PANAMA CANAL

CANAL ZONE GOVERNMENT

OPERATING EXPENSES

For operating expenses necessary for the Canal Zone Government, including operation of the Postal Service of the Canal Zone; hire of passenger motor vehicles; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); expenses incident to conducting hearings on the Isthmus; expenses of special training of employees of the Canal Zone Government as authorized by 5 U.S.C. 4101-4118, contingencies of the Governor, residence for the Governor; medical aid and support of the insane and of lepers and aid and support of indigent persons legally within the Canal Zone, including expenses of their deportation when practicable; and maintaining and altering facilities of other Government agencies in the Canal Zone for Canal Zone Government use, \$65,900,000.

CAPITAL OUTLAY

For acquisition of land and land under water and acquisition, construction, and replacement of improvements, facilities, structures, and equipment, as authorized by law (2 C.Z. Code, sec. 2; 2 C.Z. Code, sec. 371), including the purchase of not to exceed eighteen passenger motor vehicles for replacement only; improving facilities of other

Government agencies in the Canal Zone for Canal Zone Government use; and expenses incident to the retirement of such assets; \$3,150,000, to remain available until expended.

PANAMA CANAL COMPANY

CORPORATION

The Panama Canal Company is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to it and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation, including maintaining and improving facilities of other Government agencies in the Canal Zone for Panama Canal Company use.

LIMITATION ON GENERAL AND ADMINISTRATIVE EXPENSES

Not to exceed \$25,285,000 of the funds available to the Panama Canal Company shall be available for obligation during the current fiscal year for general and administrative expenses of the Company, including operation of tourist vessels and guide services. Funds available to the Panama Canal Company for obligation shall be available for the purchase of not to exceed twenty-four passenger motor vehicles, for replacement only, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), of fund anticipation notes, \$70,000,000, to remain available until September 30, 1978. *Ante*, p. 76.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, as amended, \$12,000,000.

45 USC 701 note.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

FEDERAL CONTRIBUTION

To enable the Department of Transportation to pay the Washington Metropolitan Area Transit Authority, as part of the Federal contribution toward expenses necessary to design, engineer, construct, and equip a rail rapid transit system, as authorized by the National

D.C. Code
1-1441 note.

Capital Transportation Act of 1969 (Public Law 91-143), as amended, including acquisition of rights-of-way, land, and interest therein, to remain available until expended, \$15,421,779 and for the fiscal year 1978, and for the fiscal year 1977, \$6,800,000 for the design and construction of facilities for the handicapped as authorized by Public Law 93-87.

23 USC 101 note.

INTEREST SUBSIDY

86 Stat. 464.

To enable the Department of Transportation to pay the Washington Metropolitan Area Transit Authority the interest subsidy authorized by Public Law 92-349, \$19,374,000, to remain available until expended.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

Ante, p. 425.

For necessary expenses to enable the National Transportation Policy Study Commission to carry out its functions under the Federal-Aid Highway Act of 1976, Public Law 94-280, the sum of \$1,000,000 to remain available until expended.

TITLE III

GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official departmental business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. None of the funds provided in this Act shall be available for the planning or execution of programs the commitments for which are in excess of \$510,000,000 for Grants-in-aid for airports in fiscal year 1977.

SEC. 303. None of the funds provided under this Act shall be available for the planning or execution of programs the obligations for which are in excess of \$21,000,000 for "Highway-related safety grants" in fiscal year 1977.

SEC. 304. None of the funds provided under this Act shall be available for the planning or execution of programs the obligations for which are in excess of \$129,000,000 in fiscal year 1977 for "State and Community Highway Safety".

SEC. 305. None of the funds provided under this Act shall be available for the planning or execution of programs the obligations for which are in excess of \$5,600,000 in fiscal year 1977 for "Territorial Highways".

49 USC 1601
note.

49 USC 1604.

SEC. 306. None of the funds provided in this Act shall be available for administrative expenses in connection with commitments for the Urban Mass Transportation Act of 1964, as amended, aggregating more than \$2,077,700,000 in fiscal year 1977, except that amounts apportioned pursuant to section 5 of that Act and not committed in the year of apportionment may be committed notwithstanding this limitation.

SEC. 307. None of the funds provided under this Act shall be available for administrative expenses in connection with obligations against contract authority for interstate substitutions under 23 U.S.C. 103(e) (4) aggregating more than \$175,000,000 in fiscal year 1977.

SEC. 308. None of the funds provided under this Act shall be available for the planning or execution of programs for any further construction of the Miami jetport or of any other air facility in the State of Florida lying south of the Okeechobee Waterway and in the drainage basins contributing water to the Everglades National Park until it has been shown by an appropriate study made jointly by the Department of the Interior and the Department of Transportation that such an airport will not have an adverse environmental effect on the ecology of the Everglades and until any site selected on the basis of such study is approved by the Department of the Interior and the Department of Transportation: *Provided*, That nothing in this section shall affect the availability of such funds to carry out this study.

Everglades
National Park,
Fla.
Ecology study.

SEC. 309. The Governor of the Canal Zone is authorized to employ services as authorized by 5 U.S.C. 3109, in an amount not exceeding \$150,000.

SEC. 310. Funds appropriated for operating expenses of the Canal Zone Government may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 311. No funds appropriated or made available by this Act shall be used to implement the provision of section 155 of title 2 of the Canal Zone Code relating to the establishment of employment standards, pay levels and other conditions of employment within the Canal Zone.

SEC. 312. Funds appropriated under this Act for expenditure by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents and (2) for transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation on a regular basis.

FAA dependents'
school expenses.
20 USC 241 note.

SEC. 313. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

5 USC 5332 note.

SEC. 314. None of the funds in this Act shall be available for the implementation or execution of a program in the Department of Transportation to collect fees, charges or prices for approvals, tests, authorizations, certificates, permits, registrations, and ratings which are in excess of the levels in effect on January 1, 1973, or which did not exist as of January 1, 1973, until such program is reviewed and approved by the appropriate committees of the Congress.

49 USC 1601
note.
49 USC 1604.

SEC. 315. None of the funds provided in this Act for liquidation of contractual obligations under the Urban Mass Transportation Act of 1964, as amended, shall be made available for liquidation of obligations entered into under Section 5 of that Act, to support mass transit facilities, equipment or operating expenses unless the applicant for such assistance has given satisfactory assurances in such manner and form as the Secretary may require, and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours shall not exceed one-half of the rates generally applicable to other persons at peak hours: *Provided*, That the Secretary, in prescribing the terms and conditions for the provision of such assistance shall (1) permit applicants to continue the use of preferential fare systems for elderly or handicapped persons where those systems were in effect on or prior to November 26, 1974, (2) allow applicants a reasonable time to expand the coverage of operating preferential fare systems as appropriate, and (3) allow applicants to define the eligibility of "handicapped persons" for the purposes of preferential fares in conformity with other Federal laws and regulations governing eligibility for benefits for disabled persons.

Fiscal year
limitation.

SEC. 316. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 317. None of the funds provided under or included in this Act shall be available for the planning or execution of programs, the obligations for which are in excess of \$7,200,000,000 for "Federal-Aid Highways" and for "Highway Safety Construction Programs" in fiscal year 1977: *Provided*, That this limitation shall not apply to obligations for emergency relief under section 125 of title 23 U.S.C., special urban high density traffic program under section 146 of title 23 U.S.C., and special bridge replacement program under section 144 of title 23 U.S.C.: *Provided further*, That this limitation shall not become effective if subsequent legislation containing an obligation limitation on the Federal-Aid Highways and Highway Safety Construction Programs for fiscal year 1977 is enacted into law by September 30, 1976.

Midway Airport
and O'Hare
Airport, Ill.

SEC. 318. Such funds as may be necessary shall be utilized from the appropriations hereinabove made available to the Federal Aviation Administration and to the Civil Aeronautics Board for the preparation of a plan to coordinate as promptly as possible the use of Midway Airport with O'Hare Airport in Chicago, Illinois, for service by airline carriers, in order to relieve air traffic congestion and to promote air safety in that area.

SEC. 319. Section 302 of the Department of Transportation and Related Agencies Appropriation Act, 1976, and the period ending September 30, 1976 (Public Law 94-134) is amended by striking out “\$350,000,000” and all that follows down through the period at the end thereof and inserting in lieu thereof the following: “\$437,500,000 in fiscal year 1976, including the period July 1, 1976, through September 30, 1976.” 89 Stat. 695.

This Act may be cited as the “Department of Transportation and Related Agencies Appropriation Act, 1977.” Short title.

Approved August 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1221 (Comm. on Appropriations) and No. 94-1361 (Comm. of Conference).

SENATE REPORT No. 94-1017 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 28, considered and passed House.

July 1, considered and passed Senate, amended.

Aug. 3, House agreed to conference report; receded and concurred in certain amendments with amendments.

Aug. 4, Senate agreed to conference report; concurred in House amendments.

Public Law 94-388
94th Congress

An Act

Aug. 14, 1976
[S. 1689]

To amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended.

Pennsylvania
Avenue Development Act of 1972, amendment.
Appropriation authorization.

Development plan.
40 USC 874.

Demonstration area.

16 USC 4601-4 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266) as amended (40 U.S.C. 885), is further amended to read as follows:

"SEC. 17. (a) In addition to the sums heretofore appropriated, there are authorized to be appropriated for operating and administrative expenses of the Corporation sums not to exceed \$1,300,000 for the fiscal year ending June 30, 1976; \$325,000 for the period July 1 through September 30, 1976; and \$1,500,000 each, for the fiscal years ending September 30, 1977, and September 30, 1978.

"(b) To commence implementation of the development plan authorized by section 5 of this Act, there are authorized to be appropriated to the Corporation through the fiscal years ending September 30, 1978, \$38,800,000, to remain available without fiscal year limitation through September 30, 1990: *Provided*, That appropriations made under the authority of this paragraph shall include sufficient funds to assure the development of square 225 as a demonstration area for the development plan, and shall assure the preservation of the structure now located on square 225 known as the Willard Hotel and its historic facade. No appropriations shall be made from the Land and Water Conservation Fund established by the Act of September 30, 1964 (78 Stat. 897, as amended, 16 U.S.C. 4601), to effectuate the purposes of this Act."

Approved August 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-894 accompanying H.R. 7743 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-572 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 18, considered and passed Senate.

Vol. 122 (1976): July 26, considered and passed House, amended, in lieu of H.R. 7743.

Aug. 5, Senate concurred in House amendment.

Public Law 94-389
94th Congress

Joint Resolution

Providing for Federal participation in preserving the Tule elk population in California.

Aug. 14, 1976
[H.J. Res. 738]

Whereas, although Tule elk once roamed the central valleys of California in vast numbers, the species became nearly extinct during the latter part of the last century as a result of its native habitat being developed for agricultural purposes and urban growth; and

Whereas, although around 1870 the Tule elk population reached a low of approximately thirty animals, through the dedicated efforts of various citizen groups and individual cattlemen, the population has slowly recovered to a total of approximately six hundred animals, the majority of which may be found in free-roaming herds in the Owens Valley, at Cache Creek in Colusa County, California, a small number which are captive in the Tupman Refuge in Vern County, California; and

Whereas in 1971 the California Legislature, recognizing the threat to the Tule elk as a species, amended section 332 and enacted section 3951 of the Fish and Game Code which provide for the encouragement of a statewide population of Tule elk of not less than two thousand, if suitable areas can be found in California to accommodate such population in a healthy environment, and further fixed the population of the Tule elk in the Owens Valley at four hundred and ninety animals, or such greater number as might thereafter be determined by the California Department of Fish and Game, in accordance with game management principles, to be the Owens Valley holding capacity; and

Whereas the Tule elk is considered by the Department of the Interior to be a rare, though not endangered, species by reason of the steps taken by the State of California; and

Whereas the protection and maintenance of California's Tule elk in a free and wild state is of educational, scientific, and esthetic value to the people of the United States; and

Whereas there are Federal lands in the State of California (including, but not limited to, the San Luis National Wildlife Refuge, the Point Reyes National Seashore, various national forests and national parks, and Bureau of Land Management lands located in central California, as well as lands under the jurisdiction of the Secretary of Defense such as Camp Pendleton, Camp Roberts, and Camp Hunter Liggett) which, together with adjacent lands in public and private ownership, offer a potential for increasing the Tule elk population in California to the two thousand level envisioned by the California Legislature: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that the restoration and conservation of a Tule elk population in California of at least two thousand, except that the number of Tule elk in the Owens River Watershed area shall at no time exceed four hundred and ninety or such greater number which is determined by the State of California to be the maximum holding capacity of such area, is an appropriate national goal.

California.
Tule elk
population,
preservation.
16 USC 673d.

Cooperation.
16 USC 673e.

Report to
Congress.
16 USC 673f.

Tule elk
restoration and
conservation
plan.
16 USC 673g.

SEC. 2. The Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense shall cooperate with the State of California in making the lands under their respective jurisdictions reasonably available for the preservation and grazing of Tule elk in such manner and to such extent as may be consistent with Federal law.

SEC. 3. The Secretary of the Interior shall submit, on or before the first of March of each year, a report to the Congress as to the estimated size and condition of the various Tule elk herds in California and the nature and condition of their respective habitats. The Secretary shall include in such report his determination as to whether or not the preservation of the Tule elk herd at its then-existing level is, or may be, endangered or threatened by actual or proposed changes in land use or land management practices on lands owned by any Federal, State, or local agency, together with his recommendations as to what Federal actions, if any, should be taken in order to preserve the Tule elk herds at the then-existing level or such other level as may be determined from time to time by the State of California.

SEC. 4. The Secretary of the Interior, in coordination with all Federal, State, and other officers having jurisdiction over lands on which Tule elk herds are located or lands which would provide suitable Tule elk habitat, shall develop a plan for Tule elk restoration and conservation, including habitat management, which shall be integrated with the comparable plans of State and local authorities in California. The Secretary's annual report to Congress shall describe the development and implementation of such plan.

Approved August 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-895 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-1120 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 15, considered and passed House.

Aug. 6, considered and passed Senate.

Public Law 94-390
94th Congress

An Act

To amend sections 2734a(a) and 2734b(a) of title 10, United States Code, to provide for settlement, under international agreements, of certain claims incident to the noncombat activities of the armed forces, and for other purposes.

Aug. 19, 1976
[H.R. 7896]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10, United States Code, is amended—

(1) by amending section 2734a(a) to read as follows:

“(a) When the United States is a party to an international agreement which provides for the settlement or adjudication and cost sharing of claims against the United States arising out of the acts or omissions of a member or civilian employee of an armed force of the United States done in the performance of official duty, or arising out of any other act, omission, or occurrence for which an armed force of the United States is legally responsible under the law of another party to the international agreement, and causing damage in the territory of such party, the Secretary of Defense or the Secretary of Transportation or their designees may—

“(1) reimburse the party to the agreement for the agreed pro rata share of amounts, including any authorized arbitration costs, paid by that party in satisfying awards or judgments on claims, in accordance with the agreement; or

“(2) pay the party to the agreement the agreed pro rata share of any claim, including any authorized arbitration costs, for damage to property owned by it, in accordance with the agreement.”; and

(2) by amending section 2734b(a) to read as follows:

“(a) When the United States is a party to an international agreement which provides for the settlement or adjudication by the United States under its laws and regulations, and subject to agreed pro rata reimbursement, of claims against another party to the agreement arising out of the acts or omissions of a member or civilian employee of an armed force of that party done in the performance of official duty, or arising out of any other act, omission, or occurrence for which that armed force is legally responsible under applicable United States law, and causing damage in the United States, or a territory, Commonwealth, or possession thereof; those claims may be prosecuted against the United States, or settled by the United States, in accordance with the agreement, as if the acts or omissions upon which they are based were the acts or omissions of a member or a civilian employee of an armed force of the United States.”.

Approved August 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-543 (Comm. on the Judiciary).

SENATE REPORT No. 94-1121 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 3, considered and passed House.

Vol. 122 (1976): Aug. 9, considered and passed Senate.

Military claims.
Settlement under
international
agreements.

Public Law 94-391
94th Congress

An Act

Aug. 19, 1976
[H.R. 10374]

To amend section 2301 of title 44, United States Code, to change the membership of the National Archives Trust Fund Board.

National
Archives Trust
Fund Board.
Membership
change.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2301 of title 44, United States Code, is amended by deleting the first sentence and substituting in lieu thereof the following sentence:

“The National Archives Trust Fund Board shall consist of the Archivist of the United States, as Chairman, and the chairman of the House of Representatives Committee on Government Operations and the chairman of the Senate Committee on Post Office and Civil Service.”.

Approved August 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-988 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 122 (1976):

May 3, considered and passed House.

Aug. 9, considered and passed Senate.

Public Law 94-392
94th Congress

An Act

To authorize the government of the Virgin Islands to issue bonds in anticipation of revenue receipts and to authorize the guarantee of such bonds by the United States under specified conditions, and for other purposes.

Aug. 19, 1976

[H.R. 13359]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in addition to the authority conferred by section 8(b) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574(b)), the legislature of the government of the Virgin Islands is authorized to cause to be issued bonds or other obligations of such government in anticipation of revenues to be received under section 28(b) of such Act (26 U.S.C. 7652). The proceeds of such bonds or other obligations may be used for any purpose authorized by an act of the legislature. The legislature of the government of the Virgin Islands may initiate, by majority vote of the members, a binding referendum vote to approve or disapprove the amount of any such bond or other obligation and/or any purpose for which such bond or other obligation is authorized.

Virgin Islands.
Revenue bonds.
48 USC 1574a.

(b) The legislature of the government of the Virgin Islands may provide, in connection with any issue of bonds or other obligations authorized to be issued under subsection (a) the proceeds of which are to be used for public works or other capital projects, that a guarantee of such bonds or obligations by the United States should be applied for under section 2 of this Act.

(c) Except to the extent inconsistent with the provisions of this Act, the provisions of section 8(b) (ii) of the Revised Organic Act of the Virgin Islands (other than the limitation contained in the proviso to the first sentence of subparagraph (A)) shall apply to bonds and other obligations authorized to be issued under subsection (a).

48 USC 1574.

SEC. 2. (a) When authorized under subsection (b) of the first section of this Act, the government of the Virgin Islands may apply to the Secretary of the Interior (hereinafter referred to as the "Secretary") for a guarantee of any issue of bonds or other obligations authorized to be issued under subsection (a) of the first section of this Act. Any such application shall contain such information as the Secretary may prescribe.

Bond guarantee,
application.
48 USC 1574b.

(b) The Secretary is authorized, with the approval of the Secretary of the Treasury, to guarantee and to enter into commitments to guarantee, upon such terms and conditions as he may prescribe, payment of principal and interest on bonds and other obligations issued by the government of the Virgin Islands under subsection (a) of the first section of this Act. No guarantee or commitment to guarantee shall be made unless the Secretary determines—

Principal and
interest
payments.

(1) that the proceeds of such issue will be used only for public works or other capital projects;

(2) taking into account anticipated expenditures by the government of the Virgin Islands while the bonds or other obligations forming a part of such issue will be outstanding, all outstanding obligations of the government of the Virgin Islands which will mature while the bonds or other obligations forming a part of such issue will be outstanding, and such other factors as he deems

26 USC 7652.

pertinent, that the revenues expected to be received under section 28(b) of the Revised Organic Act of the Virgin Islands will be sufficient to pay the principal of, and interest on, the bonds or other obligations forming a part of such issue;

(3) that credit is not otherwise available on reasonable terms and conditions and that there is reasonable assurance of repayment, and

(4) that the maturity of any obligations to be guaranteed does not exceed thirty years or 90 per centum of the useful life of the physical assets to be financed by the obligation, whichever is less as determined by the Secretary.

Fee collection.

(c) The Secretary shall charge and collect fees in amounts sufficient in his judgment to cover the costs of administering this section. Fees collected under this subsection shall be deposited in the revolving fund created under subsection (g).

(d) Any guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee so made shall be incontestable, except for fraud or material misrepresentation, in the hands of the holder of the guaranteed obligation. Such guarantee shall constitute a pledge of the full faith and credit of the United States for such obligation.

(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

Guarantee
limitation;
termination.

(f) The aggregate principal amount of obligations which may be guaranteed under this Act shall not exceed \$61,000,000. No commitment to guarantee shall be entered into under this Act after October 1, 1979.

Revolving fund.

(g) (1) There is hereby created within the Treasury a separate fund (hereinafter referred to as "the fund") which shall be available to the Secretary without fiscal year limitation as revolving fund for the purpose of this Act. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847-849)) for wholly owned Government corporations.

Business-type
budget,
transmittal to
Congress.

Transfer of funds.

(2) All expenses, including reimbursements to other government accounts, and payments pursuant to operations of the Secretary under this Act shall be paid from the fund. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

Issuance of notes
to the Treasury.

(3) If at any time the moneys available in the fund are insufficient to enable the Secretary to discharge his responsibilities under guarantees under this Act, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations which are hereby authorized for this purpose. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is author-

ized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

31 USC 774.

SEC. 3. Each issue of bonds or other obligations issued under subsection (a) of the first section of this Act shall have priority for payment of principal and interest out of revenues received under section 28(b) of the Revised Organic Act of the Virgin Islands in the order of the date of issue, except that issues guaranteed under section 2 shall have priority, according to the date of issue, over issues not so guaranteed and the revenues received under section 28(b) of the Revised Organic Act of the Virgin Islands shall be pledged for the payment of such bonds or other obligations.

Payment
priorities.
48 USC 1574c.
26 USC 7652.

SEC. 4. The Secretary is authorized and directed to make grants to the government of the Virgin Islands for operation of such government in an amount not to exceed \$8,500,000.

Grants.
48 USC 1574d.

SEC. 5. Chapter 44, section 1, of the Act of July 12, 1921 (42 Stat. 123; 48 U.S.C. 1397), is hereby amended by striking the period at the end thereof and inserting in lieu thereof the following language: “: *Provided further*, That, notwithstanding any other provision of law, the Legislature of the Virgin Islands is authorized to levy a surtax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the government of the Virgin Islands.”.

Income, ten per
cent surtax levy.

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Appropriation
authorization.
48 USC 1574a
note.

Approved August 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1080 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1021 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 3, considered and passed House.

July 26, considered and passed Senate, amended.

Aug. 10, House concurred in Senate amendments.

Public Law 94-393
94th Congress

An Act

Aug. 19, 1976

[S. 2642]

To provide for the establishment of the Ninety Six National Historic Site in the State of South Carolina, and for other purposes.

Ninety Six
National Historic
Site, S.C.
Establishment.
16 USC 461 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and commemorate for the benefit and enjoyment of present and future generations an area of unique historical significance associated with the settlement and development of the English Colonies in America and with the southern campaign of the American Revolutionary War, including the Star Fort, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands and interests therein by donation, purchase, or exchange, not to exceed one thousand one hundred and twenty acres, in the vicinity of the Old Ninety Six and Star Fort National Historic Landmark in the State of South Carolina, for establishment as the Ninety Six National Historic Site, as generally depicted on the map entitled "96 New Area Study Alternative 2, Ninety Six Site, Ninety Six, South Carolina, Sheet 8 of 17", and dated May 1976, which shall be on file and available for public inspection in the offices of the National Park Service, Washington, District of Columbia: *Provided*, That lands and interests therein owned by the State of South Carolina or any political subdivision thereof may be acquired only by donation. The Secretary shall establish the historic site by publication of a notice to that effect in the Federal Register at such time as he determines that sufficient property to constitute an administrable unit has been acquired. After advising the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives in writing, the Secretary may from time to time revise the boundaries of the historic site, but the total acreage of the site shall not exceed one thousand one hundred and twenty acres.

Publication in
Federal Register.

Administration.
16 USC 461 note.

SEC. 2. Pending establishment of the site and thereafter, the Secretary shall administer property acquired pursuant to this Act in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467), as amended.

Appropriation
authorization.
16 USC 461 note.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not more than \$320,000 for the acquisition of lands and interests in lands.

(b) For the development of essential public facilities there are authorized to be appropriated not more than \$2,463,000. Within two years from the date of establishment of the historic site pursuant to this Act, the Secretary shall, after consulting with the Governor of the State of South Carolina, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan for the development of the historic site consistent with the objectives of this Act, indicating:

Management
plan, transmittal
to congressional
committees.

(1) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the Ninety Six National Historic Site.

Approved August 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1143 accompanying H.R. 9549 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-810 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 13, considered and passed Senate.

June 8, considered and passed House, amended, in lieu of H.R. 9549.

June 30, Senate concurred in House amendments with amendments.

Aug. 10, House concurred in Senate amendments.

Public Law 94-394
94th Congress

An Act

Sept. 3, 1976

[S. 3435]

To increase an authorization of appropriations for the Privacy Protection Study Commission, and to remove the fiscal year expenditure limitation.

Privacy
Protection Study
Commission.
Fiscal year
expenditure
limitation,
removal.
Appropriation
authorization.
5 USC 552a note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provision of law referred to in the note immediately preceding section 553 of title 5, United States Code, is amended to read as follows:

“SEC. 9. There is authorized to be appropriated, without fiscal year limitation only to such extent or in such amounts as are provided in appropriation Acts, the sum of \$2,000,000 to carry out the provisions of section 5 of this Act for the period beginning July 1, 1975, and ending on September 30, 1977.”

Approved September 3, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1417 (Comm. on Government Operations).
SENATE REPORT No. 94-861 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 122 (1976):

May 19, considered and passed Senate.

Aug. 24, considered and passed House.

Public Law 94-396
94th Congress

An Act

To amend section 512(b)(5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities.

Sept. 3, 1976
[H.R. 3052]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 512(b)(5) of the Internal Revenue Code of 1954 (relating to modifications to unrelated business taxable income) is amended by inserting after the first sentence the following new sentence: "There shall also be excluded all gains on the lapse or termination of options, written by the organization in connection with its investment activities, to buy or sell securities (as defined in section 1236(c)).".

(b) The amendment made by subsection (a) shall apply to gain from options which lapse or terminate on or after January 1, 1976, in taxable years ending on or after such date.

SEC. 2. (a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "September 1, 1976" and inserting in lieu thereof "September 15, 1976":

- (1) section 3402(a) (relating to income collected at source);
- (2) section 6153(g) (relating to installment payments of estimated income tax by individuals); and
- (3) section 6154(h) (relating to installment payments of estimated income tax by corporations).

(b) Section 209(c) of the Tax Reduction Act of 1975 is amended by striking out "September 1, 1976" and inserting in lieu thereof "September 15, 1976".

Taxes.
Certain option
income of exempt
organizations.
26 USC 512.

26 USC 1236.
26 USC 512 note.

Ante, p. 782.
26 USC 3402.
Ante, p. 782.
26 USC 6153.
Ante, p. 782.
26 USC 6154.
26 USC 3402
note.

Approved September 3, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1134 (Comm. on Ways and Means).

SENATE REPORT No. 94-1172 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 8, considered and passed House.

Aug. 31, considered and passed Senate, amended.

Sept. 1, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 37:

Sept. 6, Presidential statement.

“Person.”

or may become due pursuant to any law and offset the amount of such withheld payments against any claim the United States may have against the Government of Guam or the Guam Power Authority pursuant to this guarantee. For the purposes of this Act, under Section 3466 of the Revised Statutes (31 U.S.C. 191) the term ‘person’ includes the Government of Guam and Guam Power Authority. The Secretary may place such stipulations as he deems appropriate on the bonds or other obligations he guarantees.”

Approved September 3, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-1155 accompanying S. 3681 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 1, considered and passed House.

Aug. 24, 25, considered and passed Senate, in lieu of S. 3681.

Public Law 94-396
94th Congress

An Act

To amend section 512(b) (5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities.

Sept. 3, 1976

[H.R. 3052]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 512(b) (5) of the Internal Revenue Code of 1954 (relating to modifications to unrelated business taxable income) is amended by inserting after the first sentence the following new sentence: "There shall also be excluded all gains on the lapse or termination of options, written by the organization in connection with its investment activities, to buy or sell securities (as defined in section 1236(c)).".

Taxes.
Certain option
income of exempt
organizations.
26 USC 512.

(b) The amendment made by subsection (a) shall apply to gain from options which lapse or terminate on or after January 1, 1976, in taxable years ending on or after such date.

26 USC 1236.
26 USC 512 note.

SEC. 2. (a) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "September 1, 1976" and inserting in lieu thereof "September 15, 1976":

- (1) section 3402(a) (relating to income collected at source);
- (2) section 6153(g) (relating to installment payments of estimated income tax by individuals); and
- (3) section 6154(h) (relating to installment payments of estimated income tax by corporations).

Ante, p. 782.
26 USC 3402.
Ante, p. 782.
26 USC 6153.
Ante, p. 782.
26 USC 6154.
26 USC 3402
note.

(b) Section 209(c) of the Tax Reduction Act of 1975 is amended by striking out "September 1, 1976" and inserting in lieu thereof "September 15, 1976".

Approved September 3, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1134 (Comm. on Ways and Means).

SENATE REPORT No. 94-1172 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 8, considered and passed House.

Aug. 31, considered and passed Senate, amended.

Sept. 1, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 37:

Sept. 6, Presidential statement.

Public Law 94-397
94th Congress

An Act

Sept. 3, 1976
[H.R. 3650]

To clarify the application of section 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment, and for other purposes.

Civil service
annuities.
Reemployed
annuitants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8344(a) of title 5, United States Code, is amended to read as follows:

“(a) If an annuitant receiving annuity from the Fund, except—

“(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

“(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

“(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

“(4) a Member receiving annuity from the Fund; becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331(1) (i) or (ii) of this title—

5 USC 5551.

5 USC 8331.

“(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

5 USC 8339.

“(B) his lump-sum credit may not be reduced by annuity paid during that employment.

Survivor annuity
payments.

If the annuitant is receiving a reduced annuity as provided in section 8339 (j) or section 8339 (k) (2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341 (b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334 (c) of this title covering that employment and have his rights redetermined under this subchapter.

5 USC 8341.

5 USC 8334.

If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.” 5 USC 8341.

(b) Section 8344 of title 5, United States Code, is amended—

(1) by redesignating subsections (b) and (c) thereof as subsections (d) and (e), respectively; and

(2) by inserting immediately after subsection (a) thereof the following new subsections:

“(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

“(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.”.

(c) Section 8344(d) of title 5, United States Code, as redesignated by this Act, is amended by striking out the last sentence.

(d) Section 8339(f)(2)(C) of title 5, United States Code, is amended by striking out “8344(b)(1)” and inserting in lieu thereof “8344(d)(i)”.

SEC. 2. (a) Except as provided under subsection (b) of this section, the amendments made by this Act shall become effective on the date of the enactment of this Act or October 1, 1976, whichever is later, and shall apply to annuitants serving in appointive or elective positions on and after such date. Effective date.
5 USC 8344 note.

(b) The amendment made by subsection (c) of the first section of this Act shall become effective on the date of the enactment of this Act or October 1, 1976, whichever is later, but shall not apply to any annuitant reemployed before such date. Effective date.

Approved September 3, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-336 (Comm. on Post Office and Civil Service).

SENATE REPORTS: No. 94-877 (Comm. on Post Office and Civil Service) and No. 94-1030 (Comm. on Appropriations).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 21, considered and passed House.

Vol. 122 (1976): Aug. 9, considered and passed Senate, amended.

Aug. 25, House concurred in Senate amendments.

Public Law 94-398
94th Congress

An Act

Sept. 4, 1976
[H.R. 10370]

To amend the Act of January 3, 1975, establishing the Canaveral National Seashore.

Canaveral
National
Seashore
Advisory
Commission.
Membership.
16 USC 459j-5.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act of January 3, 1975 (88 Stat. 2121, 2125) is amended as follows:

(1) in subsection (a) delete "five members" and insert in lieu thereof "six members" and

(2) delete (a) (3) in its entirety and insert in lieu thereof

"(3) two members representing the general public: *Provided*, That one member shall be appointed from each county in which the seashore is located."

Approved September 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-802 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-1157 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 2, considered and passed House.

Aug. 24, considered and passed Senate.

Public Law 94-399
94th Congress

An Act

To provide for an independent audit of the financial condition of the government of the District of Columbia.

Sept. 4, 1976
[H.R. 11009]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established the Temporary Commission on Financial Oversight of the District of Columbia (hereinafter referred to as the "commission").

(b) The commission shall consist of eight members as follows:

(1) three Members of the Senate appointed by the President of the Senate (or any designee of any such Member so appointed, which designee shall act for such Member in his stead);

(2) three Members of the House of Representatives appointed by the Speaker of the House of Representatives (or any designee of any such Member so appointed, which designee shall act for such Member in his stead);

(3) the Mayor of the District of Columbia (or any designee of the Mayor, which designee shall act for the Mayor in his stead); and

(4) the Chairman of the Council of the District of Columbia (or any designee of the Chairman, which designee shall act for the Chairman in his stead).

(c) Five members of the commission shall constitute a quorum.

(d) (1) A chairman and vice chairman of the commission shall be selected by a majority vote of the full commission from among the members thereof. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman.

(2) The commission is authorized to establish such operating procedures as it determines necessary to enable it to carry out its functions under this Act.

(e) The first meeting of the commission shall be called by the majority leader of the Senate and the Speaker of the House of Representatives, jointly.

(f) The commission is authorized to utilize the personnel of the government of the District of Columbia, with the approval of the Mayor, or the Chairman of the Council of the District of Columbia, as the case may be, and the Committee on the District of Columbia of the Senate, the Committee on the District of Columbia of the House of Representatives, the Committee on Appropriations of the Senate, or the Committee on Appropriations of the House of Representatives, with the approval of the chairman of such committee. The commission is authorized to utilize, on a reimbursable basis, the services and personnel of the General Accounting Office to assist the commission in carrying out its functions under this Act.

SEC. 2. (a) For the purpose of meeting the responsibilities imposed by the Constitution on the Congress with respect to the District of Columbia, it shall be the function of the commission, after consultation with the Comptroller General, to select such qualified persons as the commission may determine necessary for the development of certain plans on behalf of the government of the District of Columbia (including assistance in the implementation thereof) for the purpose

D.C. Government financial condition, audit.
D.C. Code 47-101 note.
Temporary Commission on Financial Oversight of the District of Columbia.
Establishment.
Membership.

Quorum.

Personnel, utilization.

GAO services and personnel, utilization.

Functions.
D.C. Code 47-101 note.
USC prec. title 1.

of improving the financial planning, reporting, and control systems of such government. Plans to be considered for development and implementation pursuant to this Act shall include, among others, plans for the following: immediate improvement in financial control and reporting; assessing the scope of further necessary improvements; financial management system improvements; personnel-payroll system improvements; water-sewage billing and information system improvements; purchasing and material management system improvements; property accounting system improvements; real property system improvements; welfare payments system improvements; human resources eligibility, payment, and reporting system improvements; health care financial system improvements; and traffic ticket system control improvements.

System
improvements
plan, contracts.

(b) Each contract entered into with a person pursuant to subsection (c) of this section for the development of a system improvements plan shall contain a provision requiring that person to include within such plan procedures for the establishment of an ongoing training program for operating personnel of the government of the District of Columbia whose duties involve matters covered by such plan or part thereof in order to provide training for such personnel in connection with the operation of such system. Each such contract shall further contain provisions comparable to those provided by Standard Form 32, section 1-16.901-32 of title 41, Code of Federal Regulations.

(c) Upon the selection by the commission of each qualified person to develop and implement a plan pursuant to this section, the chairman of the commission shall enter into a negotiated fixed price contract or contracts with that person for the development and implementation of such plan.

(d) (1) Each such contract so entered into shall set forth the scope of the work to be performed, amounts to be paid thereunder, and a schedule of reporting and completion dates, including a schedule of implementation dates, for each portion of such work. Each contractor shall have full access to such books, individuals, accounts, financial records, reports, files, and other papers, things, or property of the government of the District of Columbia as such contractor deems necessary to complete such contract. The Comptroller General shall have full access to all documents produced under each contract.

Reports to
commission and
Comptroller
General.

(2) After establishment of the schedule for completing each such contract and until the completion of such contract, each contractor shall report, at such time as such contract shall provide, to the commission and the Comptroller General on the progress toward completion of such contract, except that each such contractor shall report at least once during the one-hundred-and-eighty-day period after establishment of such schedule for completion of such contract.

System design
plan.

(e) (1) With respect to any such contract or part thereof involving the design (including a preliminary design) of a system referred to in subsection (a) of this section, the contractor, upon the completion of the plan or part relating to such design (including procedures for its implementation), shall submit such plan or part, together with a schedule for its implementation, to the Comptroller General.

(2) With respect to any such contract involving work other than the design of such a system, the contractor, upon the completion of the plan or part thereof relating to such work, shall submit such plan or part thereof, together with a schedule for implementing such plan or part, to the Comptroller General.

(3) Notwithstanding the foregoing provisions of paragraphs (1) and (2) of this subsection, in no case shall any contractor under this Act submit a plan, part, or schedule to the Comptroller General unless such plan, part, or schedule has first been submitted by that contractor to the contractor responsible for the development and implementation of a financial management system improvements plan for such contractor's review, comments, and recommendations. A copy of such comments and recommendations, if any, shall be submitted, together with such plan, part, or schedule, to the Comptroller General in accordance with paragraphs (1) and (2) of this subsection.

(4) Within the sixty-day period following the date of the receipt by him of such plan or part thereof, and after consultation with the commission, the Comptroller General shall approve, disapprove, or modify such plan or part (including any schedule for the implementation thereof), in whole or in part. On or before the expiration of such sixty-day period, the Comptroller General shall submit such plan or part, as so approved, modified, or disapproved to the Congress for its consideration, together with his reasons for such modification or disapproval.

Approval.

Plan, submittal to Congress.

(f)(1) Each such plan or part thereof so approved by the Comptroller General without modification shall be deemed on the date of such approval, to be a part of the financial planning, reporting, accounting, control, and operating procedures of the government of the District of Columbia. Each such plan or part thereof modified by the Comptroller General shall, upon the expiration of the forty-five-day period of continuous session of the Congress following the date on which such modified plan or part thereof is so submitted to the Congress, be deemed to be a part of the financial planning, reporting, accounting, control, and operating procedures of the government of the District of Columbia, unless within such forty-five-day period, the Congress adopts a concurrent resolution disapproving the action of the Comptroller General with respect to such modifications. In any case in which any such concurrent resolution is so adopted by the Congress, such plan or part thereof, as it existed immediately prior to any such modification, shall be deemed a part of such procedures as of the date of the adoption by Congress of such concurrent resolution. No such plan or part thereof disapproved by the Comptroller General shall take effect, unless, within such forty-five-day period following the date of its submission to the Congress, the Congress adopts a concurrent resolution disapproving the action of the Comptroller General in disapproving such plan or part thereof. If such action of the Comptroller General is so disapproved, such plan or part thereof shall be deemed a part of such procedures as of the date of the adoption by Congress of such concurrent resolution.

(2) For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in computation of such forty-five-day period.

(g) With respect to any such plan or part so deemed to be a part of the financial planning, reporting, accounting, control, and operating procedures of the government of the District of Columbia under subsection (f)(1), the Mayor of the District of Columbia, with the assistance of the contractor responsible for such plan or part, shall implement such plan or part for the government of the District of Columbia in accordance therewith. The Comptroller General shall

Plan implementation.

monitor such implementation and report as he deems appropriate to the commission.

Balance sheet
audit.
D.C. Code
47-101 note.
USC prec. title 1.

SEC. 3. (a) (1) For the purpose of meeting the oversight responsibilities imposed by the Constitution on the Congress with respect to the District of Columbia, the Congress hereby authorizes the commission, in accordance with the provisions of paragraph (2) of this subsection, to cause to be undertaken, on behalf of the government of the District of Columbia, by a certified public accountant licensed in the District of Columbia, a balance sheet audit of the financial position of the District of Columbia as of September 30, 1977. Such audit may—

(A) include an identification of assets, liabilities, accumulated surplus or deficit; and

(B) exclude statements of revenues and expenses, changes in fund balances, statements of changes in financial position for enterprise funds, and property and equipment.

Notification.

(2) The balance sheet audit authorized by paragraph (1) of this subsection shall cover the financial position of the District of Columbia as of September 30, 1977, unless the commission, on or before August 1, 1977, is notified by the Comptroller General to the effect that such an audit as of that date is not practicable, in which case the commission is authorized to cause to be undertaken a balance sheet audit of the financial position of the District of Columbia as of such date as the Comptroller General shall recommend to the commission.

Audit.

(b) The commission is further authorized to cause to be undertaken, on behalf of the government of the District of Columbia, by a certified public accountant licensed in the District of Columbia, an audit or audits of the financial position and results of operations of the District of Columbia for each fiscal year or years next following September 30, 1977, or the date recommended by the Comptroller General for the conduct of a balance sheet audit pursuant to subsection (a) of this section, whichever last occurs, and which precede the fiscal year commencing October 1, 1979.

(c) Upon the selection by the commission of each qualified person to conduct an audit pursuant to this section, the chairman of the commission shall enter into a negotiated fixed price contract with that person for that purpose. Each such audit shall be carried out in accordance with generally accepted auditing standards and the financial statements shall be prepared in accordance with generally accepted accounting principles. The results of each such audit shall be submitted to the Congress, the President of the United States, the Council of the District of Columbia, the Mayor of the District of Columbia, and the Comptroller General.

Audit results,
submittal to
Congress,
President,
Council of the
District of
Columbia, Mayor,
and Comptroller
General.

(d) Such contractor shall have full access to such books, individuals, accounts, financial records, reports, files, tax returns, and other papers, things, or property of the government of the District of Columbia as such contractor deems necessary to complete each such audit required by such contract.

Fiscal year audit.
D.C. Code
47-120-2.

SEC. 4. (a) For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, the government of the District of Columbia shall conduct, out of funds of the government of the District of Columbia, an audit of the financial operations of such government. Each such audit shall be conducted by a certified public accountant licensed in the District of Columbia and carried out in accordance with generally accepted auditing standards and the financial statements shall be prepared in accordance with generally accepted accounting principles.

(b) For the purpose of conducting an audit for each such fiscal year as required by subsection (a) of this section, the Mayor of the District of Columbia shall, on or after January 2, 1979, select, subject to the advice and consent of the Council of the District of Columbia, a qualified person to conduct such audits for the fiscal year commencing October 1, 1979, and the next following three fiscal years. Thereafter, each individual elected as Mayor in a general election held for Mayor of the District of Columbia shall, on or after January 2 next following his or her election to, and the assuming of, the Office of Mayor, select, subject to the advice and consent of the Council of the District of Columbia, a qualified person to conduct such audits for the fiscal year commencing October 1 of the calendar year in which such Mayor takes office, and the next following three fiscal years. The person previously selected for a four-year period shall not succeed himself or herself. If the Council fails to act on any such selection within a thirty-day period following the date on which it receives from the Mayor the name of such person so selected, the Mayor shall be authorized to enter into a contract with that person for the conduct of such audits. If any person so selected by the Mayor to conduct any such audits for such fiscal years is rejected by the Council, the Mayor shall submit to the Council the name of another qualified person selected by the Mayor to conduct such audits. In the event that the Council rejects the second person so selected by the Mayor, the Mayor shall, within thirty days following that rejection, notify the chairman of the Committee on Appropriations of the Senate and the chairman of the Committee on Appropriations of the House of Representatives, in writing, of that fact. Within fifteen days following the receipt of that notice, such chairmen shall jointly select a person to conduct such audits and shall inform the Mayor, in writing, of the name of the person so selected. Within ten days following the receipt by the Mayor of such name, the Mayor shall enter into a contract with such person pursuant to which that person shall conduct such audits for such fiscal years as herein provided.

(c) The Mayor shall submit a copy of the audit report with respect to each such audit so conducted to the Congress, the President of the United States, the Council of the District of Columbia, and the Comptroller General.

SEC. 5. (a) For the purpose of making payments under contracts entered into under sections 2 and 3 of this Act, for reimbursing the Comptroller General under subsection (f) of the first section of this Act, and for meeting other expenses incurred by the commission under this Act, there is authorized to be appropriated to the commission the sum of \$16,000,000, of which \$8,000,000 shall be from funds in the Treasury not otherwise appropriated, and \$8,000,000 shall be from funds in the Treasury to the credit of the District of Columbia. Sums appropriated pursuant to this section are authorized to remain available until expended.

(b) No funds appropriated pursuant to subsection (a) of this section out of funds in the Treasury to the credit of the District of Columbia may be used for any payment under any contract entered into pursuant to section 2 or 3 of this Act, for any payment as reimbursement to the General Accounting Office, or for expenses of the commission, in an amount greater than 50 per centum of the total amount of any such payment.

(c) The chairman of the commission may enter into contracts under sections 2 and 3 of this Act only to the extent and in such amounts as are provided in appropriation Acts.

Fiscal year
audits.

Notice to
congressional
committees.

Report, submittal
to Congress,
President,
Council of the
District of
Columbia, and
Comptroller
General.
Appropriation
authorization.
D.C. Code
47-101 note.

Definitions.
D.C. Code
47-101 note.

SEC. 6. As used in this Act, the term—

(1) “person” means any individual, partnership, firm, corporation, or other entity; and

(2) “government of the District of Columbia” includes the Mayor of the District of Columbia, the Council of the District of Columbia, the courts of the District of Columbia, and all agencies (as defined in paragraph (3) of section 3 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1-1502(3))).

Termination.
D.C. Code
47-101 note.

SEC. 7. Thirty days after notification by the Comptroller General to the commission of the completion and implementation of all plans and designs under this Act, or thirty days after final payment of all contracts entered into pursuant to sections 2 and 3 of this Act, whichever last occurs, the commission shall cease to exist.

Approved September 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1094 (Comm. on the District of Columbia) and No. 94-1381 (Comm. of Conference).

SENATE REPORT No. 94-1015 (Comm. on the District of Columbia).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 24, considered and passed House.

July 1, considered and passed Senate, amended.

Aug. 23, House agreed to conference report.

Aug. 24, Senate agreed to conference report.

Public Law 94-400
94th Congress

An Act

To authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

Sept. 7, 1976

[S. 3542]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that without regard to the proximate cause of the failure of the Teton Dam, it is the purpose of the United States to fully compensate any and all persons, for the losses sustained by reason of the failure of said dam. The purposes of this Act are (1) to provide just compensation for the deaths, personal injuries and losses of property, including the destruction and damage to irrigation works, resulting from the failure on June 5, 1976, of the Teton Dam in the State of Idaho, and (2) to provide for the expeditious consideration and settlement of claims for such deaths, personal injuries, and property losses.

Teton Dam,
Idaho.
Damages,
compensation.

SEC. 2. All persons who suffered death, personal injury, or loss of property directly resulting from the failure on June 5, 1976, of the Teton Dam of the Lower Teton Division of the Teton Basin Federal reclamation project which was authorized to be constructed by the Act of September 7, 1964 (78 Stat. 925) shall be entitled to receive from the United States full compensation for such death, personal injury, or loss of property. Claimants shall submit their claims in writing to the Secretary, under such regulations as he prescribes, within two years after the date on which the regulations required by section 5 are published in the Federal Register. Claims based on death shall be submitted only by duly authorized legal representatives.

Casualty or
property losses,
claims.

43 USC 616nn.

SEC. 3. (a) The Secretary of the Interior, or his designee for the purpose, acting on behalf of the United States, is hereby authorized to and shall investigate, consider, ascertain, adjust, determine, and settle any claim for money damages asserted under section 2. Except as otherwise provided herein, the laws of the State of Idaho shall apply: *Provided*, That determinations, awards, and settlements under this Act shall be limited to actual or compensatory damages measured by the pecuniary injuries or loss involved and shall not include interest prior to settlement or punitive damages.

(b) In determining the amount to be awarded under this Act the Secretary shall reduce any such amount by an amount equal to the total of insurance benefits (except life insurance benefits) or other payments or settlements of any nature previously paid with respect to such death claims, personal injury, or property loss.

(c) Payments approved by the Secretary under this Act on death, personal injury, and property loss claims, shall not be subject to insurance subrogation claims in any respect under this Act but without prejudice under other laws as provided in subsection (f).

(d) The Secretary shall not include in an award any amount for reimbursement to any insurance fund for loss payments made by such company or fund.

(e) Except as to the United States, no claim cognizable under this Act shall be assigned or transferred.

(f) The acceptance by the claimant of any award, compromise, or settlement under this Act, except an advance or partial payment made under section 4(c), shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States by reason of the same subject matter. A release shall not, however, prevent an insurer with rights as a subrogee under its own name or that of the claimant from exercising any right of action against the United States to which it may be entitled under any other laws for payments made to the claimant for a loss arising from the subject matter.

(g) Any claim for damages which may be payable in whole or in part by a claimant's insurer, shall not be paid by the Secretary unless and until the claimant provides written proof that the insurer has denied the claim or has failed to approve or deny such claim within six months of its presentment, and the claimant assigns to the United States his rights against the insurer with respect to such claim. Upon the acceptance of any payment or settlement under this Act, the claimant shall assign to the United States any rights of action he has or may have against any other third party, including an insurer.

SEC. 4. (a) In the determination and settlement of claims asserted under this Act, the Secretary shall limit himself to the determination of—

(1) whether the losses sustained directly resulted from the failure of the Teton Dam on June 5, 1976;

(2) the amounts to be allowed and paid pursuant to this Act; and

(3) the persons entitled to receive the same.

(b) The Secretary shall determine and fix the amount of awards, if any, in each claim within twelve months from the date on which the claim was submitted.

Advance or
partial payments.

(c) At the request of a claimant, the Secretary is authorized to make advance or partial payments prior to final settlement of a claim, including final settlement on any portion or aspect of a claim determined to be logically severable. Such advance or partial payments shall be made available under regulations promulgated by the Secretary under section 5, which regulations shall include, but not be limited to, provisions for such payments where the Secretary determines that to delay payment until final settlement of the claim would impose a substantial hardship on such claimant. When a claimant pursues a remedy as provided for in section 9 of this Act, he shall be permitted to retain such advance or partial payments under a final court decision on the merits.

(d) Payments may be made for compensation for direct investments made in on-farm structural facilities in anticipation of service from the Teton Reservoir to the extent that such facilities are unuseable or are diminished in value by the denial of such service.

Regulations;
publication in
Federal Register.

Publication in
newspaper.

SEC. 5. Notwithstanding any other provision of law, the Secretary shall within fifteen days after the enactment of this Act promulgate and publish in the Federal Register, final regulations and procedures for the handling of the claims authorized in section 2 of this Act. The Secretary shall also cause to be published, in newspapers with general circulation in the State of Idaho, an explanation of the rights conferred by this Act and the procedural and other requirements imposed by the rules of procedure promulgated by him. Such explanation shall be in clear, concise, and easily understandable language. In addition, the Secretary shall also disseminate such explanation con-

cerning such rights and procedures, and other data helpful to claimants, in the State of Idaho, by means of brochures, pamphlets, radio, television, and other media likely to reach prospective claimants.

SEC. 6. The claims program established by this Act shall, to the extent practicable, be coordinated with other disaster relief operations conducted by other Federal agencies under the Disaster Relief Act of 1974 (42 U.S.C. 5121) and other provisions of law. The Secretary shall consult with the heads of such other Federal agencies, and shall, as he deems necessary, consistent with the expeditious determination of claims hereunder, make use of information developed by such agencies. The heads of all other Federal agencies performing disaster relief functions under the Disaster Relief Act of 1974 and other Federal authorities are hereby authorized and directed to provide the Secretary, or his designee, such information and records as the Secretary or his designee shall deem necessary for the administration of this Act.

Consultation.

SEC. 7. In order to expedite the repair and restoration of irrigation facilities damaged as a direct result of the failure of the Teton Dam, the Secretary is authorized and directed to enter into agreements with the owners of such facilities to finance the repair or reconstruction thereof, to the standards and conditions existing immediately prior to the failure of Teton Dam, either by direct payment or through construction contracts administered by the Bureau of Reclamation to the extent the cost of repairs or construction are not covered by insurance. The cost of such repairs or reconstruction shall be non-reimbursable.

Teton Dam facilities, repair or reconstruction. Financial agreement.

SEC. 8. At the end of the year following approval of this Act and each year thereafter until the completion of the claims program, the Secretary shall make an annual report to the Congress of all claims submitted to him under this Act stating the name of each claimant, the amount claimed, a brief description of the claim, and the status or disposition of the claim including the amount of each administrative payment and award under the Act.

Report to Congress.

SEC. 9. (a) An action shall not be instituted in any court of the United States upon a claim against the United States which is included in a claim submitted under this Act until the Secretary or his designee has made a final disposition of the pending claim. A pending claim may be withdrawn from consideration prior to final decision upon fifteen days written notice, and such withdrawal shall be deemed an abandonment of the claim for all purposes under this Act. After withdrawal of a claim or after the final decision of the Secretary or his designee on a claim under this Act, a claimant may elect to assert said claim or institute an action thereon against the United States in any court of competent jurisdiction under any other provision of applicable law, and upon such election there shall be no further consideration or proceedings on the claim under this Act.

Court action.

Claim withdrawal, notice.

(b) Any claimant aggrieved by a final decision of the Secretary under this Act may file within sixty days from the date of such decision with the United States District Court for the District of Idaho a petition praying that such decision be modified or set aside in whole or in part. The court shall hear such appeal on the record made before the Secretary. The filing of such an appeal shall constitute an election of remedies. The decision of the Secretary incorporating his findings of fact therein, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

Petition.

(c) Except to the extent otherwise herein provided, nothing in this Act shall be construed to prevent any claimant under this Act from exercising any rights to which he may be entitled under any other provisions of law.

Fees.

(d) Attorney and agent fees shall be paid out of the awards hereunder. No attorney or agent on account of services rendered in connection with each claim shall receive in excess of 10 per centum of the amount paid in connection therewith, any contract to the contrary notwithstanding. Whoever violates this subsection shall be fined a sum not to exceed \$10,000.

Penalty.**"Persons."**

SEC. 10. For the purposes of this Act, the term "persons" means any individual, Indian, Indian tribe, corporation, partnership, company, municipality, township, association or other non-Federal entity.

SEC. 11. If any particular provision of this Act or the application thereof to any person or circumstance, is held invalid, the other provisions of this Act shall not be affected thereby.

**Appropriation
authorization.**

SEC. 12. There are hereby authorized to be appropriated such funds as may be required to carry out the purposes of this Act.

Approved September 7, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1423 (Comm. on the Judiciary).

SENATE REPORT No. 94-963 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 17, considered and passed Senate.

Aug. 24, considered and passed House, amended.

Aug. 25, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 37:

Sept. 7, Presidential statement.

Public Law 94-401
94th Congress

An Act

To amend title XX of the Social Security Act so as to permit greater latitude by the States in establishing criteria respecting eligibility for social services, to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to such title, to promote the employment of welfare recipients in the provision of child day care services, and for other purposes.

Sept. 7, 1976
[H.R. 12455]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2002(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

Social Security
Act,
amendments.
42 USC 1397a.

“(14) (A) For purposes of paragraphs (5) and (6), an individual shall, at the option of the State, be deemed to be an individual described in paragraph (5) (B) if, because of the geographic area in which any particular service is provided to him, the characteristics of the community to which it is provided, the nature of the service, the conditions (other than income) of eligibility to receive it, or other factors surrounding its provision, the State may reasonably conclude, without individual determinations of eligibility, that substantially all of the persons who receive the service are members of families with a monthly gross income which is not more than 90 per centum of the median income of a family of four in the State, adjusted (in accordance with regulations prescribed by the Secretary) to take into account the size of the family.

“(B) The provisions of subparagraph (A) shall not be applicable to child day care services furnished to any child other than a child of a migratory agricultural worker.”

(b) Section 2000(a) (4) of such Act is amended by adding at the end thereof (after and below subparagraph (E)) the following new sentence:

42 USC 1397a.

“In any case in which services are provided to individuals to whom the provisions of paragraph (14) are applied, the proportion of the expenditures for such services which are attributable to individuals described in the preceding sentence may be determined on the basis of generally accepted statistical sampling procedures.”

(c) Section 2002(a) (6) of such Act is amended, in the matter preceding subparagraph (A), by inserting “, family planning services,” immediately after “referral service”.

(d) The amendments made by this section shall be effective on and after October 1, 1975.

Effective date.
42 USC 1397a
note.

SEC. 2. Effective February 1, 1976, section 7(a) (3) of Public Law 93-647 is amended by striking out “February 1, 1976” and inserting in lieu thereof “October 1, 1977”.

Effective date.
42 USC 1397
note.

SEC. 3. (a) For purposes of title XX of the Social Security Act, the amount of the limitation (imposed by section 2002(a) (2) of such Act) which is applicable to any State for the fiscal period beginning July 1, 1976, and ending September 30, 1976, or which is applicable to any State for the fiscal year ending September 30, 1977, shall be deemed to be equal to whichever of the following is the lesser:

42 USC 1397a
note.
42 USC 1397.

(1) an amount equal to—

(A) 106.4 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal period, or

(B) 108 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1977, or

(2) an amount equal to (A) 100 per centum of such limitation for such fiscal period or fiscal year (as determined without regard to this section), plus (B) an amount equal to the sum of (i) 75 per centum (in the case of such fiscal period) or 100 per centum (in the case of such fiscal year) of the total amount of expenditures (I) which are made during such fiscal period or year in connection with the provision of any child day care service, and (II) with respect to which payment is authorized to be made to the State under such title for such fiscal period or year, and (ii) the aggregate of the amounts of the grants, made by the State during such fiscal period or year, to which the provisions of subsection (c) (1) are applicable.

(b) The additional Federal funds which become payable to any State for the fiscal period or fiscal year specified in subsection (a) by reason of the provisions of such subsection shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

Grants.

(c)(1) Subject to paragraph (2), sums granted by a State to a qualified provider of child day care services (as defined in paragraph (3)(A)) during the fiscal period or fiscal year specified in subsection (a), to assist such provider in meeting its Federal welfare recipient employment incentive expenses (as defined in paragraph (3)(B)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed, for purposes of title XX of the Social Security Act, to constitute expenditures made by the State, in accordance with the requirements and conditions imposed by such Act, for the provision of services directed at one or more of the goals set forth in clauses (A) through (E) of the first sentence of section 2002(a) (1) of such Act. With respect to sums to which the preceding sentence is applicable (after application of the provisions of paragraph (2)), the figure "75", as contained in the first sentence of section 2002(a) (1) of such Act, shall be deemed to read "100".

42 USC 1397.

42 USC 1397a.

(2) The provisions of paragraph (1) shall not be applicable—

(A) to the amount, if any, by which the aggregate of the sums (as described in such paragraph) granted by any State during the fiscal period or fiscal year specified in subsection (a) exceeds the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such fiscal period or year, or

(B) with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used—

(i) to pay wages to any employee at an annual rate in excess of \$5,000, in the case of a public or nonprofit private provider, or

(ii) to pay wages to any employee at an annual rate in excess of \$4,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

(3) For purposes of this subsection—

Definitions.

(A) the term “qualified provider of child day care services”, when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State’s services program conducted pursuant to title XX of the Social Security Act; and

42 USC 1397.

(B) the term “Federal welfare recipient employment expenses” means expenses of a qualified provider of child day care services which constitute Federal welfare recipient employment incentive expenses as defined in section 50B(a) (2) of the Internal Revenue Code of 1954, or which would constitute Federal welfare recipient employment incentive expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.

26 USC 50B.

26 USC 40.

(d) (1) In the administration of title XX of the Social Security Act, the figure “75”, as contained in the first sentence of section 2002 (a) (1) of such Act, shall, subject to paragraph (2), be deemed to read “100” for purposes of applying such sentence to expenditures made by a State for the provision of child day care services during the fiscal year ending September 30, 1977.

42 USC 1397a.

(2) The total amount of Federal payments which may be paid to any State for such fiscal year under title XX of the Social Security Act at the rate specified in paragraph (1) shall not exceed an amount equal to the excess (if any) of—

(A) the amount by which such State’s limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such year, over

(B) the aggregate of the amounts of the grants, made by the State during such year, to which the provisions of subsection (c) (1) are applicable.

SEC. 4. (a) Section 50A(a) of the Internal Revenue Code of 1954 (relating to amount of credit for work incentive program expenses) is amended—

26 USC 50A.

(1) by adding at the end of paragraph (2) the following new sentence: “The preceding sentence shall not apply to so much of the credit allowed by section 40 as is attributable to Federal welfare recipient employment incentive expenses described in subsection (a) (6) (B).”, and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

“(6) LIMITATION WITH RESPECT TO CERTAIN ELIGIBLE EMPLOYEES.—

“(A) NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed \$1,000.

26 USC 40.

- 26 USC 40. “(B) CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are performed in connection with a child day care services program, conducted by the taxpayer, shall not exceed \$1,000.”
- 26 USC 50B. (b) Section 50B(a)(2) of such Code (relating to definitions; special rules) is amended to read as follows:
- “(2) DEFINITIONS.—For purposes of this section, the term ‘Federal welfare recipient employment incentive expenses’ means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer by an eligible employee—
- “(A) before July 1, 1976, or
- “(B) in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before October 1, 1977.”
- 26 USC 50A note. (c) The amendments made by this section with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer to an eligible employee whose services are performed in connection with a child day care services program of the taxpayer shall apply to such expenses paid or incurred by a taxpayer to an eligible employee whom such taxpayer hires after the date of the enactment of this Act.
- 42 USC 1397a. SEC. 5. (a) Section 2002(a)(9)(A)(ii) of the Social Security Act is amended—
- (1) by striking out “and” at the end of clause (II), and
- (2) by adding after the comma at the end of clause (III) the following: “(IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is being paid for (wholly or in part) from funds made available to the State under this title, if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether applicable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6.”
- Waiver. (b) The amendments made by subsection (a) shall, insofar as such amendments add a new clause (V) to section 2002(a)(9)(A)(ii) of the Social Security Act, be effective for the period beginning October 1, 1975, and ending September 30, 1977; and on and after October 1, 1977, section 2002(a)(9)(A)(ii) of the Social Security Act shall read as it would if such amendments had not been made.
- Effective date.
42 USC 1397a note.

SEC. 6. Effective February 1, 1976, section 4(c) of Public Law 94-120 is amended by striking out "January 31, 1976" and "February 1, 1976" and inserting in lieu thereof "September 30, 1977" and "October 1, 1977", respectively.

Effective date.
42 USC 1397a
note.

Approved September 7, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-903 (Comm. on Ways and Means) and No. 94-1317 (Comm. of Conference).

SENATE REPORT No. 94-857 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 16, considered and passed House.

May 20, considered and passed Senate, amended.

July 1, House receded and concurred in Senate amendments with an amendment.

Aug. 24, Senate agreed to conference report and concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 37:

Sept. 7, Presidential statement.

Public Law 94-402
94th Congress

An Act

Sept. 7, 1976
[H.R. 12261]

To extend the period during which the Council of the District of Columbia is prohibited from revising the criminal laws of the District.

D.C. Council.
Criminal law
revision,
prohibition.
Extension.

D.C. Code
22-3201.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (9) of section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1-147(a)(9)) is amended by striking out "twenty-four" and inserting in lieu thereof "forty-eight", and by inserting, immediately preceding the word "during", a comma and the words "or with respect to any criminal offense pertaining to articles subject to regulation under chapter 32 of title 22 of the District of Columbia Code".

Approved September 7, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1418 (Comm. on the District of Columbia).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 23, considered and passed House.

Aug. 24, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 37:

Sept. 7, Presidential statement.

Public Law 94-403
94th Congress

An Act

Granting the consent of Congress to the New Hampshire-Vermont Interstate
Sewage Waste Disposal Facilities Compact.

Sept. 9, 1976
[H.R. 9153]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the New Hampshire-Vermont Interstate Sewage Waste Disposal Facilities Compact which has been entered into in accordance with the provisions of section 103(b) of the Federal Water Pollution Control Act. The compact reads as follows:

New Hampshire-
Vermont Sewage
and Waste
Disposal
Facilities
Compact.
Congressional
consent.
33 USC 1253.

“NEW HAMPSHIRE-VERMONT INTERSTATE SEWAGE
AND WASTE DISPOSAL FACILITIES COMPACT

“ARTICLE I

“GENERAL PROVISIONS

“A. STATEMENT OF POLICY.—It is recognized that in certain cases municipalities in New Hampshire and Vermont may, in order to avoid duplication of cost and effort, and in order to take advantage of economies of scale, find it necessary or advisable to enter into agreements whereby joint sewage and waste disposal facilities are erected and maintained. The states of New Hampshire and Vermont recognize the value of and need for such agreements, and adopt this compact in order to authorize their establishment.

“B. REQUIREMENT OF CONGRESSIONAL APPROVAL.—This compact shall not become effective until approved by the United States Congress.

“C. DEFINITIONS.—

“1. ‘Sewage and waste disposal facilities’ shall mean publicly-owned sewers, interceptor sewers, sewerage facilities, sewage treatment facilities and ancillary facilities whether qualifying for grants in aid under title II of the Federal Water Pollution Control Act, as amended, or not.

33 USC 1281.

“2. ‘Municipalities’ shall mean cities, towns, village districts or other incorporated units of local government possessing authority to construct, maintain and operate sewage and waste disposal facilities and to raise revenue therefor by bonding and taxation, which may legally impose and collect user charges and impose and enforce pretreatment conditions upon users of sewage and waste disposal facilities.

“3. ‘Water pollution agency’ shall mean the agencies within New Hampshire and Vermont possessing regulating authority over the construction, maintenance and operation of sewage and waste disposal facilities and the administration of grants in aid from their respective state and under the Federal Water Pollution Act, as amended, for the construction of such facilities.

33 USC 1251
note.

“4. ‘Governing body’ shall mean the legislative body of the municipality, including, in the case of a town, the town meeting, and, in the case of a city, the city counsel, or the board of mayor and aldermen or any similar body in any community not inconsistent with the intent of this definition.

"ARTICLE II

"PROCEDURES AND CONDITIONS GOVERNING INTERGOVERNMENTAL AGREEMENTS

"A. COOPERATIVE AGREEMENTS AUTHORIZED.—Any two or more municipalities, one or more located in New Hampshire and one or more located in Vermont, may enter into cooperative agreements for the construction, maintenance and operation of a single sewage and waste disposal facility serving all of the municipalities who are parties thereto.

"B. APPROVAL OF AGREEMENTS.—Any agreement entered into under this compact shall, prior to becoming effective, be approved by the water pollution agency of each state, and shall be in a form established jointly by said agencies of both states.

"C. METHOD OF ADOPTING AGREEMENT.—Agreements hereunder shall be adopted by the governing body of each municipality in accordance with existing statutory procedures for the adoption of intergovernmental agreements between municipalities within each state.

"D. REVIEW AND APPROVAL OF PLANS.—The water pollution agency of the state in which any part of a sewage and waste disposal facility which is proposed under an agreement pursuant to this compact is proposed to be or is located is hereby authorized and required, to the extent such authority exists under its state law, to review and approve or disapprove all reports, designs, plans and other engineering document required to apply for federal grants in aid or grants in aid from said agency's state, and to supervise and regulate the planning, design, construction, maintenance and operation of said part of the facility.

"E. FEDERAL GRANTS AND FINANCING.—

Application.

"1. Application for federal grants in aid for the planning, design and construction of sewage and waste disposal facilities other than sewers shall be made jointly by the agreeing municipalities, with the amount of the grant attributable to each state's allotment to be based upon the relative total capacity reserves allocated to the municipalities in the respective states determined jointly by the respective state water pollution agencies. Each municipality shall be responsible for applying for federal grants for sewers to be located within the municipal boundaries.

"2. Municipalities are hereby authorized to raise and appropriate revenue for the purpose of contributing pro rata to the planning, design and construction cost of sewage and waste disposal facilities constructed and operated as joint facilities pursuant to this compact.

"F. CONTENTS OF AGREEMENTS.—Agreements entered into pursuant to this compact shall contain the following:

"1. A uniform system of charges for industrial users of the joint sewage and waste disposal facilities.

"2. A uniform set of pretreatment standards for industrial users of the joint sewage and waste disposal facilities.

"3. A provision for the pro rata sharing of operating and maintenance costs based upon the ratio of actual flows to the plant as measured by devices installed to gauge such flows with reasonable accuracy.

"4. A provision establishing a procedure for the arbitration and resolution of disputes.

"5. A provision establishing a procedure for the carriage of liability insurance, if such insurance is necessary under the laws of either state.

"6. A provision establishing a procedure for the modification of the agreement.

“7. A provision establishing a procedure for the adoption of regulations for the use, operation and maintenance of the joint facilities.

“8. A provision setting forth the means by which the municipality that does not own the joint sewage and waste disposal facility will pay the other municipality its share of the maintenance and operating costs of said facility.

“G. Nothing in this compact shall be construed to authorize the establishment of interstate districts, authorities, or any other new governmental or quasi-governmental entity.

“ARTICLE III

“EFFECTIVE DATE

“This compact shall become effective when a bill of the general assembly of each of the states of New Hampshire and Vermont which incorporates the compact becomes a law in each such state and when it is approved by the United States Congress.”.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved September 9, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1117 (Comm. on the Judiciary).

SENATE REPORT No. 94-1165 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 17, considered and passed House.

Aug. 26, considered and passed Senate.

Public Law 94-404
94th Congress

An Act

Sept. 10, 1976
[H.R. 11481]

To authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes.

Maritime
Appropriation
Authorization Act
of Fiscal Year
1977.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Appropriation Authorization Act of Fiscal Year 1977".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1977, as follows:

- (1) For payment of obligations incurred for operating-differential subsidy, not to exceed \$403,721,000;
- (2) For expenses necessary for research and development activities, not to exceed \$22,500,000;
- (3) For reserve fleet expenses, not to exceed \$4,560,000;
- (4) For maritime training at the Merchant Marine Academy at Kings Point, New York, not to exceed \$13,260,000; and
- (5) For financial assistance to State marine schools, not to exceed \$4,000,000.

Merchant Marine
Academy, N.Y.

SEC. 3. There are authorized to be appropriated for the fiscal year 1977, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts, for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

Approved September 10, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-871 (Comm. on Merchant Marine and Fisheries) and No. 94-1375 (Comm. of Conference).

SENATE REPORTS: No. 94-833 (Comm. on Commerce) and No. 94-1056 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 11, considered and passed House.

June 15, considered and passed Senate, amended.

Aug. 3, Senate agreed to conference report.

Aug. 30, House agreed to conference report.

Public Law 94-405
94th Congress

An Act

To provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes.

Sept. 10, 1976

[S. 2145]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Indochina Refugee Children Assistance Act of 1976”.

Indochina
Refugee Children
Assistance Act of
1976.
20 USC 1211b
note.

TITLE I—PROGRAM FOR THE 1976 FISCAL YEAR

APPLICABILITY ; DEFINITIONS

SEC. 101. (a) The provisions of this title shall be applicable for fiscal year 1976. 20 USC 1211b note.

(b) As used in this title—

(1) The term “Commissioner” means the Commissioner of Education.

(2) The term “elementary school” means a day or residential school which provides elementary education, as determined under State law.

(3) The term “free public education” means education which is provided at public expense under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(4) The term “Indochinese refugee children” means children who are refugees within the meaning of that term as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975.

22 USC 2601
note.

(5) The term “average per pupil expenditure” for a State means the aggregate current expenditures during the second fiscal year preceding the fiscal year for which the determination is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies (without regard to the source of funds from which either of such expenditures is made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(6) The term “current expenditures” means all expenditures for free public education, except for (A) expenditures attributable to fixed charges, including payments of principal and interest on short-term and long-term debt, and payments for retirement benefits, for insurance and judgments, for rental of land and buildings, and for construction costs, (B) expenditures attributable to administration, and (C) expenditures attributable to transportation or building maintenance.

(7) The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city,

county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(8) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(9) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(10) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(11) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

26 USC 501.

STATE ENTITLEMENTS

20 USC 1211b
note.

SEC. 102. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the fiscal year 1976 for the purposes set forth in section 103.

(b)(1) Subject to the provisions of paragraphs (2) and (3), each State educational agency shall be entitled to receive, for the fiscal year ending June 30, 1976, an amount which, in addition to any amounts received by such agency and the local educational agencies of such State in that fiscal year under the Indochina Migration and Refugee Assistance Act of 1975, equals the additional expenditures, as determined under section 103, incurred by such State and local education agencies in that fiscal year in providing additional basic educational services and necessary supplementary educational services for Indochinese refugee children.

22 USC 2601
note.

(2) For the fiscal year ending June 30, 1976, no State educational agency shall be entitled to receive an amount under this title, which, when combined with any funds received by such agency and the local educational agencies of such State in such fiscal year under the Indochina Migration and Refugee Assistance Act of 1975, exceeds an amount equal to the average per pupil expenditure in such State for such fiscal year multiplied by the number of Indochinese refugee children in such State receiving public educational services.

"State."

(3) For the purpose of this subsection, the term "State" does not include American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c)(1) The jurisdictions to which this subsection applies are American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 103 in an amount equal to an amount determined by the Commissioner in accordance with criteria established by him, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of

the amounts to which all States are entitled under subsection (b) of this section for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(d) Determinations with respect to the number of Indochinese refugee children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any State educational agency of its entitlement to any payment (or the amount thereof), under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

USES OF FUNDS

SEC. 103. (a) Financial assistance to State and local educational agencies under this title shall be available only to meet the cost of providing Indochinese refugee children— 20 USC 1211b note.

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance including, but not limited to—

- (A) English language instruction,
- (B) other bilingual educational services, and
- (C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of Indochinese refugee children, including the cost of providing additional classroom teachers and additional teaching materials and supplies, but not including overhead costs, costs of construction, acquisition or rental of space, or costs of transportation; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2).

(b) The Commissioner shall by regulation prescribe standards for the determination of the actual additional expenditures incurred by State and local educational agencies in providing educational services for Indochinese refugee children. Such standards may include— Standards.

(1) maximum incremental costs for providing basic educational services in relation to the number of additional children;

(2) maximum allowable costs for particular types of supplementary educational services; and

(3) to the extent consistent with this section, categories of programs, services, and expenditures for which funds provided under this title may be used.

ALLOCATION OF APPROPRIATIONS

SEC. 104. (a) If the sums appropriated for the fiscal year 1976 for making the payments provided for in this title are not sufficient to pay in full the total amounts which State educational agencies are entitled to receive under this title for such year, the allocations to such State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. 20 USC 1211b note.

(b) In the event that funds become available for making payments under this title for such fiscal year after allocations have been made under subsection (a) for that year, the amounts reduced under subsection (a) shall be increased on the same basis as they were reduced.

APPLICATIONS

Submittal to
Commissioner.
20 USC 1211b
note.

SEC. 105. (a) No State educational agency shall be entitled to any payment under this title for any fiscal year unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide that payments under this title will be used for purposes set forth in section 103;

(3) provide such data and assurances as the Commissioner may prescribe—

(A) to demonstrate that the costs of the additional instructional services for which the payment will be made are the direct result of the presence of Indochinese refugee children and that those additional instructional services will actually be provided to those children for the duration of the period for which assistance is made available under this title; and

(B) to demonstrate that such payments are distributed between the State educational agency and the local educational agencies within the State in proportion to the contribution to such costs by each such agency;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making such reports as the Commissioner may reasonably require to perform his functions under this title; and

(6) provide assurances—

(i) that to the extent consistent with the number of Indochinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(ii) that the control of funds provided under this paragraph and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(iii) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization;

and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Commissioner shall approve an application which meets the requirements of subsection (a). The Commissioner shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

Approval.
Notice and
hearing.

PAYMENT

SEC. 106. (a) The Commissioner shall pay to each State educational agency having an application approved under section 105 the amount which that State is entitled to receive under section 102.

20 USC 1211b
note.

(b) The Commissioner is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any fiscal year shall not exceed 1 per centum of the amounts to which that State educational agency is entitled to receive for that year under this title.

(c) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary non-public schools, as required by section 105(a)(6), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title.

Waiver.

WITHHOLDING

SEC. 107. Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of this title, the Commissioner shall notify that agency that further payments will not be made to the agency under this title, or in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies (whose actions cause or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State educational agency under this title or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

Notice and
hearing.
20 USC 1211b
note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 108. There are authorized to be appropriated for fiscal year 1976 such sums as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 106(b).

20 USC 1211b
note.

TITLE II—PROGRAM FOR THE TRANSITION PERIOD AND THE 1977 FISCAL YEAR

APPLICABILITY; DEFINITIONS

SEC. 201. (a) The provisions of this title shall be applicable for the period beginning July 1, 1976, and ending September 30, 1977.

20 USC 1211b
note.

(b) As used in this title—

(1) The term “Commissioner” means the Commissioner of Education.

(2) The term “elementary school” means a day or residential school which provides elementary education, as determined under State law.

22 USC 2601
note.

(3) The term “Indochinese refugee children” means children who are refugees within the meaning of that term as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975.

(4) The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(5) The term “secondary school” means a day or residential school which provides secondary education, as determined under State law.

(6) The term “State” includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(7) The term “State educational agency” means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

26 USC 501.

(8) The term “elementary or secondary nonpublic schools” means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

STATE ENTITLEMENTS

20 USC 1211b
note.

Sec. 202. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the period July 1, 1976, through September 30, 1977, for the purposes set forth in section 203.

(b)(1) Except as provided in subsection (d) of this section, the maximum amount of the grant to which a State educational agency is entitled under this title, for the period beginning July 1, 1976, and ending September 30, 1977, shall be equal to the sum of—

(A) the number of Indochinese refugee children aged 5 to 17, inclusive, receiving public educational services under the supervision of each local educational agency within that State during the period for which the determination is made;

multiplied by—

(B) the lesser of—

(i) \$300 for each of the first one hundred such children who are furnished such services under the supervision of each local educational agency within such State, or

(ii) if the number of such children equals or exceeds 1 per centum of the total number of children enrolled in the schools of that agency, \$300 for each such child in such 1 per centum

who is furnished such services under the supervision of each local educational agency within such State; and

(C) \$600 for each additional such child in excess of one hundred such children, or in excess of such 1 per centum, as the case may be, being furnished such services under the supervision of that agency.

(2) For the purpose of this subsection, the term "State" does not include American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. "State."

(c) (1) The jurisdictions to which this subsection applies are American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 203 in an amount equal to an amount determined by the Commissioner in accordance with criteria established by him, except that the aggregate of the amount to which such jurisdictions are so entitled for any period shall not exceed an amount equal to 1 per centum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that period. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any period exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(d) Notwithstanding any other provision of this section, no State educational agency shall be entitled to receive a grant for any period in excess of the amount equal to the amount to which such agency would otherwise be entitled under this section for that period minus the sum of the amounts received by the local educational agencies of that State and by that State educational agency for that period under the Indochina Migration and Refugee Assistance Act of 1975.

22 USC 2601
note.

(e) Determinations with respect to the number of Indochinese refugee children by the Commissioner under this section for any period shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any State educational agency of its entitlement to any payment (or the amount thereof), under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

USES OF FUNDS

SEC. 203. Payments made under this title to any State may be used in accordance with applications approved under section 205 for public educational services for Indochinese refugee children in the schools of the local educational agencies of that State and in elementary and secondary nonpublic schools of that State.

20 USC 1211b
note.

ALLOCATION OF APPROPRIATIONS

SEC. 204. (a) If the sums appropriated for the period from July 1, 1976, to September 30, 1977, for making the payments provided for in this title are not sufficient to pay in full the total amounts which State educational agencies are entitled to receive under this title for such period, the allocations to such State educational agencies shall

20 USC 1211b
note.

be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated.

(b) In the event that funds become available for making payments under this title for such period after allocations have been made under subsection (a) for that period, the amounts reduced under subsection (a) shall be increased on the same basis as they were reduced.

APPLICATIONS

Submittal to
Commissioner.
20 USC 1211b
note.

SEC. 205. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide that payments under this title will be used for purposes set forth in section 203;

(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with sections 202(b)(1) and 202(d);

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making periodic reports to the Commissioner evaluating the effectiveness of the payments made under this title, and such other reports as the Commissioner may reasonably require to perform his functions under this title; and

(6) provide assurances—

(i) that to the extent consistent with the number of Indo-chinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(ii) that the control of funds provided under this paragraph and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(iii) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Commissioner shall approve an application which meets the requirements of subsection (a). The Commissioner shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

Approval.
Notice and
hearing.

PAYMENTS

SEC. 206. (a) The Commissioner shall pay to each State educational agency having an application approved under section 205 the amount which that State is entitled to receive under this title.

20 USC 1211b
note.

(b) The Commissioner is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed 1 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

(c) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 205(a) (6), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title.

WITHHOLDING

SEC. 207. Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of this title, the Commissioner shall notify that agency that further payments will not be made to the agency under this title, or in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies (whose actions cause or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State educational agency under this title or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

Notice and
hearing.
20 USC 1211b
note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are authorized to be appropriated for the period beginning July 1, 1976, and ending September 30, 1977, such sums as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 206(b).

20 USC 1211b
note.

TITLE III—ADULT EDUCATION PROVISION

AMENDMENT TO THE ADULT EDUCATION ACT

SEC. 301. The Adult Education Act (Public Law 91-230) is amended by adding the following new section at the end thereof:

20 USC 1201
note.

“EMERGENCY ADULT EDUCATION PROGRAM FOR INDOCHINA REFUGEES

“SEC. 315. (a) From the appropriations authorized for the period beginning July 1, 1976, and ending September 30, 1977, but not appropriated for other programs under this title, the Commissioner shall

Grants.
20 USC 1211b.

22 USC 2601
note.

carry out a program of making grants to State and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975. Such grants may be used for—

“(1) programs of instruction of adult refugees in basic reading, mathematics, development and enhancement of necessary skills, and promotion of literacy among refugee adults, for the purpose of enabling them to become productive members of American society;

“(2) administrative costs of planning and operating such programs of instruction;

“(3) educational support services which meet the needs of adult refugees, including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and

“(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

29 USC 801 note.

20 USC 1241
note.

State education
agency review.

“(b) The Commissioner shall not approve an application for a grant under this section unless (1) in the case of an application by a local education agency, it has been reviewed by the respective State education agency which shall provide assurance to the Commissioner that, if approved by the Commissioner, the grant will not duplicate existing and available programs of adult education which meet the special needs of Indochina refugees, and (2) the application includes a plan acceptable to the Commissioner which provides reasonable assurances that adult refugees who are in need of a program are located in an area near that State or local education agency, and would participate in the program if available.

“(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.

“(d) Notwithstanding the provisions of sections 305 and 307 (a), the Commissioner shall pay all the costs of applications approved by him under this section.”

Approved September 10, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-719 accompanying H.R. 7897 (Comm. on Education and Labor) and No. 94-1333 (Comm. of Conference).

SENATE REPORT No. 94-432 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 29, considered and passed Senate.

Vol. 122 (1976): Jan. 19, considered and passed House, amended, in lieu of H.R. 7897.

Aug. 30, House agreed to conference report.

Sept. 1, Senate agreed to conference report.

Public Law 94-406
94th Congress

An Act

To authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes.

Sept. 10, 1976
[H.R. 11670]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated for fiscal year 1977 for the use of the Coast Guard as follows:

U.S. Coast
Guard.
Appropriation
authorization.

- (1) For procurement of vessels: \$86,168,000;

For procurement of three port safety boats, one inland construction tender, six aids to navigation boats, three harbor tugboats, thirty search and rescue boats, two high/medium endurance cutter replacements, ten high speed surface delivery systems for pollution control, and one motor life boat.

- (2) For procurement of aircraft: \$24,300,000;

For procurement of six medium-range surveillance aircraft.

- (3) For construction of shore and offshore establishments: \$24,401,000;

For construction at:

(a) Portsmouth, Virginia—Phase IV of new Coast Guard Support Center;

(b) Rodanthe, North Carolina—improvement of Oregon Inlet Station;

(c) Elizabeth City, North Carolina—phase I of improvement at Coast Guard Aircraft and Supply Center;

(d) Alameda, California—construction of classroom building at Coast Guard Training Center;

(e) New York, New York—phase II of New York vessel traffic service;

(f) Loran-C National Implementation Plan—antenna erection, construction, and outfitting of stations at Malone, Florida, Grangeville, Louisiana, and Raymondville, Texas; antenna erection and outfitting of station at Elmira, New York; and construction and outfitting at Narrow Cape, Alaska;

(g) Public family quarters—construction of family housing at Chicago, Illinois, Sitka, Alaska, and Point Judith, Rhode Island, or other locations; and

(h) Provincetown, Massachusetts—construction of new station.

- (4) For procurement of vessels and/or aircraft for carrying out Coast Guard missions, including fishery law enforcement: \$100,000,000.

- (5) For procurement of vessels with ice-breaking capability to be used on the Great Lakes: \$50,000,000.

SEC. 2. For fiscal year 1977, the Coast Guard is authorized an end strength for active duty personnel of 38,918; except that the ceiling shall not include members of the Ready Reserve called to active duty under the authority of section 764 of title 14, United States Code.

Active duty
personnel
strength.

Military training
student loads.

SEC. 3. For fiscal year 1977, average military training student loads for the Coast Guard are authorized as follows:

- (1) recruit and special training, 4,209 students;
- (2) flight training, 154 students;
- (3) professional training in military and civilian institutions, 372 students; and
- (4) officer acquisition, 1,175 students.

SEC. 4. Section 475 of title 14, United States Code, is amended—

- (1) by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively; and
- (2) by amending the redesignated subsection (f) to read as follows:

“(f) The authority conferred by subsection (a), (b), (c), or (d) may not be utilized after April 1, 1973, unless all reports required by subsection (e) have been filed with the Congress.”

14 USC 656 note.

SEC. 5. After fiscal year 1977, funds may not be appropriated to or for the use of the Coast Guard (1) for the operation and maintenance of the Coast Guard; (2) for acquisition, construction, rebuilding, or improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related thereto; (3) for alteration of obstructive bridges; or (4) for research, development, tests, or evaluation related to any of the above, unless the appropriation of such funds has been authorized by legislation enacted after December 31, 1976.

14 USC prec. 211
note.

SEC. 6. (a) For each fiscal year after fiscal year 1977, the Congress shall authorize the end strength as of the end of each fiscal year for active duty personnel of the Coast Guard, and no funds may be appropriated for any such fiscal year to or for the use of the active duty personnel of the Coast Guard unless the end strength for such active duty personnel for such fiscal year has been authorized by law.

(b) For each fiscal year after fiscal year 1977, the Congress shall authorize the average military training student loads for the Coast Guard. Such authorization shall be required for student loads for the following individual training categories: recruit and specialized training; flight training; professional training in military and civilian institutions; and officer acquisition training. No funds may be appropriated for any fiscal year after fiscal year 1977 for the use of training any military personnel of the Coast Guard in the aforementioned categories unless the average student loads for the Coast Guard for such fiscal year have been authorized by law.

SEC. 7. No funds authorized or appropriated for operation and maintenance of the Coast Guard shall be used for enforcement of the Federal Boat Safety Act of 1971 (46 U.S.C. 1451, et seq.) on Lake Winnepesaukee and Lake Winnisquam, their interconnecting waterways, or the Merrimack River in the State of New Hampshire during fiscal year 1977.

Alaska, cargo-
carrying vessels,
exemptions
permit.
46 USC 420.

SEC. 8. (a) In order to minimize hardships and to aid inhabitants of certain remote areas in the State of Alaska, the Secretary of the Department in which the Coast Guard is operating is authorized to issue permits exempting specific cargo-carrying vessels from all or part of the requirements of the following laws and the regulations issued thereunder—

- (1) section 4417 of the Revised Statutes (46 U.S.C. 391);
- (2) section 4417 of the Revised Statutes (46 U.S.C. 391a);
- (3) section 4426 of the Revised Statutes (46 U.S.C. 404); and
- (4) section 1 of the Act of August 27, 1935, as amended (46

U.S.C. 88).

(b) A permit issued pursuant to subsection (a) may be granted only to a vessel engaged in transporting cargo, including bulk fuel, from point to point within the State of Alaska and only if—

- (1) the vessel does not exceed three hundred gross tons;
- (2) the vessel is in a condition which does not present an immediate threat to the safety of life or the environment; and
- (3) the vessel was operating in the waters off Alaska as of June 1, 1976, or the vessel is a replacement for a vessel which was operating in the waters off Alaska as of June 1, 1976, if the vessel which is being replaced is no longer in service.

(c) Except in a situation declared to be an emergency by the Secretary of the department in which the Coast Guard is operating, a vessel operating under permit may not transport cargo to or from a point if the cargo could be transported by another commercial vessel which is reasonably available and which does not require exemptions to legally operate or if the cargo could be readily transported by overland routes.

Emergency
situations.

(d) A permit may be issued for a specific voyage or for a period of time not exceeding one year. The permit may impose specific requirements as to the amount or type of cargo to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters. The duration of the permit and any restrictions contained therein shall be at the sole discretion of the Secretary or his delegate.

(e) If a designated Coast Guard official has reason to believe that a vessel to which a permit has been issued is in a condition or is used in a manner which creates an immediate threat to the safety of life or the environment or is operated in a manner which is inconsistent with the terms of the permit, the official may direct the operator to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.

(f) If a vessel to which a permit has been issued creates an immediate threat to the safety of life or the environment, or is operated in a manner inconsistent with the terms of the permit or the requirements of subsection (c) of this section, the permit may be revoked. The owner, master, or person in charge of a vessel to which a permit is issued, who willfully permits the vessel to be used or uses the vessel in a manner inconsistent with the terms of the permit or subsection (c) of this section, shall be liable to a civil penalty of not more than \$1,000.

Permit
revocation.

Penalty.

Approved September 10, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-989 (Comm. on Merchant Marine and Fisheries) and No. 94-1374 (Comm. of Conference).

SENATE REPORTS: No. 94-865 (Comm. on Commerce) and No. 94-1054 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1977):

Apr. 5, considered and passed House.

June 16, considered and passed Senate, amended.

Aug. 2, Senate agreed to conference report.

Aug. 30, House agreed to conference report.

Public Law 94-407
94th Congress

An Act

Sept. 11, 1976
[H.R. 13372]

To amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes.

Wild and Scenic
Rivers Act,
amendment.
82 Stat. 906.
16 USC 1273.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Wild and Scenic Rivers Act (82 Stat. 905), as amended (16 U.S.C. 1271 et seq.) is amended as follows:

(1) In section 2 delete "Maine, and that segment of the Wolf River, Wisconsin, which flows through Langlade County," and insert in lieu thereof "Maine; that segment of the Wolf River, Wisconsin, which flows through Langlade County; and that segment of the New River in North Carolina extending from its confluence with Dog Creek downstream approximately 26.5 miles to the Virginia State line."

16 USC 1278.

(2) In section 7(a), after the third sentence, insert the following: "Any license heretofore or hereafter issued by the Federal Power Commission affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the National Wild and Scenic Rivers System pursuant to section 2 of this Act and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment."

Approved September 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1264 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-952 accompanying S. 158 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 9, 10, considered and passed House.

Aug. 30, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 38:

Sept. 11, Presidential statement.

Public Law 94-408
94th Congress

An Act

To provide for protection of the spouses of major Presidential and Vice Presidential nominees.

Sept. 11, 1976

[H.R. 15371]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of the first section of the Act of June 6, 1968, Public Law 90-331, 82 Stat. 170, is amended by adding the following sentence at the end thereof: "Upon request of a Presidential or Vice Presidential nominee of a major political party, as determined by the Secretary after consultation with the advisory committee, the Secretary may authorize the United States Secret Service to furnish protection to the spouse of such major Presidential or Vice Presidential nominee, except that such protection shall not commence more than sixty days prior to the general Presidential election."

Presidential
candidates.
Spouse
protection.
18 USC 3056
note.

SEC. 2. Section 3056 of title 18, United States Code, is amended to read as follows:

"(a) Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Treasury Department, is authorized to protect the person of the President of the United States, the members of his immediate family, the President-elect, the Vice President or other officer next in the order of succession to the Office of President, and the Vice President-elect, and the members of their immediate families unless the members decline such protection; protect the person of a former President and his wife during his lifetime, the person of a widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age, unless such protection is declined; protect the person of a visiting head of a foreign state or foreign government and, at the direction of the President, other distinguished foreign visitors to the United States and official representatives of the United States performing special missions abroad; detect and arrest any person committing any offense against the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments; detect and arrest any person violating any of the provisions of sections 508, 509, and 871 of this title and, insofar as the Federal Deposit Insurance Corporation, Federal land banks, joint-stock land banks and Federal land bank associations are concerned, of sections 218, 221, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907, and 1909 of this title; execute warrants issued under the authority of the United States; carry firearms; offer and pay rewards for services or information looking toward the apprehension of criminals; pay expenses for unforeseen emergencies of a confidential nature under the direction of the Secretary of the Treasury and accounted for solely on his certificate; and perform such other functions and duties as are authorized by law. In the performance of their duties under this section, the Director, Deputy Director, Assistant Directors, Assistants to the Director, inspectors, and agents of the Secret Service are authorized to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the

Secret Service
powers.

18 USC 508,
509, 871.

18 USC 218,
221, 433, 493,
657, 709, 1006,
1007, 1011,
1013, 1014,
1907, 1909.

person to be arrested has committed or is committing such felony. Moneys expended from Secret Service appropriations for the purchase of counterfeits and subsequently recovered shall be reimbursed to the appropriation current at the time of deposit.

Penalty.

“(b) Whoever knowingly and willfully obstructs, resists, or interferes with an agent of the United States Secret Service or other Federal law enforcement agent engaged in the performance of the protective functions authorized by this section, by the Act of June 6, 1968 (82 Stat. 170) or by section 1752 of title 18, United States Code, shall be fined not more than \$300 or imprisoned not more than one year or both.”.

Approved September 11, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 2, considered and passed House.

Sept. 7, considered and passed Senate.

Public Law 94-409
94th Congress

An Act

To provide that meetings of Government agencies shall be open to the public,
and for other purpose .

Sept. 13, 1976
[S. 5]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Government in the Sunshine Act".

Government in
the Sunshine Act.
5 USC 552b note.

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. It is the purpose of this Act to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities.

5 USC 552b note.

OPEN MEETINGS

SEC. 3. (a) Title 5, United States Code, is amended by adding after section 552a the following new section:

“§ 552b. Open meetings

5 USC 552b.
Definitions.

“(a) For purposes of this section—

“(1) the term ‘agency’ means any agency, as defined in section 552(e) of this title, headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

5 USC 552.

“(2) the term ‘meeting’ means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted by subsection (d) or (e); and

“(3) the term ‘member’ means an individual who belongs to a collegial body heading an agency.

(b) Members shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in subsection (c), every portion of every meeting of an agency shall be open to public observation.

“(c) Except in a case where the agency finds that the public interest requires otherwise, the second sentence of subsection (b) shall not apply to any portion of an agency meeting, and the requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

“(1) disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the

interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

“(2) relate solely to the internal personnel rules and practices of an agency;

5 USC 552.

“(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

“(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

“(5) involve accusing any person of a crime, or formally censuring any person;

“(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

“(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

“(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

“(9) disclose information the premature disclosure of which would—

“(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

“(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that subparagraph (B) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

“(10) specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

5 USC 554.

“(d)(1) Action under subsection (c) shall be taken only when a majority of the entire membership of the agency (as defined in subsection (a)(1)) votes to take such action. A separate vote of the agency members shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (c), or with respect to any information which is proposed to be withheld under subsection (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed.

Recorded voting.

“(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion to the public for any of the reasons referred to in paragraph (5), (6), or (7) of subsection (c), the agency, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

“(3) Within one day of any vote taken pursuant to paragraph (1) or (2), the agency shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the agency shall, within one day of the vote taken pursuant to paragraph (1) or (2) of this subsection, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

Copies,
availability.

“(4) Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9) (A), or (10) of subsection (c), or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members of the agency votes by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. The provisions of paragraphs (1), (2), and (3) of this subsection and subsection (e) shall not apply to any portion of a meeting to which such regulations apply: *Provided*, That the agency shall, except to the extent that such information is exempt from disclosure under the provisions of subsection (c), provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof at the earliest practicable time.

Meeting closure,
regulation.

“(e)(1) In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the agency determines by a recorded vote that agency business requires that such meeting be called at an earlier date, in which case the agency shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

Public
announcement.Scheduling,
public
announcement.

“(2) The time or place of a meeting may be changed following the public announcement required by paragraph (1) only if the agency publicly announces such change at the earliest practicable time. The

Scheduling
changes, public
announcement.

subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if (A) a majority of the entire membership of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (B) the agency publicly announces such change and the vote of each member upon such change at the earliest practicable time.

Scheduling
notice, publi-
cation in Federal
Register.

“(3) Immediately following each public announcement required by this subsection, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting, shall also be submitted for publication in the Federal Register.

Closed meetings,
certification.

“(f)(1) For every meeting closed pursuant to paragraphs (1) through (10) of subsection (c), the General Counsel or chief legal officer of the agency shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the agency. The agency shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (8), (9) (A), or (10) of subsection (c), the agency shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

Transcripts,
recordings or
minutes.

Public
availability.

“(2) The agency shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes (as required by paragraph (1)) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the agency determines to contain information which may be withheld under subsection (c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting or portion was held, whichever occurs later.

Retention.

Publication in
Federal Register.
Regulations.

“(g) Each agency subject to the requirements of this section shall, within 180 days after the date of enactment of this section, following consultation with the Office of the Chairman of the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment by any person, promulgate regulations to implement the requirements

of subsections (b) through (f) of this section. Any person may bring a proceeding in the United States District Court for the District of Columbia to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein. Subject to any limitations of time provided by law, any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (b) through (f) of this section and to require the promulgation of regulations that are in accord with such subsections.

Judicial
proceeding.

“(h) (1) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (b) through (f) of this section by declaratory judgment, injunctive relief, or other relief as may be appropriate. Such actions may be brought by any person against an agency prior to, or within sixty days after, the meeting out of which the violation of this section arises, except that if public announcement of such meeting is not initially provided by the agency in accordance with the requirements of this section, such action may be instituted pursuant to this section at any time prior to sixty days after any public announcement of such meeting. Such actions may be brought in the district court of the United States for the district in which the agency meeting is held or in which the agency in question has its headquarters, or in the District Court for the District of Columbia. In such actions a defendant shall serve his answer within thirty days after the service of the complaint. The burden is on the defendant to sustain his action. In deciding such cases the court may examine in camera any portion of the transcript, electronic recording, or minutes of a meeting closed to the public, and may take such additional evidence as it deems necessary. The court, having due regard for orderly administration and the public interest, as well as the interests of the parties, may grant such equitable relief as it deems appropriate, including granting an injunction against future violations of this section or ordering the agency to make available to the public such portion of the transcript, recording, or minutes of a meeting as is not authorized to be withheld under subsection (c) of this section.

Jurisdiction.

Civil actions.

Relief.

“(2) Any Federal court otherwise authorized by law to review agency action may, at the application of any person properly participating in the proceeding pursuant to other applicable law, inquire into violations by the agency of the requirements of this section and afford such relief as it deems appropriate. Nothing in this section authorizes any Federal court having jurisdiction solely on the basis of paragraph (1) to set aside, enjoin, or invalidate any agency action (other than an action to close a meeting or to withhold information under this section) taken or discussed at any agency meeting out of which the violation of this section arose.

Inquiry.

“(i) The court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with the provisions of subsection (g) or (h) of this section, except that costs may be assessed against the plaintiff only where the court finds that the suit was initiated by the plaintiff primarily for frivolous or dilatory purposes. In the case of assessment of costs against an agency, the costs may be assessed by the court against the United States.

Litigation costs,
assessment.

“(j) Each agency subject to the requirements of this section shall annually report to Congress regarding its compliance with such requirements, including a tabulation of the total number of agency

Report to
Congress.

meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section, including any costs assessed against the agency in such litigation (whether or not paid by the agency).

5 USC 552.

“(k) Nothing herein expands or limits the present rights of any person under section 552 of this title, except that the exemptions set forth in subsection (c) of this section shall govern in the case of any request made pursuant to section 552 to copy or inspect the transcripts, recordings, or minutes described in subsection (f) of this section. The requirements of chapter 33 of title 44, United States Code, shall not apply to the transcripts, recordings, and minutes described in subsection (f) of this section.

44 USC 3301 *et seq.*

“(l) This section does not constitute authority to withhold any information from Congress, and does not authorize the closing of any agency meeting or portion thereof required by any other provision of law to be open.

“(m) Nothing in this section authorizes any agency to withhold from any individual any record, including transcripts, recordings, or minutes required by this section, which is otherwise accessible to such individual under section 552a of this title.”

5 USC 552a.

5 USC prec. 500.

(b) The chapter analysis of chapter 5 of title 5, United States Code, is amended by inserting:

“552b. Open meetings.”

immediately below:

“552a. Records about individuals.”

EX PARTE COMMUNICATIONS

SEC. 4. (a) Section 557 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) (1) In any agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law—

“(A) no interested person outside the agency shall make or knowingly cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

“(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding;

“(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by this subsection shall place on the public record of the proceeding:

“(i) all such written communications;

“(ii) memoranda stating the substance of all such oral communications; and

“(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

“(D) upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subsection, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

“(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

Applicability.

“(2) This subsection does not constitute authority to withhold information from Congress.”

(b) Section 551 of title 5, United States Code, is amended—

(1) by striking out “and” at the end of paragraph (12);

(2) by striking out the “act.” at the end of paragraph (13) and inserting in lieu thereof “act; and”; and

(3) by adding at the end thereof the following new paragraph:

“(14) ‘ex parte communication’ means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this subchapter.”

“Ex parte communication.”

(c) Section 556(d) of title 5, United States Code, is amended by inserting between the third and fourth sentences thereof the following new sentence: “The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557(d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.”

5 USC 557.

CONFORMING AMENDMENTS

SEC. 5. (a) Section 410(b)(1) of title 39, United States Code, is amended by inserting after “Section 552 (public information).” the words “section 552a (records about individuals), section 552b (open meetings).”

(b) Section 552(b)(3) of title 5, United States Code, is amended to read as follows:

“(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;”

(c) Subsection (d) of section 10 of the Federal Advisory Committee Act is amended by striking out the first sentence and inserting in lieu thereof the following: “Subsections (a)(1) and (a)(3) of this section shall not apply to any portion of an advisory committee meeting where

5 USC app. I.

the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code.”.

EFFECTIVE DATE

5 USC 552b note.

SEC. 6. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect 180 days after the date of its enactment.

(b) Subsection (g) of section 552b of title 5, United States Code, as added by section 3(a) of this Act, shall take effect upon enactment.

Approved September 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-880, Pt. I and No. 94-880, Pt. 2, accompanying H.R. 11656 (Comm. on Government Operations) and No. 94-1441 (Comm. of Conference).

SENATE REPORTS: No. 94-354 (Comm. on Government Operations), No. 94-381 (Comm. on Rules and Administration) and No. 94-1178 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 5, 6, considered and passed Senate.

Vol. 122 (1976): July 28, considered and passed House, amended, in lieu of H.R. 11656.

Aug. 31, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 38 (1976): Sept. 13, Presidential statement.

Public Law 94-410
94th Congress

An Act

To amend the Packers and Stockyards Act of 1921, as amended, and for other purposes.

Sept. 13, 1976
[H.R. 8410]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso in the paragraph designated “Packers and Stockyards Act” under the heading “MARKETING SERVICE” in the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), is amended by striking out “market agency and dealer” and inserting in lieu thereof “market agency (as defined in title III of the Act), every packer (as defined in title II of the Act) in connection with its livestock purchasing operations (except that those packers whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this paragraph), and every other person operating as a dealer (as defined in title III of the Act)”.

Packers and
Stockyards
Act of 1921,
amendments.

7 USC 201.
Infra.

SEC. 2. Section 201 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 191) is amended to read as follows:

“Packer.”

“SEC. 201. When used in this Act the term ‘packer’ means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.”.

SEC. 3. (a) Sections 202 and 312(a) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 192 and 213(a)) are amended by deleting the phrase “in commerce” wherever it appears in those sections, and by deleting the commas immediately before and following the phrase “in commerce” in sections 202(b) and 312(a) of the Act (7 U.S.C. 192(b) and 213(a)).

(b) Sections 203(b) and 312(b) of the Packers and Stockyards Act (7 U.S.C. 193(b) and 213(b)) are amended by adding at the end of both sections the following new sentences: “The Secretary may also assess a civil penalty of not more than \$10,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person’s ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.”.

Penalty.

(c) The Packers and Stockyards Act, 1921, as amended, is amended by striking out the words “live stock” and “live-stock” wherever they appear in the Act and substituting therefor “livestock”.

7 USC 182, 183,
201, 207, 210,
212, 213.

SEC. 4. The proviso in the paragraph designated “Packers and Stockyards Act” under the heading “MARKETING SERVICE” in the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), is further

Notice and
hearing.

amended by adding at the end thereof a new sentence as follows: "If the Secretary finds any packer is insolvent, he may after notice and hearing issue an order under the provisions of section 203 requiring such packer to cease and desist from purchasing livestock while insolvent, or while insolvent purchasing livestock except under such conditions as the Secretary may prescribe to effectuate the purposes of the Act."

Temporary
injunction or
retraining order.
7 USC 229.
7 USC 228a.

SEC. 5. The Packers and Stockyards Act, 1921, as amended, is further amended by redesignating section 408 as section 411 and by adding a new section 408 to read as follows:

"SEC. 408. Whenever the Secretary has reason to believe that any person subject to this Act (a) with respect to any transactions subject to this Act, has failed to pay or is unable to pay for livestock, meats, meat food products, or livestock products in unmanufactured form, or has failed to remit to the person entitled thereto the net proceeds from the sale of any such commodity sold on a commission basis; or (b) has operated while insolvent, or otherwise in violation of this Act in a manner which may reasonably be expected to cause irreparable damage to another person; or (c) does not have the required bond; and that it would be in the public interest to enjoin such person from operating subject to this Act or enjoin him from operating subject to this Act except under such conditions as would protect vendors or consignors of such commodities or other affected persons, until a complaint under this Act is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective within the meaning of this Act or is set aside on appellate review of the Secretary's order, the Secretary may notify the Attorney General, who may apply to the United States district court for the district in which such person has his principal place of business or in which he resides for a temporary injunction or restraining order. When needed to effectuate the purposes of this section, the court shall, upon a proper showing, issue a temporary injunction or restraining order, without bond. Attorneys employed by the Secretary of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action seeking such a temporary restraining order or injunction."

Violations.

SEC. 6. Section 308(a) of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 209(a)) is amended to read as follows:

"(a) If any person subject to this Act violates any of the provisions of this Act, or of any order of the Secretary under this Act, relating to the purchase, sale, or handling of livestock, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation."

SEC. 7. The Packers and Stockyards Act, 1921, as amended, is further amended by adding after section 408 (7 U.S.C. 229) a new section 409 to read as follows:

Livestock
delivery.
7 USC 228b.

"SEC. 409. (a) Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized representative the full amount of the purchase price: *Provided*, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of

possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall wire transfer funds to the seller's account for the full amount of the purchase price; or, in the case of a purchase on a carcass or 'grade and yield' basis, the purchaser shall make payment by check at the point of transfer of possession or shall wire transfer funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: *Provided further*, That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

"(b) Notwithstanding the provisions of subsection (a) of this section and subject to such terms and conditions as the Secretary may prescribe, the parties to the purchase and sale of livestock may expressly agree in writing, before such purchase or sale, to effect payment in a manner other than that required in subsection (a). Any such agreement shall be disclosed in the records of any market agency or dealer selling the livestock, and in the purchaser's records and on the accounts or other documents issued by the purchaser relating to the transaction.

Written agreement.

Disclosure.

"(c) Any delay or attempt to delay by a market agency, dealer, or packer purchasing livestock, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock shall be considered an 'unfair practice' in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term 'unfair practice' as used in this Act."

Unfair practice.

SEC. 8. The Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), is further amended by adding after section 205 (7 U.S.C. 195) a new section 206, to read as follows:

"SEC. 206. (a) It is hereby found that a burden on and obstruction to commerce in livestock is caused by financing arrangements under which packers encumber, give lenders security interest in, or place liens on, livestock purchased by packers in cash sales, or on inventories of or receivables or proceeds from meat, meat food products, or livestock products therefrom, when payment is not made for the livestock and that such arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in livestock and protect the public interest.

Financing arrangements, remedy.
7 USC 196.

"(b) All livestock purchased by a packer in cash sales, and all inventories of, or receivables or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers: *Provided*, That any packer whose average annual purchases do not exceed \$500,000 will be exempt from the provisions of this section. Payment shall not be considered to have been made if the seller receives a payment instrument which is dishonored: *Provided*, That the unpaid seller shall lose the benefit of such trust if, in the event that a payment instrument has

not been received, within thirty days of the final date for making a payment under section 409, or within fifteen business days after the seller has received notice that the payment instrument promptly presented for payment has been dishonored, the seller has not preserved his trust under this subsection. The trust shall be preserved by giving written notice to the packer and by filing such notice with the Secretary.

“(c) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.”.

State and local
requirements,
Federal
preemption.
7 USC 228c.

SEC. 9. The Packers and Stockyards Act, 1921, as amended, is further amended by adding after new section 409 a new section 410 to read as follows:

“SEC. 410. No requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provisions under the Act of July 12, 1943 (57 Stat. 422; 7 U.S.C. 204), and prompt payment provisions of section 409 of this Act, respectively: *Provided*, That this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this Act, which is not in conflict with this Act or regulations thereunder: *Provided further*, That this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this Act or the Act of July 12, 1943.”.

Savings
provision.
7 USC 182 note.
7 USC 181 *et seq.*
7 USC 204.

SEC. 10. Pending proceedings shall not be abated by reason of any provision of this Act, but shall be disposed of pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended, and the Act of July 12, 1943, in effect immediately prior to the effective date of this Act.

Budget estimates,
testimony before
congressional
committees.
7 USC 228.

SEC. 11. Section 407 of the Packers and Stockyards Act, 1921, as amended, is amended by adding the following new subsections to read as follows:

“(d) On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in the Packers and Stockyards Act, 1921, as amended.

Rules.

“(e) The Secretary shall, not later than sixty days after the effective date of this subsection, prescribe and implement rules to assure that any hearing from which any order may issue under this Act or any hearing the expenses of which are paid from funds authorized to be appropriated under this Act shall—

“(1) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

“(2) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

“(3) if such hearing concerns a single State or the residents thereof, be held within such State.
“(f) For the purposes of subsection (e)—

Definitions.

“(1) the term ‘unit of local government’ means a county, municipality, town, township, village, or other unit of general government below the State level; and

“(2) the term ‘geographic area within a State’ means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.”.

Approved September 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1043 (Comm. on Agriculture) and No. 94-1391 (Comm. of Conference).

SENATE REPORTS: No. 94-932 (Comm. on Agriculture and Forestry) and No. 94-1065 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 6, considered and passed House.

June 17, considered and passed Senate, amended.

Aug. 4, Senate agreed to conference report.

Aug. 30, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 38:

Sept. 13, Presidential statement.

Public Law 94-411
94th Congress

An Act

Sept. 13, 1976
[S. 2862]

To authorize appropriations for the Federal Fire Prevention and Control Act of 1974.

Federal Fire
Prevention and
Control Act of
1974, amend-
ment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

Appropriation
authorization.
15 USC 2210.

“SEC. 17. There are authorized to be appropriated to carry out the foregoing provisions of this Act, except section 11 of this Act, not to exceed \$3,750,000 for the transitional fiscal quarter of July 1, 1976, through September 30, 1976, not to exceed \$15,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$20,000,000 for the fiscal year ending September 30, 1978.”.

(b) Section 16(b) of the Act of March 3, 1901 (15 U.S.C. 278f(b)) is amended to read as follows:

“(b) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated not to exceed \$1,275,000 for the transitional fiscal quarter of July 1, 1976, through September 30, 1976, not to exceed \$5,500,000 for the fiscal year ending September 30, 1977, and not to exceed \$6,000,000 for the fiscal year ending September 30, 1978.”.

Approved September 13, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-864 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 19, considered and passed Senate.

Aug. 31, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 38:

Sept. 13, Presidential statement.

Public Law 94-412
94th Congress

An Act

To terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

Sept. 14, 1976
[H.R. 3884]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “National Emergencies Act”.

National
Emergencies Act.
50 USC 1601
note.

TITLE I—TERMINATING EXISTING DECLARED
EMERGENCIES

SEC. 101. (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of any declaration of national emergency in effect on the date of enactment of this Act are terminated two years from the date of such enactment. Such termination shall not affect—

50 USC 1601.

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words “any national emergency in effect” means a general declaration of emergency made by the President.

“Any national
emergency in
effect.”

TITLE II—DECLARATIONS OF FUTURE NATIONAL
EMERGENCIES

SEC. 201. (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

50 USC 1621.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

Presidential
proclamation,
transmittal to
Congress;
publication in
Federal Register.

SEC. 202. (a) Any national emergency declared by the President in accordance with this title shall terminate if—

Termination.
50 USC 1622.

(1) Congress terminates the emergency by concurrent resolution; or

(2) the President issues a proclamation terminating the emergency.

Termination date. Any national emergency declared by the President shall be terminated on the date specified in any concurrent resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a concurrent resolution to determine whether that emergency shall be terminated.

Concurrent
resolution,
referral to
congressional
committees.

(c) (1) A concurrent resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a concurrent resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

Conference
committee, filing
of report.

(4) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(5) Paragraphs (1)–(4) of this subsection, subsection (b) of this section, and section 502(b) of this Act are enacted by Congress—

Post, p. 1258.

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

Publication in Federal Register, transmittal to Congress.

TITLE III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

SEC. 301. When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

50 USC 1631.

Executive orders; publication in Federal Register, transmittal to Congress.

TITLE IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

SEC. 401. (a) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

Presidential orders, rules and regulations, file maintenance.
50 USC 1641.

(b) All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

Presidential orders, transmittal to Congress.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declaration, a report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

Expenditures, reports to Congress.

TITLE V—REPEAL AND CONTINUATION OF CERTAIN EMERGENCY POWER AND OTHER STATUTES

- Loss of nationality. SEC. 501. (a) Section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)) is amended—
- (1) at the end of paragraph (9), by striking out “; or” and inserting in lieu thereof a period; and
 - (2) by striking out paragraph (10).
- Leases, non-excess property. (b) Section 2667(b) of title 10 of the United States Code is amended—
- (1) by inserting “and” at the end of paragraph (3);
 - (2) by striking out paragraph (4); and
 - (3) by redesignating paragraph (5) as (4).
- Repeal. (c) The joint resolution entitled “Joint resolution to authorize the temporary continuation of regulation of consumer credit”, approved August 8, 1947 (12 U.S.C. 249), is repealed.
- Repeal. (d) Section 5(m) of the Tennessee Valley Authority Act of 1933 as amended (16 U.S.C. 831d(m)) is repealed.
- Repeal. (e) Section 1383 of title 18, United States Code, is repealed.
- (f) Section 6 of the Act entitled “An Act to amend the Public Health Service Act in regard to certain matters of personnel and administration, and for other purposes”, approved February 28, 1948, is amended by striking out subsections (b), (c), (d), (e), and (f) (42 U.S.C. 211b).
- Repeal. (g) Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742) is repealed.
- Savings provision. 50 USC 1601 note. (h) This section shall not affect—
- (1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;
 - (2) any action or proceeding based on any act committed prior to repeal; or
 - (3) any rights or duties that matured or penalties that were incurred prior to repeal.
- 50 USC 1651. SEC. 502. (a) The provisions of this Act shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:
- (1) Section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a; 50 U.S.C. App. 5(b));
 - (2) Act of April 28, 1942 (40 U.S.C. 278b);
 - (3) Act of June 30, 1949 (41 U.S.C. 252);
 - (4) Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203);
 - (5) Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);
 - (6) Public Law 85-804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431-1435);
 - (7) Section 2304(a)(1) of title 10, United States Code;
 - (8) Sections 3313, 6386(c), and 8313 of title 10, United States Code.

(b) Each committee of the House of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after the date of enactment of this Act.

Congressional
committees,
study; report to
Congress.

Approved September 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-238 (Comm. on the Judiciary).

SENATE REPORT No. 94-1168 (Comm. on Government Operations).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Sept. 4, considered and passed House.

Vol. 122 (1976): Aug. 27, considered and passed Senate, amended.

Aug. 31, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 38 (1976): Sept. 14, Presidential statement.

Public Law 94-413
94th Congress

An Act

Sept. 17, 1976
[H.R. 8800]

To authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles.

Electric and
Hybrid Vehicle
Research,
Development,
and
Demonstration
Act of 1976.
15 USC 2501
note.
15 USC 2501.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976."

SEC. 2. FINDINGS AND POLICY.

(a) The Congress finds and declares that—

(1) the Nation's dependence on foreign sources of petroleum must be reduced, as such dependence jeopardizes national security, inhibits foreign policy, and undermines economic well-being;

(2) the Nation's balance of payments is threatened by the need to import oil for the production of liquid fuel for gasoline-powered vehicles;

(3) the single largest use of petroleum supplies is in the field of transportation, for gasoline- and diesel-powered motor vehicles;

(4) the expeditious introduction of electric and hybrid vehicles into the Nation's transportation fleet would substantially reduce such use and dependence;

(5) such introduction is practicable and would be advantageous because—

(A) most urban driving consists of short trips, which are within the capability of electric and hybrid vehicles;

(B) much rural and agricultural driving of automobiles, tractors, and trucks is within the capability of such vehicles;

(C) electric and hybrid vehicles are more reliable and practical now than in the past because propulsion, control, and battery technologies have improved, and further significant improvements in such technologies are possible in the near term;

(D) electric and hybrid vehicles use little or no energy when stopped in traffic, in contrast to conventional automobiles and trucks;

(E) the power requirements of such vehicles could be satisfied by charging them during off-peak periods when existing electric generating plants are underutilized, thereby permitting more efficient use of existing generating capacity;

(F) such vehicles do not emit any significant pollutants or noise; and

(G) it is environmentally desirable for transportation systems to be powered from central sources, because pollutants emitted from stationary sources (such as electric generating plants) are potentially easier to control than pollutants emitted from moving vehicles; and

(6) the introduction of electric and hybrid vehicles would be facilitated by the establishment of a Federal program of research,

development, and demonstration to explore electric and hybrid vehicle technologies.

(b) It is therefore declared to be the policy of the Congress in this Act to—

(1) encourage and support accelerated research into, and development of, electric and hybrid vehicle technologies;

(2) demonstrate the economic and technological practicability of electric and hybrid vehicles for personal and commercial use in urban areas and for agricultural and personal use in rural areas;

(3) facilitate, and remove barriers to, the use of electric and hybrid vehicles in lieu of gasoline- and diesel-powered motor vehicles, where practicable; and

(4) promote the substitution of electric and hybrid vehicles for many gasoline- and diesel-powered vehicles currently used in routine short-haul, low-load applications, where such substitution would be beneficial.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

15 USC 2502.

(1) “Administrator” means the Administrator of the Energy Research and Development Administration;

(2) “advanced electric or hybrid vehicle” means a vehicle which—

(A) minimizes the total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and represents a substantial improvement over existing electric and hybrid vehicles with respect to the total amount of energy so consumed;

(B) is capable of being mass-produced and operated at a cost and in a manner which is sufficiently competitive to enable it to be produced and sold in numbers representing a reasonable portion of the market;

(C) is safe, damage-resistant, easy to repair, durable, and operates with sufficient performance with respect to acceleration, cold-weather starting, cruising speed, and other performance factors; and

(D) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any applicable requirement of Federal law;

(3) “commercial electric or hybrid vehicle” includes any electric or hybrid vehicle which can be used (A) for business or agricultural production purposes on farms (e.g. tractors and trucks) or in rural areas, or (B) for commercial purposes in urban areas;

(4) “electric vehicle” means a vehicle which is powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and which may include a nonelectrical source of power designed to charge batteries and components thereof;

(5) “hybrid vehicle” means a vehicle propelled by a combination of an electric motor and an internal combustion engine or other power source and components thereof;

(6) “project” means the Electric and Hybrid Vehicle Research, Development, and Demonstration Project established under section 4(a);

- (7) "Secretary" means the Secretary of Transportation; and
 (8) "small business concern" shall have the meaning prescribed by the Administrator after consultation with the Small Business Administration.

SEC. 4. DUTIES OF THE ADMINISTRATOR.

Electric and
Hybrid Vehicle
Research,
Development,
and
Demonstration
Project.
Establishment.
15 USC 2503.

(a) The Administrator shall promptly establish, as an organizational entity within the Energy Research and Development Administration, the Electric and Hybrid Vehicle Research, Development, and Demonstration Project.

(b) The Administrator shall have the responsibility for the overall management of the project. The Administrator may enter into any agreement or other arrangement with the National Aeronautics and Space Administration, the Department of Transportation, the National Science Foundation, the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Agriculture, or any other Federal agency, pursuant to which such agency shall conduct such specified parts or aspects of the project as the Administrator deems necessary or appropriate and within the particular competence of such agency, to the extent that such agency has capabilities which would enable it to contribute to the success of the project and the attainment of the purposes of this Act.

(c) In providing for the effective management of this project, the Administrator shall have specific responsibility to—

(1) promote basic and applied research on electric and hybrid vehicle batteries, controls, and motors;

(2) determine optimum overall electric and hybrid vehicle design;

(3) conduct demonstration projects with respect to the feasibility of commercial electric and hybrid vehicles (A) by contracting for the purchase or lease of electric and hybrid vehicles for practical use, and (B) by entering into arrangements, with other governmental entities and with nongovernmental entities, for the operation of such vehicles;

(4) ascertain consumer needs and desires so as to match the design of electric and hybrid vehicles to their potential market; and

(5) ascertain the long-term changes in road design, urban planning, traffic management, maintenance facilities, utility rate structures, and tax policies which are needed to facilitate the manufacture and use of electric and hybrid vehicles in accordance with sections 13 and 14.

SEC. 5. COORDINATION BETWEEN THE ADMINISTRATOR AND OTHER AGENCIES.

15 USC 2504.

(a) In carrying out the project established under section 4, the Administrator shall, to the maximum extent practicable, consult and coordinate with the Secretary, with respect to any functions of the Administrator under this Act which relate to regulatory activities or other responsibilities of the Secretary, including safety and damageability programs.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government shall carefully consider any written request from the Administrator, or the head of any agency to which the Administrator has delegated responsibility for specified parts or aspects of the project, to furnish such assistance, on a reimbursable basis, as the Administrator or such head deems necessary to

carry out the project and to achieve the purposes of this Act. Such assistance may include transfer of personnel with their consent and without prejudice to their position and rating.

SEC. 6. RESEARCH AND DEVELOPMENT.

The Administrator, acting through appropriate agencies and contractors, shall initiate and provide for the conduct of research and development in areas related to electric and hybrid vehicles, including—

15 USC 2505.

- (1) energy storage technology, including batteries and their potential for convenient recharging;
- (2) vehicle control systems and overall design for energy conservation, including the use of regenerative braking;
- (3) urban design and traffic management to promote maximum transportation-related energy conservation and minimum transportation-related degradation of the environment; and
- (4) vehicle design which emphasizes durability, length of practical lifetime, ease of repair, and interchangeability and replaceability of parts.

SEC. 7. DEMONSTRATIONS.

(a) Within 12 months after the date of enactment of this Act, the Administrator shall develop data characterizing the present state-of-the-art with respect to electric and hybrid vehicles. The data so developed shall serve as baseline data to be utilized in order (1) to compare improvements in electric and hybrid vehicle technologies; (2) to assist in establishing the performance standards under subsection (b) (1); and (3) to otherwise assist in carrying out the purposes of this section. In developing any such data, the Administrator shall purchase or lease a reasonable number of such vehicles or enter into such other arrangements as the Administrator deems necessary to carry out the purposes of this subsection.

Data
development.
15 USC 2506.

(b) (1) Within 15 months after the date of enactment of this Act, the Administrator shall promulgate rules establishing performance standards for electric and hybrid vehicles to be purchased or leased pursuant to subsection (c) (1). The standards so developed shall take into account the factors of energy conservation, urban traffic characteristics, patterns of use for "second" vehicles, consumer preferences, maintenance needs, battery recharging characteristics, agricultural requirements, materials demand and their ability to be recycled, vehicle safety and insurability, cost, and other relevant considerations, as such factors and considerations particularly apply to or affect vehicles with electric or hybrid propulsion systems. Such standards are to be developed taking into account (A) the best current state-of-the-art, and (B) reasonable estimates as to the future state-of-the-art, based on projections of results from the research and development conducted under section 6. In developing such standards, the Administrator shall consult with appropriate experts concerning design needs for electric and hybrid vehicles which are compatible with long-range urban planning, traffic management, and vehicle safety.

Vehicles,
purchase or lease.

Performance
standards, rules.

Consultation.

(2) Separate performance standards shall be established under paragraph (1) with respect to (A) electric or hybrid vehicles for personal use, and (B) commercial electric or hybrid vehicles. Such performance standards shall represent the minimum level of performance which is required with respect to any vehicles purchased or leased pursuant to subsection (c). Initial performance standards under paragraph (b) (1) shall be set at such levels as the Administrator determines are neces-

Performance
standards.

Standards,
revision.

sary to promote the acquisition and use of such vehicles for transportation purposes which are within the capability (as determined by the Administrator) of electric and hybrid vehicles.

(3) Such performance standards shall be revised, by rule, periodically as the state-of-the-art improves, except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c) (2).

Transmittal to
Speaker of the
House, President
of the Senate and
congressional
committees.

(4) Before entering into contracts for the production of vehicles under subsection (c) (2), the Administrator shall transmit to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate, the performance standards developed under paragraph (1), as revised and currently in effect.

Contract for
vehicle purchase
or lease.

(c) (1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b) (1), contract for the purchase or lease of 2,500 electric or hybrid vehicles which satisfy the performance standards set forth under subsection (b) (1). The delivery of such vehicles shall be completed within 39 months after the date of enactment of this Act. If the Administrator determines, on the basis of responses to the solicitation for proposals for such contracts, that less than 2,500 of the electric or hybrid vehicles which satisfy performance standards under subsection (b) (1) will be available within such delivery period, the Administrator shall (A) immediately forward this information along with a detailed justification of such determination to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate, and (B) contract for the purchase or lease of the maximum number of such vehicles (up to 2,500) that will be available within such delivery period. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and types of uses of such vehicles.

Information,
transmittal to
Speaker of the
House, President
of the Senate and
congressional
committees.

(2) (A) The Administrator shall, within 6 months after the required amendment of such standards pursuant to subsection (b) (3), and not later than 54 months after the date of enactment of this Act, contract for the purchase or lease of 5,000 advanced electric or hybrid vehicles, which satisfy such amended standards. The final delivery of such vehicles shall be completed within 72 months after the date of enactment of this Act. If the Administrator determines, on the basis of responses to the solicitation for proposals for such contracts, that less than 5,000 of the electric and hybrid vehicles which satisfy performance standards set forth under subsection (b) (3) will be available within the delivery period (including any extension under subparagraph (B)), the Administrator shall (i) immediately forward this information along with a detailed justification of such determination to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate, and (ii) contract for the purchase or lease of the maximum number of such vehicles (up to 5,000) that will be available during such delivery period. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and types of uses of such vehicles.

Information,
transmittal to
Speaker of the
House, President
of the Senate and
congressional
committees.

Vehicles delivery
period, extension.

(B) The Administrator shall extend the delivery period for such vehicles for a period not to exceed 6 additional months, if he finds that such an extension in delivery date would result in the deliv-

ery of advanced electric and hybrid vehicles which would add to the total number of vehicles to be purchased or leased (up to 5,000) and which would not otherwise be available. If the Administrator finds that such an extension is appropriate and necessary for the delivery of such vehicles, he shall so notify the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate.

Notification to Speaker of the House, President of the Senate and congressional committees.

(d) The Administrator, in supervising the demonstration of vehicles acquired under subsection (c), shall make such arrangements as may be necessary or appropriate—

(1) (A) to make such vehicles available to Federal agencies and to State or local governments and other persons for individual or business use (including farms). The individuals and businesses involved shall be selected by an equitable process which assures that the Administrator will receive accurate and adequate data on vehicle performance, including representative geographical and climatological information and data on user reaction to the utilization of electric and hybrid vehicles. Such individuals and businesses shall be given the option of purchasing or leasing such vehicles under terms and conditions which will promote their widespread use;

(B) to pay the differential operating costs of such vehicles to the extent necessary to assure the adequate demonstration of such vehicles;

(2) for demonstration maintenance projects, including maintenance organization and equipment needs and model training projects for maintenance procedures; and

(3) for the dissemination of data on electric and hybrid vehicle safety and operating characteristics (including nontechnical descriptive data which shall be made available by the Government Printing Office) (A) to Federal, State, and local consumer affairs agencies and groups; (B) to Federal, State, and local agricultural and rural agencies and groups; and (C) to the public.

(e) (1) At least 60 days prior to entering into any contract for the purchase or lease of any electric or hybrid vehicle under subsection (c)(1) or any advanced electric or hybrid vehicle under subsection (c)(2), the Administrator shall determine (A) if the purchase or lease of the number of such vehicles specified in such subsection (c)(1) or (c)(2) will, with high probability, displace the normal level of private procurement of such vehicles which would conform to the applicable performance standards promulgated pursuant to subsection (b) and which would be used in the United States, and (B) if such displacement will occur, the necessary extent of such displacement in order to carry out the purposes of this Act. At the time any such determination is made, the Administrator shall transmit such determination, along with all relevant information in support thereof, to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce of the Senate.

Transmittal to congressional committees.

(2) The Administrator shall reduce the number of vehicles for which he shall contract for the purchase or lease under subsection (c)(1) or (c)(2) by the number determined under paragraph (1) (A) as modified by paragraph (1) (B), except in no event shall he contract for the purchase or lease pursuant to subsection (c)(1) of less than 1,000 electric or hybrid vehicles, and in no event shall he contract

Reduction.

for the purchase or lease pursuant to subsection (c) (2) of less than 2,500 advanced electric or hybrid vehicles unless he determines on the basis of responses to the solicitations for proposals for such contracts, under the provisions of (c) (1) and (c) (2), that lesser numbers of such vehicles which satisfy the applicable performance standards will be available within the delivery periods. All other provisions of subsection (c) shall apply.

SEC. 8. CONTRACTS.

15 USC 2507.

(a) The Administrator shall provide funds, by contract, to initiate, continue, supplement, and maintain research, development, and demonstration activities which are necessary to carry out the purposes of the project. The Administrator may enter into such contracts with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

Consultation.
Procedures.

(b) In addition to the requirements of sections 4 and 5, the Administrator, in the exercise of his duties and responsibilities under this section, shall consult with the Department of Transportation, the Environmental Protection Agency, the Federal Energy Administration, the National Aeronautics and Space Administration, the Department of Agriculture, and representatives of other appropriate Federal agencies, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in electric and hybrid vehicle research, development, and demonstration.

Rules.

Application.

(c) Each contract under this section shall be entered into in accordance with such rules as the Administrator may prescribe in accordance with the provisions of this section. Each application for funding shall be made in writing in such form and with such content and other submissions as the Administrator shall require. The Administrator may enter into contracts under this section without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

SEC. 9. ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS.

15 USC 2508.

(a) The Administrator shall take such steps as are feasible to assure that small business concerns have a realistic and adequate opportunity to participate in the project.

(b) To assist in accomplishing the objectives of subsection (a), the Administrator shall reserve, for contracts with small business concerns, a reasonable portion of the funds made available pursuant to this Act for research, development, or demonstration of electric or hybrid vehicles.

(c) The Administrator shall, in addition to the requirements set forth in subsections (a) and (b)—

(1) include in all contracts for research, development, or demonstration of electric or hybrid vehicles such terms, conditions, and payment schedules as may assist in meeting the needs of small business concerns, and shall take steps to avoid the inclusion in such contracts of any terms, conditions, or penalties which would tend to prevent such concerns from participating in the program under this Act; and

Grants.

(2) make planning grants available to qualified small business concerns which require assistance in developing, submitting, and entering into such contracts.

SEC. 10. LOAN GUARANTEES.

(a) It is the policy of the Congress to assist in the introduction into the Nation's transportation fleet of electric and hybrid vehicles and to assure that qualified small business concerns and other qualified borrowers are not excluded from participation in such development due to lack of adequate capital. Accordingly, it is the policy of the Congress to provide guarantees of loans made for such purposes.

15 USC 2509.

(b) In order to encourage the commercial production of electric and hybrid vehicles, the Administrator is authorized to guarantee, and to enter into commitments to guarantee, principal and interest on loans made by lenders to qualified borrowers, primarily small business concerns, for the purposes of—

- (1) research and development related to electric and hybrid vehicle technology;
- (2) prototype development for such vehicles and parts thereof;
- (3) construction of capital equipment related to research on, and development and production of, electric and hybrid vehicles and components; or
- (4) initial operating expenses associated with the development and production of electric and hybrid vehicles and components.

(c) Any guarantee under this section shall apply only to so much of the principal amount of the loan involved as does not exceed 90 percentum of the aggregate cost of the activity with respect to which the loan is made.

(d) Loan guarantees under this section shall be on such terms and conditions as the Administrator determines, except that a guarantee shall be made under this section only if—

- (1) the loan bears interest at a rate not to exceed such annual percent on the principal obligation outstanding as the Administrator determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;
- (2) the terms of such loan require full repayment over a period not to exceed 15 years;
- (3) in the judgment of the Administrator, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the activity with respect to which the loan is made;
- (4) in the judgment of the Administrator, there is reasonable assurance of repayment of the loan by the qualified borrower; and
- (5) no loan shall be guaranteed by the Administrator under subsection (b) unless the Administrator finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

(e) (1) The amount of the guarantee of any loan shall not exceed \$3,000,000, unless the Administrator finds that a higher guarantee level for specific loan guarantees is necessary in order to carry out the purposes of this Act. If the Administrator makes such finding, he shall immediately report that finding to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate.

Limitation.

(2) The aggregate amount of guarantees outstanding under this section at any one time shall not exceed \$60,000,000.

Report to Speaker of the House, President of the Senate and congressional committees.

(f) As used in this section, the term "qualified borrower" means any partnership, corporation, or other legal entity which (as determined by the Administrator) has presented satisfactory evidence of an interest in electric or hybrid vehicle technology and is capable of

"Qualified borrower."

performing research or completing the development and production of electric or hybrid vehicles or any components thereof in an acceptable manner.

(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the interest charges which become due and payable on the unpaid balance of any such loan if the Administrator finds—

(A) that the borrower is unable to meet interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of his project, and that the probable net cost to the Federal Government in paying such interest will be less than that which would result in the event of a default; and

(B) that the amount of such interest charges which the Administrator is authorized to pay shall be no greater than the amount of interest which the borrower is obligated to pay under the loan agreement.

Defaults.

(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of interest under paragraph (1)) from such assets of the defaulting borrowers as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.

(h) No loan guarantee shall be made, or interest assistance contracts entered into, pursuant to this section, after the expiration of the 5-year period following the date of enactment of this Act.

Applicant,
citizenship
requirement.

(i) An applicant seeking a guarantee under this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 2 of the Shipping Act of 1916 (46 U.S.C. 802), for determining such citizenship, except that the provisions in subsection (a) of such section 2 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable. The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

Waiver.

SEC. 11. USE OF ELECTRIC AND HYBRID VEHICLES BY FEDERAL AGENCIES.

Study.
15 USC 2510.

The Postmaster General of the United States Postal Service, the Administrator of the General Services Administration, the Secretary of Defense, and the heads of other Federal agencies shall—

(1) carry out a study of the practicability of using electric and hybrid vehicles in the performance of some or all of the functions of their agencies; and

(2) arrange for the introduction of electric and hybrid vehicles into their fleets as soon as possible.

For competitive procurement purposes in purchasing such vehicles, life-cycle costing and any beneficial air pollution control characteristics of electric and hybrid vehicles shall be fully taken into account.

If the head of the agency involved determines that electric or hybrid vehicles are technologically practicable, but that they are not completely economically competitive with conventional vehicles, the Administrator may, for purposes of the demonstration program described in section 7, pay to such agency the incremental costs of the electric or hybrid vehicles, including differential operating costs.

SEC. 12. PATENTS.

Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder), entered into, made, or issued by the Administrator pursuant to section 8 of this Act.

15 USC 2511.

SEC. 13. STUDIES.

(a) The Administrator shall conduct a study to determine the existence of any tax, regulatory, traffic, urban design, rural electrical, or other institutional factor which tends or may tend to bias surface transportation systems toward vehicles of particular characteristics. The Administrator shall submit a report to the Congress on the findings and conclusions of such study, within 1 year after the date of the enactment of this Act. The report shall include any legislative or other recommendations of the Administrator.

15 USC 2512.

Report to Congress.
Legislative recommendations.
Material demand and pollution, assessment.

(b) The Administrator shall conduct a continuing assessment of the long-range material demand and pollution effects which may result from or in connection with the electrification of urban traffic. Such assessment shall include a statement of the Administrator's current findings in each report submitted under section 14. Any environmental impact statement which may be filed under a Federal law with respect to research, development, or demonstration activities under this Act shall include reference to the matters which are subject to assessment under this subsection.

(c) The Administrator shall perform, or cause to be performed, studies and research on incentives to promote broader utilization and consumer acceptance of electric and hybrid vehicle technologies. A description and a statement of the findings of such studies and research activities shall be included in each report submitted under section 14.

(d) The Secretary shall conduct a study of the current and future applicability of safety standards and regulations to electric and hybrid vehicles. The Secretary shall report the results of such study to the Administrator and the Congress within 1 year after the date of enactment of this Act.

Report to Energy Research and Development Administration and Congress.

(e) The Administrator shall conduct a study to determine the overall effectiveness and feasibility of including regenerative braking systems on electric and other automobiles in order to recover energy. In such study the Administrator shall—

- (1) review the history of regenerative braking devices;
- (2) describe relevant experimental test data and theoretical calculations with respect to such devices;
- (3) assess the net energy impacts and cost effectiveness of such devices;
- (4) examine present patents and patent policy regarding such devices; and
- (5) determine whether regenerative braking should be used on some of the advanced electric or hybrid vehicles to be purchased or leased pursuant to section 7(c)(2). The Administrator shall submit a report to the Congress on the findings and conclusions of such study within 1 year after the date of enactment of this Act.

Report to Congress.

SEC. 14. ANNUAL REPORT.

Submittal to
Congress.
15 USC 2513.

The Administrator shall submit to the Congress annually a report on all activities being undertaken or carried out pursuant to the provisions of this Act, including—

(1) such projections and estimates as may be necessary to evaluate the progress of the project and to indicate the extent to which, and the pace at which, the objectives of this Act are being achieved; and

(2) a statement of the extent to which imported automobile chassis or components are being used, or are desirable, for the production of vehicles under section 7, and of the extent to which restrictions imposed by law or regulation upon the importation or use of such chassis or components are impeding the achievement of the purposes of this Act.

Legislative
recommendations.

Each such report shall also include any recommendations which the Administrator may deem appropriate for legislation or related action which might further the purposes of this Act.

SEC. 15. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT.

Ground
propulsion
systems research
and development.

(a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended (1) by redesignating subsection (d) thereof as subsection (e) thereof; and (2) by inserting immediately after subsection (c) thereof the following new subsection:

“(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward ground propulsion systems research and development. Such development shall be conducted so as to contribute to the objectives of developing energy- and petroleum-conserving ground propulsion systems, and of minimizing the environmental degradation caused by such systems.”.

(b) Section 102(e) of such Act, as redesignated by paragraph (1) of this subsection, is amended by striking out “and (c)” and inserting in lieu thereof “(c), and (d)”.

(c) Section 203 of such Act (42 U.S.C. 2473) is amended (A) by redesignating subsection (b) thereof as subsection (c) thereof, and (B) by inserting immediately after subsection (a) thereof the following new subsection:

“(b) The Administration shall, to the extent of appropriated funds, initiate, support, and carry out such research, development, demonstration, and other related activities in ground propulsion technologies as are provided for in sections 4 through 10 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.”.

SEC. 16. AUTHORIZATION FOR APPROPRIATIONS.

15 USC 2514.

(a) There are authorized to be appropriated to the Administrator, for purposes of carrying out this Act, (1) not to exceed \$30,000,000 for the fiscal year ending September 30, 1977, except that at least \$10,000,000 of such authorization shall be allocated for battery research and development; (2) not to exceed \$40,000,000 for the fiscal year ending September 30, 1978; (3) not to exceed \$25,000,000 for the fiscal year ending September 30, 1979; (4) not to exceed \$20,000,000 for the fiscal year ending September 30, 1980; and (5) not to exceed \$45,000,000 for the fiscal year ending September 30, 1981. Any amount appropri-

ated pursuant to this section shall remain available until expended, and any amount authorized for any fiscal year prior to the fiscal year ending September 30, 1981, but not appropriated, may be appropriated for any succeeding fiscal year through the fiscal year ending September 30, 1983.

(b) Any moneys received by the Administrator from vehicle sales or leases or other activities under this Act may be retained and used for purposes of carrying out this Act, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended; but the amount authorized to be appropriated for any fiscal year under subsection (a) shall be reduced by the amount of the moneys so received in that year.

CARL ALBERT

Speaker of the House of Representatives.

PATRICK J. LEAHY

Acting President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.

September 16, 1976.

The House of Representatives having proceeded to reconsider the bill (H.R. 8800) entitled "An Act to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDMUND L. HENSHAW, JR.

Clerk.

By Benjamin J. Guthrie

I certify that this Act originated in the House of Representatives.

EDMUND L. HENSHAW, JR.

Clerk.

IN THE SENATE OF THE UNITED STATES,

September 17, 1976.

The Senate having proceeded to reconsider the bill (H.R. 8800) "An Act to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO
Secretary.

By Harold G. Ast
Legislative Clerk

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-439 (Comm. on Science and Technology) and No. 94-1363 (Comm. of Conference).

SENATE REPORTS: No. 94-836 accompanying S. 1632 (Comm. on Commerce) and No. 94-1048 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Sept. 5, considered and passed House.

Vol. 122 (1976): June 14, considered and passed Senate, amended, in lieu of S. 1632.

Aug. 26, Senate agreed to conference report.

Aug. 31, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 38 (1976): Sept. 13, vetoed; Presidential message.

CONGRESSIONAL RECORD:

Vol. 122 (1976): Sept. 16, House overrode veto.

Sept. 17, Senate overrode veto.

Public Law 94-414
94th Congress

An Act

To amend section 584 of the Internal Revenue Code of 1954 with respect to the treatment of affiliated banks for purposes of the common trust fund provisions of such Code.

Sept. 17, 1976
[H.R. 5071]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 584(a) of the Internal Revenue Code of 1954 (relating to common trust funds) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, two or more banks which are members of the same affiliated group (within the meaning of section 1504) shall be treated as one bank for the period of affiliation with respect to any fund of which any of the member banks is trustee or two or more of the member banks are cotrustees."

Taxes.
Common trust
funds, treatment
of affiliated
banks.
26 USC 584.

SEC. 2. The amendment made by the first section of this Act shall apply to taxable years beginning after December 31, 1975.

26 USC 584 note.

SEC. 3. WITHHOLDING; ESTIMATED TAX PAYMENTS.

(a) WITHHOLDING.—

(1) IN GENERAL.—Section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

26 USC 3402.

(2) TECHNICAL AMENDMENT.—Section 209(c) of the Tax Reduction Act of 1975 is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

Ante, p. 1201.
26 USC 3402
note.

(b) ESTIMATED TAX PAYMENTS BY INDIVIDUALS.—Section 6153(g) of such Code (relating to installment payments of estimated income by individuals) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

26 USC 6153.

(c) ESTIMATED TAX PAYMENTS BY CORPORATIONS.—Section 6154(h) of such Code (relating to installment payments of estimated income by corporations) is amended by striking out "September 15, 1976" and inserting in lieu thereof "October 1, 1976".

26 USC 6154.

Approved September 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-892 (Comm. on Ways and Means).

SENATE REPORT No. 94-1183 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May. 13, considered and passed House.

Sept. 14, considered and passed Senate, amended; House concurred in Senate amendment.

Public Law 94-415
94th Congress

An Act

Sept. 17, 1976
[H.R. 6622]

To provide for repair of the Del City aqueduct, a feature of the Norman Federal reclamation project, Oklahoma.

Del City
aqueduct, Okla.
Repair.

43 USC
615aa-615hh.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to enter into an amendatory contract with the Central Oklahoma Master Conservancy District, organized under the laws of the State of Oklahoma, providing for an adjustment of the payment obligations of the Central Oklahoma Conservancy District under the contract of September 5, 1961, between said district and the United States pursuant to an Act of June 27, 1960 (74 Stat. 225); said adjustment of repayment obligations to be equal to the costs incurred by said district to repair the Del City aqueduct, which, in the opinion of the Secretary of Interior, are in excess of the costs of normal operation, maintenance, and replacement: *Provided*, That any such costs shall be credited so as to reduce the repayment obligation of said district annually at the end of the year during which said costs are incurred.

Approved September 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-481 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-1179 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 6, considered and passed House.

Vol. 122 (1976): Sept. 7, considered and passed Senate.

Public Law 94-416
94th Congress

An Act

To repeal the Act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico.

Sept. 17, 1976
[S. 217]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled “An Act to provide for the condemnation of the lands of the Pueblo Indians in New Mexico for public purposes, and making the laws of the State of New Mexico applicable in such proceedings”, approved May 10, 1926 (44 Stat. 498), is hereby repealed.

Pueblo Indians,
N. Mex.
Land
condemnation.
Repeal.

SEC. 2. Immediately upon enactment of this Act, all proceedings and actions pursuant to the Act of May 10, 1926 (44 Stat. 498), pending on or commenced on the date of enactment of this Act shall be held and considered to have terminated as of the date of enactment of this Act, and thereafter to be of no force and effect: *Provided, however,* That nothing herein shall be interpreted as terminating or otherwise affecting any right of timely appeal (otherwise available but for the enactment of this Act) from any such proceeding or action in which a final decree or order has been entered before the date of enactment of this Act.

SEC. 3. The Act of April 21, 1928 (45 Stat. 442), is hereby amended by striking all after the enacting clause and inserting, in lieu, the following:

25 USC 322.

“That the provisions of the following statutes:

“Sections 3 and 4 of the Act of March 3, 1901 (31 Stat. 1083 and 1084);

25 USC 319,
357, 311.

“The Act of March 2, 1899 (30 Stat. 990), as amended;

25 USC
312-318.

“Sections 1 and 2 of the Act of March 11, 1904 (33 Stat. 65), as amended; and

25 USC 321.
25 USC
323-328.

“The Act of February 5, 1948 (62 Stat. 17),

are extended over and made applicable to the Pueblo Indians of New Mexico and their lands, whether owned by the Pueblo Indians or held in trust or set aside for their use and occupancy by Executive order or otherwise, under such rules, regulations, and conditions as the Secretary of the Interior may prescribe.

“SEC. 2. Notwithstanding such provisions, the Secretary of the Interior may, without the consent of the affected Pueblo Tribes, grant one renewal for a period not to exceed ten years of any right-of-way acquired through litigation initiated under the Act of May 10, 1926 (44 Stat. 498), or by compromise and settlement in such litigation, prior to January 1, 1975. The Secretary shall require, as compensation for the Pueblo involved, the fair market value, as determined by the Secretary, of the grant of such renewal. The Secretary may grant such right-of-way renewal under this section only in the event the owner of such existing right-of-way and the Pueblo Tribe involved cannot

Right-of-way
renewal.
25 USC 322a.

Condition.

44 Stat. 498.

reach agreement on renewal within ninety days after such renewal is requested. Nothing in this section shall be deemed to validate or authorize the renewal of a right-of-way which is otherwise invalid by reason of the invalidity of the Act of May 10, 1926, on the date said right-of-way was originally obtained.”.

Approved September 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-800 (Comm. on Interior and Insular Affairs) and No. 94-1439 (Comm. of Conference).

SENATE REPORT No. 94-148 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): May 21, considered and passed Senate.

Vol. 122 (1976): Feb. 2, considered and passed House, amended.

Aug. 31, House agreed to conference report.

Sept. 7, Senate agreed to conference report.

Public Law 94-417
94th Congress

An Act

To amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes.

Sept. 21, 1976
[H.R. 10394]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 641 of title 38, United States Code, is amended to read as follows:

Veterans.
Care and
treatment in State
homes.

“§ 641. Criteria for payment

“(a) The Administrator shall pay each State at the per diem rate of—

- “(1) \$5.50 for domiciliary care,
- “(2) \$10.50 for nursing home care, and
- “(3) \$11.50 for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

“(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veterans' care in such State home.”.

(b) Paragraph (19) of section 101 of title 38, United States Code, is amended by striking out “of any war (including the Indian Wars)” in the first sentence and “of any war” in the second sentence.

(c) (1) The amendments made by subsection (a) of this section shall be effective on October 1, 1976.

Effective date.
38 USC 641 note.

(2) At the time of the first payment to a State under section 641 of title 38, United States Code, as amended by subsection (a) of this section, the Administrator of Veterans' Affairs shall pay such State, in a lump sum, an amount equal to the difference between the total amount paid each such State under such section 641 for care provided by such State in a State home from January 1, 1976, to October 1, 1976, and the amount such State would have been paid for providing such care if the amendment made by subsection (a) of this section had been effective on January 1, 1976.

Approved September 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-705 (Comm. on Veterans' Affairs).

SENATE REPORT No. 94-1164 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 15, considered and passed House.

Vol. 122 (1976): Aug. 30, considered and passed Senate, amended.

Sept. 9, House concurred in Senate amendment.

Public Law 94-418
94th Congress

An Act

Sept. 21, 1976
[S. 3669]

To provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States as a permanent loan by the Board of Trustees of the National Gallery of Art.

National Gallery
of Art.
Loan funds,
interest
adjustments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the acceptance of a permanent loan to the United States by the Board of Trustees of the National Gallery of Art, and for other purposes", approved April 10, 1943 (20 U.S.C. 74a), is amended by striking out "the rate of 4 per centum per annum," and inserting in lieu thereof "a rate which is the higher of the rate of 4 per centum per annum or a rate which is .25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum,".

Approved September 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1395 accompanying H.R. 14803 (Comm. on House Administration).

SENATE REPORT No. 94-1139 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 25, considered and passed Senate.

Sept. 9, considered and passed House, in lieu of H.R. 14803.

Public Law 94-419
94th Congress

An Act

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

Sept. 22, 1976
[H.R. 14262]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1977, for military functions administered by the Department of Defense, and for other purposes, namely:

Department of
Defense
Appropriation
Act, 1977.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere); \$8,564,011,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; \$6,002,268,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); \$1,854,334,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; \$7,136,706,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while undergoing reserve training or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, as authorized by law; \$469,919,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, as authorized by law; \$215,010,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, as authorized by law; \$78,173,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Air Reserve Officers' Training Corps, as authorized by law; \$163,807,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under sections 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while undergoing training, or while performing drills or equivalent duty, as authorized by law; \$714,665,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under sections 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while undergoing training, or while performing drills or equivalent duty, as authorized by law; \$219,515,000.

TITLE II

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

For retired pay and retirement pay, as authorized by law, of military personnel on the retired lists of the Army, Navy, Marine Corps, and the Air Force, including the reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve, and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code; \$8,381,700,000.

10 USC 1448
note.
10 USC 1431 *et*
seq.

TITLE III

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$2,929,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; \$7,898,285,000, of which not less than \$480,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$4,462,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; \$9,565,164,000, of which not less than \$243,000,000 shall be available only for the maintenance of real property facilities: *Provided*, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than \$1,733,085,000 shall be available for the performance of such work in Navy shipyards of which not less than \$22,000,000 shall be available for such work only at the Ship Repair Facilities, Guam.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; \$569,288,000, of which not less than \$74,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not

to exceed \$2,393,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; \$8,107,077,000, of which not less than \$380,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency), as authorized by law; as follows: for the Secretary of Defense activities, \$897,130,000, of which \$581,830,000 shall be available only for the Civilian Health and Medical Program of the Uniformed Services, and \$242,800,000 shall be available only for Overseas Dependents Education; for the organization of the Joint Chiefs of Staff, \$13,100,000; for the Office of Information for the Armed Forces, \$17,600,000; for the Defense Contract Audit Agency, \$72,500,000; for the Defense Investigative Service, \$28,000,000; for the Defense Mapping Agency, \$198,400,000; for the Defense Nuclear Agency, \$24,500,000; for the Uniformed Services University of the Health Sciences, \$5,600,000; for the Defense Supply Agency, \$839,800,000; and for intelligence and communications activities, \$622,270,000; in all: \$2,718,900,000: *Provided*, That of the total amount of this appropriation, not to exceed \$8,384,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That not less than \$30,000,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities: *Provided further*, That the Secretary of Defense may transfer up to 3 per centum of the amount of any subdivision of this appropriation to any other subdivision of this appropriation, but no subdivision may thereby be increased by more than 5 per centum and the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

Transfers, notice
to Congress.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$356,100,000, of which not less than \$22,800,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$288,000,000, of which not less than \$13,500,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$14,800,000, of which not less than \$500,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$350,700,000, of which not less than \$8,000,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); \$706,200,000, of which not less than \$15,800,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; \$774,600,000, of which not less than \$8,800,000 shall be available only for the maintenance of real property facilities.

ARMY STOCK FUND

For the Army stock fund, \$100,000,000.

NAVY STOCK FUND

For the Navy stock fund, \$32,000,000.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund, \$6,200,000.

AIR FORCE STOCK FUND

For the Air Force stock fund, \$58,800,000.

DEFENSE STOCK FUND

For the Defense Agencies stock fund, \$22,800,000.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; \$291,000, of which amount not to exceed \$7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed \$329,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; \$82,500,000.

CONTINGENCIES, DEFENSE

For emergency and extraordinary expenses arising in the Department of Defense, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes; \$2,500,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; \$1,239,000.

TITLE IV

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$541,900,000, to remain available for obligation until September 30, 1979.

40 USC 255.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$497,400,000, to remain available for obligation until September 30, 1979.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$1,089,800,000, and in addition \$27,800,000 which shall be derived by transfer from "Procurement of Weapons and Tracked Combat Vehicles, Army, July 1, 1976/1978", to remain available for obligation until September 30, 1979.

PROCUREMENT OF AMMUNITION, ARMY

40 USC 255.

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts, and the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$902,900,000, to remain available for obligation until September 30, 1979.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed two thousand seven hundred and sixty-five passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$1,366,600,000, to remain available for obligation until September 30, 1979.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment, expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$2,843,500,000, to remain available for obligation until September 30, 1979.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and

private plants; reserve plant and Government and contractor-owned equipment layaway; \$2,022,200,000, to remain available for obligation until September 30, 1979.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; as follows: for the Trident submarine program, \$791,500,000; for the SSN-688 nuclear attack submarine program, \$958,700,000; for the CG-26 U.S.S. Belknap conversion program, \$213,000,000; for the CVN nuclear attack aircraft carrier program, \$350,000,000; for the U.S.S. Long Beach conversion program, \$371,000,000; for the FFG guided missile frigate program, \$1,179,500,000; for the AD destroyer tender program, \$260,400,000; for the AS submarine tender program, \$260,900,000; for the AO fleet oiler program, \$102,300,000; for service craft, outfitting, post delivery, cost growth, and escalation on prior year programs, \$1,707,700,000, in all: \$6,195,000,000, to remain available for obligation until September 30, 1981: *Provided*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

40 USC 255.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion), purchase of not to exceed nine hundred and forty-nine passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$2,173,400,000, to remain available for obligation until September 30, 1979.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and vehicles for the Marine Corps, including purchase of not to

exceed one hundred and fifty-four passenger motor vehicles for replacement only; \$328,400,000, to remain available for obligation until September 30, 1979.

AIRCRAFT PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

40 USC 255.

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$6,067,700,000, and in addition, \$21,500,000, of which \$8,600,000 shall be derived by transfer from "Aircraft Procurement, Air Force, 1976/1978", and \$12,900,000 which shall be derived by transfer from "Aircraft Procurement, Air Force, July 1, 1976/1978", to remain available for obligation until September 30, 1979. Until February 1, 1977, the obligation of funds appropriated in this Act for the procurement of the B-1 bomber shall be limited to a cumulative rate of not to exceed \$87,000,000 per month.

MISSILE PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of missiles, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$1,827,700,000, and in addition, \$33,300,000, which shall be derived by transfer from "Missile Procurement, Air Force, 1976/1978", to remain available for obligation until September 30, 1979.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed one thousand two hundred and fifteen passenger motor vehicles of which one thousand one hundred and ninety-four shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section

9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; \$2,309,700,000, to remain available for obligation until September 30, 1979. 40 USC 255.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Preparedness Agency) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; purchase of three hundred and eighty-seven passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; \$250,100,000, to remain available for obligation until September 30, 1979.

TITLE V

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$2,280,816,000, to remain available for obligation until September 30, 1978.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$3,722,792,000, to remain available for obligation until September 30, 1978.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$3,749,530,000, to remain available for obligation until September 30, 1978.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments and the Defense Civil Prepared-

Transfer and
merger of funds.

ness Agency), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$651,280,000, to remain available for obligation until September 30, 1978: *Provided*, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: *Provided further*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; \$30,000,000, to remain available for obligation until September 30, 1978.

TITLE VI

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; \$3,665,000, to remain available for obligation until September 30, 1978: *Provided*, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VII

GENERAL PROVISIONS

Publicity or
propaganda.

SEC. 701. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Experts or
consultants.

SEC. 702. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty station and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

Employment of
noncitizens.
31 USC 700.

SEC. 703. During the current fiscal year, provisions of law prohibit-

ing the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 704. Appropriations contained in this Act shall be available for insurance of official motor vehicles in foreign countries, when required by laws of such countries; payments in advance of expenses determined by the investigating officer to be necessary and in accord with local custom for conducting investigations in foreign countries incident to matters relating to the activities of the department concerned; reimbursement of General Services Administration for security guard services for protection of confidential files; reimbursement of the Federal Bureau of Investigation for expenses in connection with investigation of defense contractor personnel; and all necessary expenses, at the seat of government of the United States of America or elsewhere, in connection with communication and other services and supplies as may be necessary to carry out the purposes of this Act.

Appropriations,
availability.

SEC. 705. Any appropriation available to the Army, Navy, or the Air Force may, under such regulations as the Secretary concerned may prescribe, be used for expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status is determined by the Secretary concerned to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamation.

Prisoners of war.
31 USC 649a.

SEC. 706. Appropriations available to the Department of Defense for the current fiscal year for maintenance or construction shall be available for acquisition of land or interest therein as authorized by sections 2672 or 2675 of title 10, United States Code.

Land acquisition.

SEC. 707. Appropriations for the Department of Defense for the current fiscal year shall be available, (a) except as authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for primary and secondary schooling for minor dependents of military and civilian personnel of the Department of Defense residing on military or naval installations or stationed in foreign countries, as authorized for the Navy by section 7204 of title 10, United States Code, in an amount not exceeding \$248,000,000, when the Secretary of the Department concerned finds that schools, if any, available in the locality, are unable to provide adequately for the education of such dependents: *Provided*, That under such regulations as may be issued by the Secretary of Defense, such schooling in a school operated by the Department of Defense under this section may be provided without tuition for minor dependents of civilian and military personnel of the Department of Defense who died while entitled to compensation or active duty pay: *Provided further*, That where such personnel die subsequent to January 11, 1971, such schooling must be continued or commenced within one year after the date of death; (b) for expenses in connection with administration of occupied areas; (c) for payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (d) for payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (e) for leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of title 43, United States Code, section 315q, rentals may be paid in advance; (f) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (g) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23,

Dependents'
schooling.

Deficiency
judgments.
Leasing.

Tools,
maintenance.
Access roads.

Milk program.

United States Code; (h) for the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 1446a, title 7, United States Code, and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (i) transporting civilian clothing to the home of record of selective service inductees and recruits on entering the military services; (j) payments under leases for real or personal property for twelve months beginning at any time during the fiscal year; and (k) pay and allowances of not to exceed nine persons, including personnel detailed to International Military Headquarters and Organizations, at rates provided for under section 625(d) (1) of the Foreign Assistance Act of 1961, as amended.

22 USC 2385.

Incidental expenses, payment.
10 USC 858 note.

SEC. 708. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed \$25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in hospitals; (e) expenses of prisoners confined in non-military facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin American cooperation as authorized for the Navy by law (10 U.S.C. 7208); (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed \$25 in any one case; and (k) expenses of arrangements with foreign countries for cryptologic support.

10 USC 807 note.

Small business assistance.

SEC. 709. Insofar as practicable, the Secretary of Defense shall assist American small business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by making available or causing to be made available to suppliers in the United States, and particularly to small independent enterprises, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by making available or causing to be made available to purchasing and contracting agencies of the Department of Defense information as to commodities and services produced and furnished by small independent enterprises in the United States, and by otherwise helping to give small business an opportunity to participate in the furnishings of commodities and services financed with funds appropriated by this Act.

Mess operations.

SEC. 710. No appropriation contained in this Act shall be available for expenses of operation of messes (other than organized messes the operating expenses of which are financed principally from nonappropriated funds) at which meals are sold to officers or civilians, except under regulations approved by the Secretary of Defense, which shall (except under unusual or extraordinary circumstances) establish rates for such meals sufficient to provide reimbursements of operating expenses and food costs to the appropriations concerned: *Provided*, That officers and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at the rate of not less

than \$2.50 per day: *Provided further*, That for the purposes of this section payments for meals at the rates established hereunder may be made in cash or by deduction from the pay of civilian employees: *Provided further*, That members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.

SEC. 711. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Fiscal year
limitation.

SEC. 712. Appropriations of the Department of Defense available for operation and maintenance may be reimbursed during the current fiscal year for all expenses involved in the preparation for disposal and for the disposal of military supplies, equipment, and materiel, and for all expenses of production of lumber or timber products pursuant to section 2665 of title 10, United States Code, from amounts received as proceeds from the sale of any such property: *Provided*, That a report of receipts and disbursements under this limitation shall be made quarterly to Congress: *Provided further*, That no funds available to agencies of the Department of Defense shall be used for the operation, acquisition, or construction of new facilities or equipment for new facilities in the continental limits of the United States for metal scrap baling or shearing or for melting or sweating aluminum scrap unless the Secretary of Defense or an Assistant Secretary of Defense designated by him determines, with respect to each facility involved, that the operation of such facility is in the national interest.

Reimbursable
appropriations.

Report to
Congress.
50 USC 100a.

SEC. 713. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense.

Funds,
apportionment
exemption.

31 USC 665.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of Revised Statutes 3732 (41 U.S.C. 11).

Airborne alert
expenses.

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of Revised Statutes 3732 (41 U.S.C. 11).

Military
personnel
increases,
expenses.

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

Report to
Congress.

SEC. 714. No appropriation contained in this Act shall be available in connection with the operation of commissary stores of the agencies of the Department of Defense for the cost of purchase (including commercial transportation in the United States to the place of sale but excluding all transportation outside the United States) and maintenance of operating equipment and supplies, and for the actual or estimated cost of utilities as may be furnished by the Government and of shrinkage, spoilage, and pilferage of merchandise under the control of such commissary stores, except as authorized under regulations promulgated by the Secretaries of the military departments concerned with the approval of the Secretary of Defense, which regu-

Commissary
stores.

Free utilities
outside U.S. and
in Alaska.

lations shall provide for reimbursement therefor to the appropriations concerned and, notwithstanding any other provision of law, shall provide for the adjustment of the sales prices in such commissary stores to the extent necessary to furnish sufficient gross revenue from sales of commissary stores to make such reimbursement: *Provided*, That under such regulations as may be issued pursuant to this section all utilities may be furnished without cost to the commissary stores outside the continental United States and in Alaska: *Provided further*, That no appropriation contained in this Act shall be available in connection with the operation of commissary stores within the continental United States unless the Secretary of Defense has certified that items normally procured from commissary stores are not otherwise available at a reasonable distance and a reasonable price in satisfactory quality and quantity to the military and civilian employees of the Department of Defense.

Proficiency
flying.

SEC. 715. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

Household goods.

SEC. 716. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of thirteen thousand five hundred pounds.

Vessels, transfer.
40 USC 483a.

SEC. 717. Vessels under the jurisdiction of the Department of Commerce, the Department of the Army, Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

Obligated funds,
limitation.

SEC. 718. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

Foreign real
property, use.

SEC. 719. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

31 USC 700a.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of

Report to
Congress and
Office of
Management and
Budget.

Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 720. During the current fiscal year, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the service concerned.

Research and
development
funds.

SEC. 721. No appropriation contained in this Act shall be available for the payment of more than 75 per centum of charges of educational institutions for tuition or expenses of off-duty training of military personnel, nor for the payment of any part of tuition or expenses for such training for commissioned personnel who do not agree to remain on active duty for two years after completion of such training.

Education
expenses,
restriction.

SEC. 722. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

ROTC loyalty
requirements.
10 USC 2103
note.

SEC. 723. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding \$10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

Procurement
restrictions.

SEC. 724. None of the funds appropriated in this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories or possessions, as to which the Secretary of Defense does not certify in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Service facilities.

SEC. 725. During the current fiscal year, appropriations of the Department of Defense shall be available for reimbursement to the United States Postal Service for payment of costs of commercial air

Airmail
reimbursement.

	transportation of military mail between the United States and foreign countries.
Furnishings and automobiles, purchase.	SEC. 726. Appropriations contained in this Act shall be available for the purchase of household furnishings, and automobiles from military and civilian personnel on duty outside the continental United States, for the purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of the Department of Defense on duty outside the continental United States or in Alaska, upon a determination, under regulations approved by the Secretary of Defense, that such action is advantageous to the Government.
Uniforms.	SEC. 727. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901; 80 Stat. 508).
Legislative liaison activities.	SEC. 728. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed \$5,000,000 for fiscal year 1977: <i>Provided</i> , That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense.
Civil reserve air fleet.	SEC. 729. Of the funds made available by this Act for the services of the Military Airlift Command, \$100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: <i>Provided</i> , That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil air fleet.
Civilian clothing.	SEC. 730. During the current fiscal year, appropriations available to the Department of Defense for operation may be used for civilian clothing, not to exceed \$40 in cost for enlisted personnel: (1) discharged for misconduct, unfitness, unsuitability, or otherwise than honorably; (2) sentenced by a civil court to confinement in a civil prison or interned or discharged as an alien enemy; or (3) discharged prior to completion of recruit training under honorable conditions for dependency, hardship, minority, disability, or for the convenience of the Government.
Defense contractors' advertising costs, restrictions.	SEC. 731. No part of the funds appropriated herein shall be available for paying the costs of advertising by any defense contractor, except advertising for which payment is made from profits, and such advertising shall not be considered a part of any defense contract cost. The prohibition contained in this section shall not apply with respect to advertising conducted by any such contractor, in compliance with regulations which shall be promulgated by the Secretary of Defense, solely for (1) the recruitment by the contractor of personnel required for the performance by the contractor of obligations under a defense contract, (2) the procurement of scarce items required by the contractor for the performance of a defense contract, or (3) the disposal of scrap or surplus materials acquired by the contractor in the performance of a defense contract.
New facilities, restriction.	SEC. 732. Funds appropriated in this Act for maintenance and repair of facilities and installations shall not be available for acquisition of new facilities, or alteration, expansion, extension, or addition of existing facilities, as defined in Department of Defense Directive 7040.2,

dated January 18, 1961, in excess of \$75,000: *Provided*, That the Secretary of Defense may amend or change the said directive during the current fiscal year, consistent with the purpose of this section.

SEC. 733. During the current fiscal year, upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$750,000,000 of the appropriations or funds available to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

Transfer of funds.

Notice to Congress.

SEC. 734. None of the funds appropriated in this Act may be used to make payments under contracts for any program, project, or activity in a foreign country unless the Secretary of Defense or his designee, after consultation with the Secretary of the Treasury or his designee, certifies to the Congress that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law is not feasible for the purpose, stating the reason therefor.

Contract payments in foreign countries.

SEC. 735. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. No obligations may be made against a working capital fund to procure war reserve material inventory unless the Secretary of Defense has notified the Congress prior to any such obligation.

Working capital funds.

SEC. 736. No part of the funds appropriated under this Act shall be used to pay salaries of any Federal employee who is convicted in any Federal, State, or local court of competent jurisdiction, of inciting, promoting, or carrying on a riot, or any group activity resulting in material damage to property or injury to persons, found to be in violation of Federal, State, or local laws designed to protect persons or property in the community concerned.

Convicted rioters.

SEC. 737. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

Campus disrupters.

SEC. 738. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

Heating plant conversion.

SEC. 739. None of the funds appropriated by this Act shall be available for any research involving uninformed or nonvoluntary human beings as experimental subjects.

Involuntary experimental subjects.

SEC. 740. Appropriations for the current fiscal year for operation and maintenance of the active forces shall be available for medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment); welfare and recreation; hire of passenger motor vehicles; repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public or private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions.

Reprogramming
of funds.

SEC. 741. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for the reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

Health program,
restrictions.

SEC. 742. No funds appropriated in this Act shall be available to pay claims for nonemergency inpatient hospital care provided under the Civilian Health and Medical Program of the Uniformed Services for services available at a facility of the uniformed services within a 40-mile radius of the patient's residence.

SEC. 743. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem with results of that treatment to be communicated back to the physician who made such referral; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) reconstructive surgery justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts, and sex gender changes; or (f) any other service or supply which is not medically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by a physician, dentist, or a clinical psychologist, as appropriate.

Ammunition
plants,
restriction.

SEC. 744. None of the funds appropriated in this Act may be expended by the Department of the Army for the design, procurement of plant equipment, or construction of new ammunition plant facilities except in areas in which existing ammunition plant facilities are being closed, placed in layaway, or at which production has been curtailed.

SEC. 745. Funds appropriated in this Act shall be available for the appointment, pay, and support of persons appointed as cadets and midshipmen in the two-year Senior Reserve Officers' Training Corps course in excess of the 20 percent limitation on such persons imposed by section 2107(a) of title 10, United States Code, but not to exceed 60 percent of total authorized scholarships.

SEC. 745a. None of the funds appropriated in this Act shall be available for the operation and support of more than four Naval districts as established by sections 5221 and 5222, title 10, United States Code, after June 30, 1977.

SEC. 746. None of the funds appropriated by this Act shall be available to pay any member of the uniformed service for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976.

Unused accrued leave.

SEC. 747. None of the funds appropriated in this Act may be used to pay any claim over \$5,000,000 against the United States, unless such claim has been thoroughly examined and evaluated by officials of the Department of Defense responsible for determining such claims and a report is made to the Congress as to the validity of these claims.

Claim payments, restriction.

SEC. 748. None of the funds appropriated by this Act may be used to support more than 300 enlisted aides for officers in the United States Armed Forces.

Enlisted aides, limitation.

SEC. 749. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of \$24,000,000.

Public affairs activities.

SEC. 750. Unless otherwise specified and during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided*, That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than \$4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal-clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

Compensation.
31 USC 699b.

TITLE VIII—RELATED AGENCY

INTELLIGENCE COMMUNITY OVERSIGHT

For necessary expenses for intelligence community oversight, \$5,600,000.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND

For payment to the Central Intelligence Agency Retirement and Disability Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, \$28,300,000, subject to the enactment of legislation authorizing such payment.

Short title.

This Act may be cited as the "Department of Defense Appropriation Act, 1977".

Approved September 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1231 (Comm. on Appropriations) and No. 94-1475 (Comm. of Conference).

SENATE REPORT No. 94-1046 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 17, considered and passed House.

Aug. 2, 9, considered and passed Senate, amended.

Sept. 9, House agreed to conference report; receded and concurred with amendments to certain Senate amendments.

Sept. 13, Senate agreed to conference report; concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 39:

Sept. 22, Presidential statement.

Public Law 94-420
94th Congress

An Act

To designate the Veterans' Administration hospital in Madison, Wisconsin, as the "William S. Middleton Memorial Veterans' Hospital", and for other purposes.

Sept. 23, 1976
[H.R. 9811]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans' Administration hospital at Madison, Wisconsin, shall hereafter be known and designated as the "William S. Middleton Memorial Veterans' Hospital". Any reference to such hospital in any law, regulation, document, record or other paper of the United States shall be deemed a reference to the "William S. Middleton Memorial Veterans' Hospital".

William S.
Middleton
Memorial
Veterans'
Hospital,
Madison, Wis.
Designation.

SEC. 2. The Administrator of Veterans' Affairs is authorized to provide such memorial at the above-named hospital as he may deem suitable to preserve the remembrance of the late William S. Middleton.

SEC. 3. (a) In order to assist the Secretary of Health, Education, and Welfare in carrying out the National Swine Flu Immunization Program of 1976 pursuant to subsection (j) of section 317 of the Public Health Service Act (42 U.S.C. 247b), as added by Public Law 94-380, Ninety-fourth Congress (August 12, 1976), the Administrator of Veterans' Affairs, in accordance with the provisions of such subsection (j), may authorize the administration of vaccine, procured under such program and provided by the Secretary at no cost to the Veterans' Administration, to eligible veterans (voluntarily requesting such vaccine) in connection with the provision of care for a disability under chapter 17 of title 38, United States Code, in any health care facility under the jurisdiction of the Administrator. In carrying out such program, the Secretary may provide the Administrator with such vaccine at no cost to the Veterans' Administration.

Swine flu
immunization.
42 USC 247b
note.

Ante, p. 1113.
42 USC 201 note.

38 USC 601
et seq.

(b) Notwithstanding the provisions of subsection (k) of such section 317, any claim or suit for damages for personal injury or death, in connection with the administration of vaccine as authorized by subsection (a) of this section, allegedly arising from the malpractice

Personal injury
or death, claims
for damages.

or negligence of personnel granted immunity under section 4116 of such title 38 while in the exercise of their duties in or for the Department of Medicine and Surgery of the Veterans' Administration, shall be considered and processed in accordance with the provisions of such section 4116, and the recovery authority provided the United States under paragraph (7) of such subsection (k) shall not be applicable to such claims or suits.

Approved September 23, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-949 (Comm. on Veterans' Affairs).
SENATE REPORT No. 94-1163 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Apr. 5, considered and passed House.
Aug. 31, considered and passed Senate, amended.
Sept. 14, House concurred in Senate amendment.

Public Law 94-421
94th Congress

An Act

To amend title 39, United States Code, with respect to the organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes.

Sept. 24, 1976
[H.R. 8603]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Reorganization Act Amendments of 1976".

SEC. 2. (a) Section 2401(b) of title 39, United States Code, is amended by striking out paragraph (3).

(b) Section 2401 of title 39, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) (1) There is authorized to be appropriated to the Postal Service for fiscal year 1976 and for the period beginning July 1, 1976, and ending September 30, 1976, the amount of \$500,000,000 to be applied against the accumulated operating indebtedness of the Postal Service as of September 30, 1976.

"(2) There is authorized to be appropriated to the Postal Service for fiscal year 1977 the amount of \$500,000,000 to be applied against the accumulated operating indebtedness of the Postal Service as of September 30, 1977.

"(e) During the period beginning on the date of the appropriation of the funds under subsection (d) (1) and ending on the date on which the Commission on Postal Service is required to transmit the final report required under section 7(f) (1) of the Postal Reorganization Act Amendments of 1976 to the President and each House of Congress, the Postal Service shall not—

"(1) have in effect any permanent or temporary rate of postage or fee for postal services exceeding the rates and fees in effect on the date of enactment of the Postal Reorganization Act Amendments of 1976;

"(2) provide levels and types of postal services which are less than the levels and types of services provided on July 1, 1976;

"(3) close any post office where 35 or more families regularly receive their mail and which was providing service on July 1, 1976; or

"(4) close any post office where fewer than 35 families receive their mail and which was providing service on July 1, 1976, unless the Postal Service receives the written consent of at least 60 percent of the regular patrons of such office who are at least 18 years of age.

"(f) During the period beginning on the date of the appropriation of the funds under subsection (d) (1) and ending on the date on which the Commission on Postal Service is required to transmit the final report required under section 7(f) (1) of the Postal Reorganization Act Amendments of 1976 to the President and each House of Congress, the Postal Service shall provide door delivery or curbside delivery to all permanent residential addresses (other than apartment building addresses) to which service is begun on or after the date of enactment of the Postal Reorganization Act Amendments of 1976.

"(g) The Postal Service shall present to the Committees on Post Office and Civil Service and the Committees on Appropriations of the

Postal
Reorganization
Act Amendments
of 1976.
39 USC 101 note.
Appropriation
authorization.

Budget,
presentation to
congressional
committees.

- 39 USC 2009. Senate and the House of Representatives, at the same time it submits its annual budget under section 2009 of this title, sufficient copies of the budget of the Postal Service for the fiscal year for which funds are requested to be appropriated, and a comprehensive statement relating to the following matters:
- 39 USC 101. “(1) the plans, policies, and procedures of the Postal Service designed to comply with all of the provisions of section 101 of this title;
“(2) postal operations generally, including data on the speed and reliability of service provided for the various classes of mail and types of mail service, mail volume, productivity, trends in postal operations, and analyses of the impact of internal and external factors upon the Postal Service;
“(3) a listing of the total expenditures and obligations incurred by the Postal Service for the most recent fiscal year for which information is available, an estimate of the total expenditures and obligations to be incurred by the Postal Service during the fiscal year for which funds are requested to be appropriated, and the means by which these estimated expenses will be financed; and
“(4) such other matters as the committees may determine necessary to ensure that the Congress is fully and currently consulted and informed on postal operations, plans, and policies.
- Testimony before congressional committees. Not later than March 15 of each year, the Postal Service shall appear before the Committees on Post Office and Civil Service of the Senate and the House of Representatives to submit information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service, and to present testimony and respond to questions with respect to such budget and statement. Each such committee shall take such action as it considers appropriate and shall advise the Postal Service of such action.
- “ (h) The failure of the President to request the appropriation of any part of the funds authorized by this section may not be deemed a failure of appropriations. The failure of the President to request the appropriation of any part of the funds authorized by this section shall not relieve the Postal Service from the responsibility to comply with the provisions of subsections (e) and (f) of this section.
- 39 USC 3601 *et seq.* “(i) The rates established under chapter 36 of this title for zone-rated parcels formerly entered under former chapter 67 of this title shall not be more than 10 percent less than the rates for such mail would be if the funds authorized under subsection (b) and (d) of this section were not appropriated.”
- “(c) Section 2003 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:
“(f) Notwithstanding any other provision of this section, any amounts appropriated to the Postal Service under subsection (d) of section 2401 of this title and deposited into the Fund shall be expended by the Postal Service only for the purposes provided in such subsection.”
- Ante, p. 1303.* SEC. 3. (a) Section 3601 of title 39, United States Code, is amended to read as follows:
- Postal Rate Commission. “§ 3601. Establishment
- Membership. “(a) The Postal Rate Commission is an independent establishment of the executive branch of the Government of the United States. The

Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen on the basis of their professional qualifications and may be removed by the President only for cause. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under section 3602 of this title. Term.

“(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President. 39 USC 3602.

“(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.”

“(b) The provisions of section 3601(a) of title 39, United States Code, as amended by subsection (a) of this section, shall not apply with respect to any Commissioner of the Postal Rate Commission holding office on the date of the enactment of this Act, except that such provisions shall apply to any appointment of such a Commissioner occurring after the date of the enactment of this Act. 39 USC 3601 note.

SEC. 4. Section 3604 of title 39, United States Code, is amended to read as follows:

“§ 3604. Administration

“(a) The Chairman of the Postal Rate Commission shall be the principal executive officer of the Commission. The Chairman shall exercise or direct the exercise of all the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment of personnel employed under the Commission, except that the appointment of heads of major administrative units under the Commission shall require the approval of a majority of the members of the Commission, (2) the supervision of the personnel employed under the Commission and the distribution of business among them and among the Commissioners, and (3) the use and expenditure of funds.

“(b) In carrying out any of his functions under this section, the Chairman shall be governed by the general policies of the Commission.

“(c) The Chairman may obtain such facilities and supplies as may be necessary to permit the Commission to carry out its functions. Any officer or employee appointed under this section shall be paid at rates of compensation and shall be entitled to programs offering employee benefits established under chapter 10 or chapter 12 of this title, as appropriate.

“(d) (1) The Commission shall periodically prepare and submit to the Postal Service a budget of the Commission's expenses, including, but not limited to, expenses for facilities, supplies, compensation, and employee benefits. The budget shall be considered approved—

“(A) as submitted if the Governors fail to act in accordance with subparagraph (B) of this paragraph; or

“(B) as adjusted if the Governors holding office, by unanimous written decision, adjust the total amount of money requested in the budget.

Subparagraph (B) shall not be construed to authorize the Governors to adjust any item included within the budget.

39 USC 1001 *et seq.*, 1201 *et seq.*
Budget, submittal to Commission.

39 USC 2003.
39 USC 410,
1001 *et seq.*
Recommended
decisions.

“(2) Expenses incurred under any budget approved under paragraph (1) of this subsection shall be paid out of the Postal Service fund established under section 2003 of this title.

“(e) The provisions of section 410 and chapter 10 of this title shall apply to the Commission, as appropriate.”.

SEC. 5. (a) Section 3624 of title 39, United States Code, is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

39 USC 3622.

“(c) (1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 of this title for a recommended decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services the Commission shall transmit its recommended decision to the Governors under subsection (d) of this section no later than 10 months after receiving any such request from the Postal Service.

Extension.

“(2) In any case in which the Commission determines that the Postal Service has unreasonably delayed consideration of a request made by the Postal Service under section 3622 by failing to respond within a reasonable time to any lawful order of the Commission, the Commission may extend the 10-month period described in paragraph (1) of this subsection by one day for each day of such delay.”.

39 USC 3624
note.

(b) The amendment made by subsection (a) of this section shall not apply to any action or proceeding with respect to the recommended decision of the Postal Rate Commission relating to proposed changes in rates of postage, and in fees for postal services, requested on September 18, 1975, by the United States Postal Service in a request which bears, or which at any time has been included under, Postal Rate Commission Docket Number R76-1.

SEC. 6. (a) Section 3641 of title 39, United States Code, is amended to read as follows:

“§ 3641. Temporary changes in rates and classes

Supra.

“(a) In any case in which the Postal Rate Commission fails to transmit a recommended decision on a change in rates of postage or in fees for postal services to the Governors in accordance with section 3624(c) of this title, the Postal Service may establish temporary changes in rates of postage and in fees for postal services in accordance with the proposed changes under consideration by the Commission. Such temporary changes may take effect upon such date as the Postal Service may determine, except that such temporary changes may take effect only after 10 days’ notice in the Federal Register.

Publication in
Federal Register.

“(b) Any temporary rate or fee established by the Postal Service under subsection (a) of this section shall be in accordance with the policies of this title and shall not exceed such amount as may be necessary for sufficient revenues to assure that the total estimated income, including appropriations, of the Postal Service shall, to the extent practicable, be equal to the total estimated costs of the Postal Service.

“(c) Notwithstanding the provisions of subsection (b) of this section, the Postal Service may not establish any temporary rate for a class of mail or any temporary fee for a postal service which is more than the permanent rate or fee requested for such class or postal service by the Postal Service under section 3622 of this title.

“(d) Any temporary change in rates of postage or in fees for postal services made by the Postal Service under this section shall remain in effect no longer than 150 days after the date on which the Commis-

sion transmits its recommended decision to the Governors under section 3624(d) of this title, unless such temporary change is terminated by the Governors before the expiration of such period.

39 USC 3624.

“(e) If the Postal Rate Commission does not transmit to the Governors within 90 days after the Postal Service has submitted, or within 30 days after the Postal Service has resubmitted, to the Commission a request for a recommended decision on a change in the mail classification schedule (after such schedule is established under section 3623 of this title), the Postal Service, upon 10 days’ notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Any temporary change shall be effective for a period ending not later than 30 days after the Commission has transmitted its recommended decision to the Governors.

Publication in
Federal Register.

39 USC 3623.

“(f) If, under section 3628 of this title, a court orders a matter returned to the Commission for further consideration, the Postal Service, with the consent of the Commission, may place into effect temporary changes in rates of postage, and fees for postal services, or in the mail classification schedule.”.

39 USC 3628.

(b) (1) The amendment made by subsection (a) of this section shall not apply to any action or proceeding with respect to the recommended decision of the Postal Rate Commission relating to proposed changes in rates of postage and in fees for postal services requested on September 18, 1975, by the United States Postal Service in a request which bears, or which at any time has been included under, Postal Rate Commission Docket Number R76-1.

39 USC 3641
note.

(2) The provisions of section 3641 of title 39, United States Code, as such provisions were in effect on the day before the date of the enactment of this Act, shall apply to any temporary rate or fee established by the Postal Service pursuant to its request to the Postal Rate Commission, dated September 18, 1975, for a recommended decision, bearing Docket Number R76-1.

SEC. 7. (a) (1) There is hereby established the Commission on Postal Service (hereinafter in this section referred to as the “Commission”). The Commission shall be composed of 7 members, to be selected as follows:

Commission on
Postal Service.
Establishment.
39 USC 3661
note.
Membership.

(A) 3 appointed by the President of the United States, of whom one shall be appointed as chairman;

(B) 2 appointed by the President pro tempore of the Senate, of whom one shall be an individual who is a member of the work force of the United States Postal Service; and

(C) 2 appointed by the Speaker of the House of Representatives, of whom one shall be an individual who is a member of the work force of the United States Postal Service.

The Postmaster General of the United States and the Chairman of the Postal Rate Commission shall serve as ex officio members of the Commission, without the right to vote.

(2) The members of the Commission shall be appointed within 15 days following the date of the enactment of this Act. In the event that all of the members of the Commission have not been appointed at the close of such 15-day period, a majority of the members appointed to the Commission shall constitute a quorum for the conduct of business by the Commission.

(3) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

Vacancies.

Study,
recommendation.

(b) The Commission shall identify and study the problems facing the United States Postal Service and recommend actions to be taken to resolve those problems. The Commission shall not be limited to any particular subject areas for consideration but the Commission—

Public service,
costs and
revenue.

(1) shall identify and study the public service aspects of the United States Postal Service, shall recommend to what extent and by what means such aspects may be defined and costs thereof reasonably estimated, and shall, insofar as practicable, identify any difference between—

39 USC 101
et seq.

(A) the costs that the Postal Service should reasonably be expected to incur in providing postal services in accordance with the policies of title 39, United States Code, and

(B) the revenues that the Postal Service may reasonably be expected to receive from rates and fees for postal services, with due consideration to the fact that demands for postal services may be reflected by changes in the levels of such rates and fees;

(2) shall determine the extent to which the public service aspects of the Postal Service shall be supported by appropriations and shall recommend a plan for such appropriations with due consideration being given to—

(A) the economic and social benefits of the postal system to the user and recipient of the mail,

(B) the relative economic ability of the users of various classes of mail to absorb the costs of the postal system,

(C) the extent to which the costs of maintaining a system which would provide a reasonable degree of regular postal services to the entire public without regard to individual usage, and the degree to which such costs should be borne by the public generally rather than by mail users in particular,

(D) the relative economic and social benefits of other uses of private and public funds, and

(E) the need of the Postal Service for adequate and dependable funding and for systematic planning and rate-making to provide efficient and economical postal services in accordance with the policies of title 39, United States Code;

(3) shall study the desirability and feasibility of—

Ratemaking.

(A) the ratemaking procedures established under title 39, United States Code, particularly the functions and responsibilities of the Postal Rate Commission, and shall develop recommendations for more expeditious and economical procedures that are responsive to the needs of the Postal Service and the public, including, if the Commission recommends the abolition of the Postal Rate Commission, a method of assuring that changes in postal rates shall be reviewed independently outside the Postal Service,

(B) a system in which changes in postal rates shall not exceed changes in consumer prices unless greater changes in such rates are approved by a body independent of the Postal Service,

(C) the ratemaking criteria established by section 3622(b) of title 39, United States Code, and

(D) a statutory requirement for cost attributions to particular classes of mail or types of mail service;

Service levels,
review.

(4) shall review the appropriateness of current and future service levels and the extent to which, if any, such levels should be supported by appropriations; and

(5) shall review the long range impact of new electronic fund transfers and communication techniques, the effect of such transfers and techniques on mail volumes and revenues of the Postal Service, and the feasibility of the Postal Service operating such systems.

Electronic fund transfers and communication techniques, impact review.

(c)(1) For purposes of carrying out its functions under this section, the Commission may sit and act at such times and places and receive such evidence and testimony as it considers advisable.

(2) The Commission may secure directly from any department or agency of the United States information and assistance necessary to carry out its duties under this section. Each department or agency is authorized and directed, to the extent permitted by law and within the limits of available funds, to furnish information and assistance to the Commission.

(3) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(4) All meetings, hearings, conferences, or other proceedings of the Commission shall be open to the chairmen of the appropriate committees of the Congress or their designees and reasonable notice of such meetings or hearings shall be given to such chairmen or their designees.

Proceedings, notice to congressional committee chairmen.

(d)(1) Except as provided in paragraph (2), members of the Commission each shall receive as compensation the daily equivalent of the annual rate of basic pay in effect for Grade GS-18 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Commission.

Compensation.

5 USC 5332 note.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

Travel expenses.

(e) The Commission may appoint and fix the compensation of such personnel as it considers advisable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not to exceed the maximum rate authorized by the General Schedule. The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for the maximum rate authorized by the General Schedule.

Compensation.

5 USC 5101 *et seq.*, 5332 *et seq.*
Experts and consultants.

(f)(1) The Commission shall transmit to the President and to each House of the Congress a final report containing a detailed statement of its findings and recommendations, together with any individual views, on or before March 15, 1977.

Report, transmittal to President and Congress.

(2) The Commission shall not be required to obtain the clearance of any Federal agency before the transmittal of its report.

(g) The Commission shall cease to exist 60 days after the transmission of its final report under subsection (f) of this section and all offices and employment under it shall then expire.

Expiration date.

Appropriation
authorization.

(h) There are authorized to be appropriated to the Postal Service Fund established under section 2003 of title 39, United States Code, without fiscal year limitation, such sums as may be necessary to carry out the provisions of this section. Expenses incurred by the Commission shall be paid out of the Postal Service Fund.

Sec. 8. Section 3623(b) of title 39, United States Code, is amended by striking out "Postal Service" the second place it appears therein and inserting in lieu thereof "Governors".

Post offices,
closing or
consolidation.
Notice.

Sec. 9. (a) Section 404 of title 39, United States Code, is amended by inserting "(a)" immediately before "Without" and by adding at the end thereof the following new subsection:

"(b) (1) The Postal Service, prior to making a determination under subsection (a) (3) of this section as to the necessity for the closing or consolidation of any post office, shall provide adequate notice of its intention to close or consolidate such post office at least 60 days prior to the proposed date of such closing or consolidation to persons served by such post office to ensure that such persons will have an opportunity to present their views.

"(2) The Postal Service, in making a determination whether or not to close or consolidate a post office, shall consider—

"(A) the effect of such closing or consolidation on the community served by such post office;

"(B) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

"(C) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

"(D) the economic savings to the Postal Service resulting from such closing or consolidation; and

"(E) such other factors as the Postal Service determines are necessary.

"(3) Any determination of the Postal Service to close or consolidate a post office shall be in writing and shall include the findings of the Postal Service with respect to the considerations required to be made under paragraph (2) of this subsection. Such determination and finding shall be made available to persons served by such post office.

"(4) The Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office.

Appeal.

"(5) A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Rate Commission within 30 days after such determination is made available to such person under paragraph (3). The Commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The Commission shall make a determination based upon such review no later than 120 days after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings, and conclusions found to be—

Review.

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(B) without observance of procedure required by law; or

"(C) unsupported by substantial evidence on the record.

The Commission may affirm the determination of the Postal Service or order that the entire matter be returned for further consideration, but the Commission may not modify the determination of the Postal Service. The Commission may suspend the effectiveness of the determination of the Postal Service until the final disposition of the appeal. The provisions of section 556, section 557, and chapter 7 of title 5 shall not apply to any review carried out by the Commission under this paragraph."

5 USC 556, 557,
701 *et seq.*

(b) The amendments made by subsection (a) of this section shall take effect on the day after the date on which the Commission on Postal Service transmits its final report under section 7(f) (1) of this Act.

Effective date.
39 USC 404 note.

SEC. 10. Section 3622(b) of title 39, United States Code, is amended by striking out "and" at the end of paragraph (7), by redesignating paragraph (8) as paragraph (9), and by inserting immediately after paragraph (7) the following new paragraph:

Rates and fees.

"(8) the educational, cultural, scientific, and informational value to the recipient of mail matter; and".

SEC. 11. Section 3626 of title 39, United States Code, is amended by inserting "(a)" immediately before "If the rates" and by adding at the end thereof the following new subsections:

Reduced rates.

"(b) (1) For the purposes of this title, the term 'periodical publications', as used in former section 4351 of this title, includes (A) any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education; and (B) any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

Definitions.

"(2) Any material described in paragraph (1) of this subsection shall qualify to be entered and mailed as second class mail in accordance with the applicable provisions of former section 4352 through former section 4357 of this title.

"(3) For purposes of this subsection, the term 'institution of higher education' has the meaning given it by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(c) In the administration of this section, one conservation publication published by an agency of a State which is responsible for management and conservation of the fish or wildlife resources of such State shall be considered a publication of a qualified nonprofit organization which qualifies for rates of postage under former section 4358(d) of this title.

"(d) (1) For purposes of this title, the term 'agricultural', as used in former sections 4358(j) (2), 4452(d), and 4554(b) (1) (B) of this title, includes the art or science of cultivating land, harvesting crops or marine resources, or raising of livestock.

"(2) In the administration of this section, and for purposes of former sections 4358(j) (2), 4452(d), and 4554(b) (1) (B) of this title, agricultural organizations or associations shall include any organization or association which collects and disseminates information or materials relating to agricultural pursuits."

Books and films.

SEC. 12. Section 3683 of title 39, United States Code, is amended by inserting “(a)” immediately before “Notwithstanding any other provision” and by adding at the end thereof the following new subsection:

39 USC 4554.

“(b) The rates for mail matter specified in former section 4554(a) (1) or 4554(b) (2) (A) of this title, when mailed from a publisher or a distributor to a school, college, university, or library, shall be the rate currently in effect for such mail matter under the provisions of former section 4554(b) (1) of this title.”.

Approved September 24, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-391 (Comm. on Post Office and Civil Service) and No. 94-1444 (Comm. of Conference).

SENATE REPORT No. 94-966 (Comm. on Post Office and Civil Service).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Sept. 29, Oct. 30. considered and passed House.

Vol. 122 (1976): Aug. 10, 23, 24, considered and passed Senate, amended.

Aug. 31, Senate agreed to conference report.

Sept. 10, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 39 (1976): Sept. 24, Presidential statement.

Public Law 94-422
94th Congress

An Act

To amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes.

Sept. 28, 1976
[S. 327]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—LAND AND WATER CONSERVATION FUND

SEC. 101. The Land and Water Conservation Fund Act of 1965 (78 Stat. 987), as amended (16 U.S.C. 4601-4 et seq.), is further amended as follows:

Land and Water
Conservation
Fund Act,
amendment;
National Historic
Preservation
Fund, establish-
ment.

(1) Amend section 2 to read as follows:

“SEC. 2. SEPARATE FUND.—During the period ending September 30, 1989, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the ‘fund’, the following revenues and collections:

16 USC 4601-5.

“(a) SURPLUS PROPERTY SALES.—All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of those provisions of law set forth in section 485(b) (e), title 40, United States Code, or the Independent Offices Appropriation Act, 1963 (76 Stat. 725) or in any later appropriation Act) hereafter received from any disposal of surplus real property and related personal property under the Federal Property and Administrative Services Act of 1949, as amended, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Nothing in this Act shall affect existing laws or regulations concerning disposal of real or personal surplus property to schools, hospitals, and States and their political subdivisions.

40 USC 471 note.

“(b) MOTORBOAT FUELS TAX.—The amounts provided for in section 201 of this Act.

16 USC 4601-11.
Appropriation
authorization.

“(c) (1) OTHER REVENUES.—In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than \$300,000,000 for fiscal year 1977, \$600,000,000 for fiscal year 1978, \$750,000,000 for fiscal year 1979, and \$900,000,000 for fiscal year 1980 and for each fiscal year thereafter through September 30, 1989.

“(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund equivalent to the amounts provided in clause (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.): *Provided*, That notwithstanding the provisions of section 3 of this Act, moneys covered into the fund under

16 USC 4601-6.

this paragraph shall remain in the fund until appropriated by the Congress to carry out the purpose of this Act.”

(2) Amend section 5 to read as follows:

“ALLOCATION OF LAND AND WATER CONSERVATION FUND FOR STATE AND
FEDERAL PURPOSES

16 USC 460l-7.

“SEC. 5. ALLOCATION.—There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the fund. Not less than 40 per centum of such appropriations shall be available for Federal purposes.”

(3) Amend section 6 to read as follows:

“FINANCIAL ASSISTANCE TO STATES

16 USC 460l-8.

“SEC. 6. GENERAL AUTHORITY; PURPOSES.—(a) The Secretary of the Interior (hereinafter referred to as the ‘Secretary’) is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.

“(b) APPORTIONMENT AMONG STATES; NOTIFICATION.—Sums appropriated and available for State purposes for each fiscal year shall be apportioned among the several States by the Secretary, whose determination shall be final, in accordance with the following formula:

“(1) Forty per centum of the first \$225,000,000; thirty per centum of the next \$275,000,000; and twenty per centum of all additional appropriations shall be apportioned equally among the several States; and

“(2) At any time, the remaining appropriation shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this Act. The determination of need shall include among other things a consideration of the proportion which the population of each State bears to the total population of the United States and of the use of outdoor recreation resources of individual States by persons from outside the State as well as a consideration of the Federal resources and programs in the particular States.

“(3) The total allocation to an individual State under paragraphs (1) and (2) of this subsection shall not exceed 10 per centum of the total amount allocated to the several States in any one year.

“(4) The Secretary shall notify each State of its apportionments; and the amounts thereof shall be available thereafter for payment to such State for planning, acquisition, or development projects as hereafter prescribed. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (2) of this subsection, without regard to the 10 per centum limitation to an individual State specified in this subsection.

“(5) For the purposes of paragraph (1) of this subsection, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (when such islands achieve Commonwealth status)

shall be treated collectively as one State, and shall receive shares of such apportionment in proportion to their populations. The above listed areas shall be treated as States for all other purposes of this title.

“(c) **MATCHING REQUIREMENTS.**—Payments to any State shall cover not more than 50 per centum of the cost of planning, acquisition, or development projects that are undertaken by the State. The remaining share of the cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secretary. No payment may be made to any State for or on account of any cost or obligation incurred or any service rendered prior to the date of approval of this Act.

“(d) **COMPREHENSIVE STATE PLAN REQUIRED; PLANNING PROJECTS.**—A comprehensive statewide outdoor recreation plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects. The plan shall be adequate if, in the judgment of the Secretary, it encompasses and will promote the purposes of this Act: *Provided*, That no plan shall be approved unless the Governor of the respective State certifies that ample opportunity for public participation in plan development and revision has been accorded. The Secretary shall develop, in consultation with others, criteria for public participation, which criteria shall constitute the basis for the certification by the Governor. The plan shall contain—

Certification from
Governors.

Public
participation,
criteria.

“(1) the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for purposes of this Act;

“(2) an evaluation of the demand for and supply of outdoor recreation resources and facilities in the State;

“(3) a program for the implementation of the plan; and

“(4) other necessary information, as may be determined by the Secretary.

The plan shall take into account relevant Federal resources and programs and shall be correlated so far as practicable with other State, regional, and local plans. Where there exists or is in preparation for any particular State a comprehensive plan financed in part with funds supplied by the Housing and Home Finance Agency, any statewide outdoor recreation plan prepared for purposes of this Act shall be based upon the same population, growth, and other pertinent factors as are used in formulating the Housing and Home Finance Agency financed plans.

“The Secretary may provide financial assistance to any State for projects for the preparation of a comprehensive statewide outdoor recreation plan when such plan is not otherwise available or for the maintenance of such plan.

“(e) **PROJECTS FOR LAND AND WATER ACQUISITION; DEVELOPMENT.**—In addition to assistance for planning projects, the Secretary may provide financial assistance to any State for the following types of projects or combinations thereof if they are in accordance with the State comprehensive plan:

“(1) **ACQUISITION OF LAND AND WATERS.**—For the acquisition of land, waters, or interests in land or waters (other than land, waters, or interests in land or waters acquired from the United States for less than fair market value), but not including incidental costs relating to acquisition.

“Whenever a State provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six months from the date of acquisition of such residence and such owner elects to retain such a

42 USC 4623-
4626.
42 USC 4601.

right, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 101(6) of that Act.

“(2) DEVELOPMENT.—For development of basic outdoor recreation facilities to serve the general public, including the development of Federal lands under lease to States for terms of twenty-five years or more: *Provided*, That no assistance shall be available under this Act to enclose or shelter facilities normally used for outdoor recreation activities, but the Secretary may permit local funding, and after the date of enactment of this proviso not to exceed 10 per centum of the total amount allocated to a State in any one year to be used for sheltered facilities for swimming pools and ice skating rinks in areas where the Secretary determines that the severity of climatic conditions and the increased public use thereby made possible justifies the construction of such facilities.

“(f) REQUIREMENTS FOR PROJECT APPROVAL; CONDITION.—(1) Payments may be made to States by the Secretary only for those planning, acquisition, or development projects that are approved by him. No payment may be made by the Secretary for or on account of any project with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any project with respect to which such assistance has been given or promised under this Act. The Secretary may make payments from time to time in keeping with the rate of progress toward the satisfactory completion of individual projects: *Provided*, That the approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of the particular project, and to operate and maintain by acceptable standards, at State expense, the particular properties or facilities acquired or developed for public outdoor recreation use.

“(2) Payments for all projects shall be made by the Secretary to the Governor of the State or to a State official or agency designated by the Governor or by State law having authority and responsibility to accept and to administer funds paid hereunder for approved projects. If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency.

Property use,
conversion.

“(3) No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.

“(4) No payment shall be made to any State until the State has agreed to (1) provide such reports to the Secretary, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this Act, and (2) provide such fiscal control and fund accounting procedures as may be necessary

to assure proper disbursement and accounting for Federal funds paid to the State under this Act.

“(5) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Recordkeeping.

“(6) The Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

Audit.

“(7) Each State shall evaluate its grant programs annually under guidelines set forth by the Secretary and shall transmit such evaluation to the Secretary, together with a list of all projects funded during that fiscal year, including, but not limited to, a description of each project, the amount of Federal funds employed in such project, the source of other funds, and the estimated cost of completion of the project. Such evaluation and the publication of same shall be eligible for funding on a 50-50 matching basis. The results of the evaluation shall be annually reported on a fiscal year basis to the Bureau of Outdoor Recreation, which agency shall forward a summary of such reports to the Committees on Interior and Insular Affairs of the United States Congress. Such report to the committees shall also include an analysis of the accomplishments of the fund for the period reported, and may also include recommendations as to future improvements for the operation of the Land and Water Conservation Fund program.

State programs, annual evaluation, transmittal to Secretary.

Report summary, transmittal to congressional committees.

Analysis and recommendations.

“(8) With respect to property acquired or developed with assistance from the fund, discrimination on the basis of residence, including preferential reservation or membership systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

“(g) COORDINATION WITH FEDERAL AGENCIES.—In order to assure consistency in policies and actions under this Act, with other related Federal programs and activities (including those conducted pursuant to title VII of the Housing Act of 1961 and section 701 of the Housing Act of 1954) and to assure coordination of the planning, acquisition, and development assistance to States under this section with other related Federal programs and activities, the President may issue such regulations with respect thereto as he deems desirable and such assistance may be provided only in accordance with such regulations.”.

Regulations.

42 USC 1500.
40 USC 461.

(4) Amend section 7 to read as follows:

“SEC. 7. (a) Moneys appropriated from the fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

16 USC 4601-9.

“(1) For the acquisition of land, waters, or interests in land or waters as follows:

“NATIONAL PARK SYSTEM; RECREATION AREAS.—Within the exterior boundaries of areas of the National Park System now or hereafter authorized or established and of areas now or hereafter authorized to be administered by the Secretary of the Interior for outdoor recreation purposes.

“NATIONAL FOREST SYSTEM.—Inholdings within (a) wilderness areas of the National Forest System, and (b) other areas of national forests as the boundaries of those forests exist on the effective date of this Act, or purchase units approved by the National Forest Reservation Commission subsequent to the date of this Act, all of which other areas are primarily of value for outdoor recreation purposes: *Provided*, That lands outside of but adjacent to an existing national forest boundary, not to exceed three thousand acres in the case of any one forest, which would comprise an integral part of a forest recreational management area may also be acquired with moneys appropriated from this fund: *Provided further*, That except for areas specifically authorized by Act of Congress, not more than 15 per centum of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.

16 USC 1534.

“NATIONAL WILDLIFE REFUGE SYSTEM.—Acquisition for (a) endangered species and threatened species authorized under section 5(a) of the Endangered Species Act of 1973; (b) areas authorized by section 2 of the Act of September 28, 1962, as amended (16 U.S.C. 460k-1); (c) national wildlife refuge areas under section 7(a)(5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)) except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715-715s); (d) any areas authorized for the National Wildlife Refuge System by specific Acts.

“(2) For payment into miscellaneous receipts of the Treasury as a partial offset for those capital costs, if any, of Federal water development projects hereafter authorized to be constructed by or pursuant to an Act of Congress which are allocated to public recreation and the enhancement of fish and wildlife values and financed through appropriations to water resource agencies.

“(b) ACQUISITION RESTRICTION.—Appropriations from the fund pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law.”.

(5) Amend section 8 to read as follows:

16 USC 460l-10.

Ante, p. 1313.

“SEC. 8. Moneys derived from the sources listed in section 2 of this Act shall not be available for publicity purposes: *Provided, however*, That in each case where significant acquisition or development is initiated, appropriate standardized temporary signing shall be located on or near the affected site, to the extent feasible, so as to indicate the action taken is a product of funding made available through the Land and Water Conservation Fund. Such signing may indicate the per centum and dollar amounts financed by Federal and non-Federal funds, and that the source of the funding includes moneys derived from Outer Continental Shelf receipts. The Secretary shall prescribe standards and guidelines for the usage of such signing to assure consistency of design and application.”.

Standards and guidelines.

(6) Add the following new section:

Review and report, submittal to congressional committees.
16 USC 460l-10d.

“SEC. 12. Within one year of the date of enactment of this section, the Secretary is authorized and directed to submit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives a comprehensive review and report on the needs, problems, and opportunities associated with urban recreation in highly populated regions, including the resources potentially available for meeting such needs. The report shall include site specific analyses and alternatives, in a selection of geographic environments representative of the Nation as a whole, including, but not limited to, information on needs,

local capabilities for action, major site opportunities, trends, and a full range of options and alternatives as to possible solutions and courses of action designed to preserve remaining open space, ameliorate recreational deficiency, and enhance recreational opportunity for urban populations, together with an analysis of the capability of the Federal Government to provide urban-oriented environmental education programs (including, but not limited to, cultural programs in the arts and crafts) within such options. The Secretary shall consult with, and request the views of, the affected cities, counties, and States on the alternatives and courses of action identified.”.

Consultation.

TITLE II—NATIONAL HISTORIC PRESERVATION FUND

SEC. 201. The Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470), is amended as follows:

(1) Amend section 102 to read as follows:

“SEC. 102. (a) No grant may be made under this Act—

Grants.

16 USC 470b.

“(1) unless application therefor is submitted to the Secretary in accordance with regulations and procedures prescribed by him;

“(2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897);

16 USC 460l-4
note.

“(3) for more than 50 per centum of the total cost involved, as determined by the Secretary and his determination shall be final;

“(4) unless the grantee has agreed to make such reports, in such form and containing such information as the Secretary may from time to time require;

“(5) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and

“(6) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

“(b) The Secretary may in his discretion waive the requirements of subsection (a), paragraphs (2) and (5) of this section for any grant under this Act to the National Trust for Historic Preservation in the United States, in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory to the Secretary.

Waiver.

“(c) The Secretary may in his discretion waive the requirements of paragraph (3) of subsection (a) of this section for the purposes of making grants for the preparation of statewide historic preservation plans and surveys and project plans. Any grant made pursuant to this subsection may not exceed 70 per centum of the cost of a project, and the total of such grants made pursuant to this subsection in any one fiscal year may not exceed one-half of the funds appropriated for that fiscal year pursuant to section 108 of this Act.

Waiver.

Post, p. 1320.

“(d) No State shall be permitted to utilize the value of real property obtained before the date of approval of this Act in meeting the remaining cost of a project for which a grant is made under this Act.”.

(2) Amend section 103(a) by deleting “*Provided, however,* That the amount granted to any one State shall not exceed 50 per centum of the total cost of the comprehensive statewide historic survey and plan for that State, as determined by the Secretary.”.

16 USC 470c.

16 USC 470f.

(3) Amend section 106 by inserting after the words "included in" the phrase "or eligible for inclusion in".

Historic

Preservation

Fund,

establishment.

16 USC 470h.

(4) Amend section 108 to read as follows:

"SEC. 108. To carry out the provisions of this Act, there is hereby established the Historic Preservation Fund (hereafter referred to as the 'fund') in the Treasury of the United States.

"There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980, and \$150,000,000 for fiscal year 1981, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 338), and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: *Provided*, That appropriations made pursuant to this paragraph may be made without fiscal year limitation."

43 USC 1331

note.

(5) Amend section 201 to read as follows:

Advisory Council

on Historic

Preservation.

Membership.

16 USC 470i.

"SEC. 201. (a) There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation (hereinafter referred to as the 'Council') which shall be composed of twenty-nine members as follows:

"(1) The Secretary of the Interior;

"(2) The Secretary of Housing and Urban Development;

"(3) The Secretary of Commerce;

"(4) The Administrator of the General Services Administration;

"(5) The Secretary of the Treasury;

"(6) The Attorney General;

"(7) The Secretary of Agriculture;

"(8) The Secretary of Transportation;

"(9) The Secretary of State;

"(10) The Secretary of Defense;

"(11) The Secretary of Health, Education, and Welfare;

"(12) The Chairman of the Council on Environmental Quality;

"(13) The Chairman of the Federal Council on the Arts and Humanities;

"(14) The Architect of the Capitol;

"(15) The Secretary of the Smithsonian Institution;

"(16) The Chairman of the National Trust for Historic Preservation;

"(17) The President of the National Conference of State Historic Preservation Officers; and

"(18) Twelve appointed by the President from outside the Federal Government. In making these appointments, the President shall give due consideration to the selection of officers of State and local governments and individuals who are significantly interested and experienced in the matters to be considered by the Council.

"(b) Each member of the Council specified in paragraphs (1) through (17) of subsection (a) may designate another officer of his department, agency, or organization to serve on the Council in his stead.

Term.

"(c) Each member of the Council appointed under paragraph (18) of subsection (a) shall serve for a term of five years from the expiration of his predecessor's term; except that the members first appointed

under that paragraph shall serve for terms of from one to five years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not less than one nor more than two of them will expire in any one year.

“(d) A vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment (and for the balance of the unexpired term).”

Vacancies.

“(e) The Chairman and the Vice Chairman of the Council shall be designated by the President. During the absence or disability of the Chairman or when the office is vacant, the Vice Chairman shall act in the place of the Chairman.

“(f) Fifteen members of the Council shall constitute a quorum.”.

Quorum.

(6) Amend section 204 by deleting the term “(10)” in the first sentence and inserting in lieu thereof the term “(17)”, and by striking the term “(11)” in the second sentence and inserting in lieu thereof the term “(18)”.

16 USC 470l.

(7) Amend section 205 to read as follows:

“SEC. 205. (a) There shall be an Executive Director of the Council who shall be appointed in the competitive service by the Chairman with the concurrence of the Council. The Executive Director shall report directly to the Council and perform such functions and duties as the Council may prescribe.

Council,
Executive
Director.
16 USC 470m.

“(b) The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor. The Executive Director shall appoint such other attorneys as may be necessary to assist the General Counsel, represent the Council in courts of law whenever appropriate, assist the Department of Justice in handling litigation concerning the Council in courts of law, and perform such other legal duties and functions as the Executive Director and the Council may direct.

General Counsel.

“(c) The Executive Director of the Council may appoint and fix the compensation of such officers and employees in the competitive service as are necessary to perform the functions of the Council at rates not to exceed that now or hereafter prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5, United States Code: *Provided, however,* That the Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed five employees in the competitive service at rates not to exceed that now or hereafter prescribed for the highest rate of grade 17 of the General Schedule under section 5332 of title 5, United States Code.

Compensation.

“(d) The Executive Director shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949.

“(e) The Executive Director of the Council is authorized to procure expert and consultant services in accordance with the provisions of section 3109 of title 5, United States Code.

Experts and
consultants.

“(f) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the Secretary of the Interior: *Provided,* That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous

Financial and
administrative
services.

payments (5 U.S.C. 46e) shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of said Secretary for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Council: *And provided further*, That the Council shall not be required to prescribe such regulations.

Ante, p. 1320.

“(g) The members of the Council specified in paragraphs (1) through (16) of section 201(a) shall provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the members, with such funds, personnel, facilities, and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties.”.

16 USC 470n.
Appropriation
authorization.

(8) Amend section 206(c) to read as follows:

“(c) For the purposes of this section there are authorized to be appropriated not more than \$175,000 per year for fiscal years 1977, 1978, and 1979: *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization.”.

Transfer of
personnel and
property.
16 USC 470o.

(9) Add the following new sections:

“SEC. 207. So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, programed, or available or to be made available by the Department of the Interior in connection with the functions of the Council, as the Director of the Office of Management and Budget shall determine, shall be transferred from the Department to the Council within 60 days of the effective date of this Act.

16 USC 470p.

“SEC. 208. Any employee in the competitive service of the United States transferred to the Council under the provisions of this section shall retain all the rights, benefits, and privileges pertaining thereto held prior to such transfer.

Exemption.
16 USC 470q.
5 USC app. I.
5 USC note prec.
551.

“SEC. 209. The Council is exempt from the provisions of the Federal Advisory Committee Act (86 Stat. 770), and the provisions of the Administrative Procedure Act (80 Stat. 381) shall govern the operations of the Council.

Legislative
recommendations,
transmittal
to congressional
committees.
16 USC 470r.

“SEC. 210. Whenever the Council transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs. No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

Rules and
regulations.
16 USC 470s.

“SEC. 211. The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 106 of this Act.

"SEC. 212. (a) The Council shall submit its budget annually as a related agency of the Department of the Interior. To carry out the provisions of this title, there are authorized to be appropriated not more than \$1,500,000 in fiscal year 1977, \$1,750,000 in fiscal year 1978, and \$2,000,000 in fiscal year 1979.

Budget.
16 USC 470t.
Appropriation
authorization.

"(b) Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Interior and Insular Affairs and the Senate Committee on Interior and Insular Affairs."

Budget estimate,
transmittal to
congressional
committees.

SEC. 202. Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(135) Executive Director, Advisory Council on Historic Preservation."

TITLE III—STATES OIL SHALE FUNDS

SEC. 301. Section 35 of the Act of February 25, 1920 (41 Stat. 450), as amended (30 U.S.C. 191), is further amended by striking the period at the end of the proviso and inserting in lieu thereof the language as follows: "*And provided further*, That all moneys paid to any State from sales, bonuses, royalties, and rentals of oil shale in public lands may be used by such State and its subdivisions for planning, construction, and maintenance* of public facilities, and provision of public services, as the legislature of the State may direct, giving priority to those subdivisions of the State socially or economically impacted by the development of the resource."

Disposition of
moneys received.

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1021 accompanying H.R. 12234 (Comm. on Interior and Insular Affairs) and No. 94-1468 (Comm. of Conference).

SENATE REPORT No. 94-367 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 29, considered and passed Senate.

Vol. 122 (1976): May 5, considered and passed House, amended, in lieu of H.R. 12234.

Sept. 10, House agreed to conference report.

Sept. 13, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 40 (1976): Sept. 28, Presidential statement.

Public Law 94-423
94th Congress

An Act

Sept. 28, 1976
[S. 3283]

To authorize various Federal reclamation projects and programs, and for other purposes.

Reclamation
Authorizations
Act of 1976.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the Reclamation Authorizations Act of 1976.

TITLE I

KANOPOLIS UNIT, KANSAS

43 USC 391 note.

SEC. 101. The Kanopolis unit, heretofore authorized as an integral part of the Pick-Sloan Missouri Basin program by the Act of December 22, 1944 (58 Stat. 887, 891), is hereby reauthorized as part of that project. The construction, operation, and maintenance of the Kanopolis unit for the purposes of providing irrigation water for approximately twenty thousand acres of land, municipal and industrial water supply, fish and wildlife conservation and development, environmental preservation, and other purposes shall be prosecuted by the Secretary of the Interior in collaboration with the Secretary of the Army acting through the Chief of Engineers, in accordance with the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal features of the Kanopolis unit shall include the modification of the existing Kanopolis Dam and Lake, an irrigation diversion structure, the Kanopolis north and south canals, laterals, drains, and necessary facilities to effect the aforesaid purposes of the unit.

Kanopolis
Reservoir area.

SEC. 102. Upon expiration of existing leases for agricultural use of publicly owned lands, in the Kanopolis Reservoir area, the Secretary of the Army is authorized to enter into a management agreement covering said lands with the Kansas Forestry, Fish and Game Commission. The Secretary of the Army is further authorized to include provisions in such operating agreements whereby revenues deriving from future use of said reservoir lands for agricultural purposes may be retained by the game commission to the extent that they are utilized for wildlife management purposes at Kanopolis Reservoir.

Repayment
contracts.

SEC. 103. The Kanopolis unit shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Repayment contracts for the return of construction costs allocated to irrigation will be based on the irrigator's ability to repay as determined by the Secretary of the Interior, and the terms of such contract shall not exceed fifty years following the permissible development period. Repayment contracts for the return of costs allocated to municipal and industrial water supply shall be under the jurisdiction of the Secretary of the Army, and such contracts shall be prerequisite to the initiation of construction of facilities authorized by this title. Costs allocated to environmental preservation and fish and wildlife shall be nonreimbursable and nonreturnable under Federal reclamation law.

SEC. 104. For a period of ten years from the date of enactment of this title, no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

7 USC 1421 note.

7 USC 1301.

SEC. 105. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Kanopolis unit shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

Interest rate.

SEC. 106. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Kanopolis unit, Pick-Sloan Missouri Basin program, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of, unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

Lands eligible to receive water, limitation.

43 USC 423e.

SEC. 107. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter, for construction of the Kanopolis unit, the sum of \$30,900,000 (January 1976 price levels) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved. Of the funds authorized to be appropriated by this section, the Secretary of the Interior shall transfer to the Secretary of the Army all except those required for post-authorization planning, design, and construction of the single use irrigation facilities of the unit, and the Secretary of the Army shall utilize such transferred funds for implementation of all other aspects of the authorized unit. There are also authorized to be appropriated such sums as may be required for operation and maintenance of the works of said unit.

Transfer of funds.

TITLE II

OROVILLE-TONASKET UNIT, WASHINGTON

SEC. 201. For purposes of supplying water to approximately ten thousand acres of land and for enhancement of the fish resource of the Similkameen, Okanogan, and Columbia Rivers and the Pacific Ocean, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam project, Washington, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal works of the Oroville-Tonasket unit extension (hereinafter referred to as the project) shall consist of pumping plants, distribution systems; necessary works incidental to the rehabilitation or enlargement of portions

43 USC 391 note.

of the existing irrigation system to be incorporated in the project; drainage works; and measures necessary to provide fish passage and propagation in the Similkameen River. Irrigation works constructed and rehabilitated by the United States under the Act of October 9, 1962 (76 Stat. 761) and which are not required as a part of the project shall be dismantled and removed with funds appropriated hereunder and title to the lands and right-of-way thereto which were conveyed to the United States shall be reconveyed to the Oroville-Tonasket Irrigation District. All other irrigation works which are a part of the Oroville-Tonasket Irrigation District's existing system and which are not required as a part of the project or that do not have potential as rearing areas for fish shall be dismantled and removed with funds appropriated hereunder.

Contracts.

SEC. 202. The Secretary is authorized to terminate the contract of December 26, 1964, between the United States and the Oroville-Tonasket Irrigation District and to execute new contracts for the payment of project costs, including the then unpaid obligation under the December 26, 1964, contract. Such contracts shall be entered into pursuant to section 9 of the Act of August 4, 1939 (53 Stat. 1187). The term of such contract shall be fifty years, exclusive of any development period authorized by law. The contracts for irrigation water may provide for the assessment of an account charge for each identifiable ownership receiving water from the project. Such charge, together with the acreage or acre-foot charge, shall not exceed the repayment capacity of commercial family-size farm enterprises as determined on the basis of studies by the Secretary. Project construction costs covered by contracts entered into pursuant to section 9(d) of the Act of August 4, 1939, as determined by the Secretary, and which are beyond the ability of the irrigators to repay shall be charged to and returned to the reclamation fund in accordance with the provisions of section 2 of the Act of June 14, 1966 (80 Stat. 200), as amended by section 6 of the Act of September 7, 1966 (80 Stat. 707). The aforesaid contract shall provide that irrigation costs properly assignable to privately owned recreational lands shall be repaid in full within fifty years with interest.

43 USC 485h.

Construction costs, repayment period.

SEC. 203. Power and energy required for irrigation water pumping for the project, including existing irrigation works retained as a part of the project, shall be made available by the Secretary from the Federal Columbia River power system at charges determined by him.

16 USC 460/-12 note.

SEC. 204. The provision of lands, facilities, and any project modifications which furnish fish and wildlife benefits in connection with the project shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended. All costs allocated to the anadromous fish species shall be nonreimbursable.

7 USC 1421 note.

SEC. 205. For a period of ten years from the date of enactment of this title, no water from the project authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251; 7 U.S.C. 1301), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

Interest rate.

SEC. 206. The interest rate used for purposes of computing interest during construction and, where appropriate, interest on the unpaid

balance of the reimbursable obligations assumed by non-Federal entities shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption from fifteen years from the date of issue.

SEC. 207. The provisions of the third sentence of section 46 of the Act of May 25, 1926 (44 Stat. 649, 650), and any other similar provisions of Federal reclamation laws as applied to the Oroville-Tonasket unit, are hereby modified to provide that lands held in a single ownership which may be eligible to receive water from, through, or by means of unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes as determined by the Secretary of the Interior.

Lands eligible to receive water, limitation.
43 USC 423e.

SEC. 208. There is hereby authorized to be appropriated for construction of the works and measures authorized by this title for the fiscal year 1978 and thereafter the sum of \$39,370,000 (January 1976 prices), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.

TITLE III

UINTAH UNIT, UTAH

SEC. 301. Pursuant to the authorization for construction, operation, and maintenance of the Uintah unit, central Utah project, Utah, as provided in section 1 of the Act of April 11, 1956 (70 Stat. 105), as amended by section 501(a) of the Colorado River Basin Project Act (82 Stat. 897), there is authorized to be appropriated for fiscal year 1978 and thereafter, for the construction of said Uintah unit, the sum of \$90,247,000 (based on January 1976 price levels) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved.

43 USC 620.

43 USC 620, 620 note, 620a, 620k note.

SEC. 302. Notwithstanding any other provision of law, lands held in a single ownership which may be eligible to receive water from, through, or by means of the Uintah works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

Single ownership lands, limitation.

TITLE IV

AMERICAN CANAL EXTENSION, EL PASO, TEXAS

SEC. 401. The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof and supplementary thereto), in order to salvage water losses, eliminate hazards to public safety, and to facilitate compliance with the convention between the United States and Mexico concluded May 21, 1906, providing for the equitable division of the waters of the Rio Grande, is authorized as a part of the Rio Grande project, New Mexico-Texas, to construct, operate, and maintain, wholly within the United States, extensions of the American Canal approximately thirteen miles in total length, commencing in the vicinity of

43 USC 391 note.

Repayment
contract.

International Dam, El Paso, Texas, and extending to Riverside Heading; together with laterals, pumping plants, wasteways, and appurtenant facilities as required to assure continuing irrigation service to the project. Existing facilities no longer required for project service shall be removed or obliterated as a part of the program herein authorized.

SEC. 402. Construction of the American Canal extension shall not be undertaken until the Secretary of the Interior has entered into a repayment contract with the El Paso County Water Improvement District Number 1, in which said irrigation district contracts to repay to the United States, for fifty years, an annual sum representing the value of eleven thousand six hundred acre-feet of salvaged water at a price per acre-foot established by the Secretary on the basis of an up-to-date payment capacity determination. Costs of the American Canal in excess of those repaid by the El Paso County Water Improvement District Number 1 shall be nonreimbursable and nonreturnable in recognition of benefits accruing to public safety and international considerations.

SEC. 403. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter for construction of the American Canal extension the sum of \$21,714,000 (January 1976 price levels), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes. There are also authorized to be appropriated such sums as may be required for the operation and maintenance of the project.

TITLE V

ALLEN CAMP UNIT, CALIFORNIA

43 USC 391 note.

Allen Camp Dam
and Reservoir.

Integration and
coordination with
Central Valley
project.

Lands eligible to
receive water,
limitation.

Road and
bridges,
replacement.

SEC. 501. For the purposes of providing irrigation water supplies, controlling floods, conserving and developing fish and wildlife resources, enhancing outdoor recreation opportunities, and for other related purposes, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the Allen Camp unit, Pit River division, as an addition to, and an integral part of, the Central Valley project, California. The principal works of the unit shall consist of Allen Camp Dam and Reservoir and necessary water diversion, conveyance, distribution, and drainage facilities, and other appurtenant works for the delivery of water to the unit, a wildlife refuge, channel rectification works and levees, and recreation facilities.

SEC. 502. Subject to the provisions of this title, the operation of the Allen Camp unit shall be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the Central Valley project in such manner as will effectuate the fullest, most beneficial, and most economic utilization of the water resources hereby made available.

SEC. 503. Notwithstanding any other provision of law, lands held in a single ownership which may be eligible to receive water from, through, or by means of the Allen Camp unit works shall be limited to one hundred and sixty acres of class I land or the equivalent thereof in other land classes, as determined by the Secretary of the Interior.

SEC. 504. The costs of the Allen Camp unit allocated to flood control, conservation and development of fish and wildlife resources, and the enhancement of recreation opportunities shall be nonreimbursable.

SEC. 505. The Secretary is hereby authorized to replace those roads and bridges now under the jurisdiction of the Secretary of Agriculture

which will be inundated or otherwise rendered unusable by construction and operation of the unit. Said replacements are to be the standards (including provisions for the future) which would be used by the Secretary of Agriculture in constructing similar roads to provide similar services.

SEC. 506. For a period of ten years from the date of enactment of this title, no water from the unit authorized by this title shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051; 7 U.S.C. 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

7 USC 1421 note.

7 USC 1301.

SEC. 507. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter the sum of \$64,220,000 (January 1976 price levels) for the construction of the Allen Camp unit, plus or minus such amounts as are justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the construction of works related to the Allen Camp unit. There are also authorized to be appropriated such sums as may be required to operate and maintain said unit and associated facilities.

TITLE VI

LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 601. The Secretary of the Interior is authorized to rehabilitate the federally owned Leadville Mine drainage tunnel, Lake County, Colorado, by installing a concrete-lined, structural steel-supported, eight-foot-diameter, horseshoe-shaped tunnel section extending for an approximate distance of one thousand feet inward, from the portal of said tunnel or for the distance required to enter structurally competent geologic formations. The Secretary is further authorized to maintain the rehabilitated tunnel in a safe condition and to monitor the quality of the tunnel discharge.

Rehabilitation.

SEC. 602. There is authorized to be appropriated for fiscal year 1978 and thereafter \$2,750,000 (January 1976 price levels) for the rehabilitation of the tunnel. There is also authorized to be appropriated such sums as are necessary for maintenance of the rehabilitated tunnel, water quality monitoring and investigations leading to recommendations for treatment measures if necessary to bring the quality of the tunnel discharge into compliance with applicable water quality statutes. All funds authorized to be appropriated by this title, together with such sums as have been expended for emergency work on the Leadville Mine drainage tunnel by the Bureau of Reclamation, shall be nonreimbursable.

TITLE VII

M'GEE CREEK PROJECT, OKLAHOMA

SEC. 701. The Secretary of the Interior is authorized to construct, operate, and maintain the McGee Creek project, Oklahoma, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and the

Construction,
operation.

43 USC 391 note.

provisions of this title for the purposes of storing, regulating, and conveying water for municipal and industrial use, conserving and developing fish and wildlife resources, providing outdoor recreation opportunities, developing a scenic recreation area, developing a wildlife management area and controlling floods. The principal physical works of the project shall consist of a dam and reservoir on McGee Creek, appurtenant conveyance facilities and public outdoor recreation facilities.

Privately owned
lands, purchase.

SEC. 702. To provide for the protection, preservation, use, and enjoyment by the general public of the scenic and esthetic values of the canyon area adjacent to the upper portion of the McGee Creek Reservoir, the Secretary of the Interior is hereby authorized to purchase privately owned lands, not to exceed twenty thousand acres, for the aforesaid scenic recreation and wildlife management areas. The Secretary of the Interior is also authorized to construct such facilities as he determines to be appropriate for utilization of the scenic and wildlife management areas for the safety, health, protection, and compatible use by the visiting public.

Rules and
regulations.

SEC. 703. The Secretary of the Interior shall make such rules and regulations as are necessary to carry out the provisions and intent of section 702 of this title and may enter into an agreement or agreements with a non-Federal public body or bodies for operation and maintenance of the scenic recreational and wildlife management areas.

Interest rate.

SEC. 704. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the project is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

Contracts.

SEC. 705. (a) The Secretary of the Interior is authorized to enter into a contract with a qualified entity or entities, for delivery of water and for repayment of all the reimbursable construction costs. All costs of acquiring, developing, operating, and maintaining the scenic recreation and wildlife management areas authorized by section 702 of this title shall be nonreimbursable.

(b) Construction of the project shall not be commenced until the contracts and agreements required by this title have been entered into.

Transfer of care,
operation, and
maintenance.

(c) Upon execution of the contract referred to in section 705(a) of this title, and upon completion of construction of the project, the Secretary of the Interior shall transfer to a qualified contracting entity or entities the care, operation, and maintenance of the project works; and, after such transfer is made, will reimburse, subject to such amounts as may be provided in the appropriation Acts, the contractor annually for that portion of the year's operation and maintenance costs, which, if the United States had continued to operate the project, would have been nonreimbursable. Prior to assuming care, operation, and maintenance of the project works the contracting entity or entities shall agree to operate them in accordance with regulations prescribed by the Secretary of the Army with respect to flood control, and by the Secretary of the Interior with respect to fish, wildlife, and recreation.

Permanent right
of usage.

(d) Upon execution of the contract referred to in section 705(a) of this title, and upon completion of construction of the project, the contracting entity or entities, their designee or designees, shall have a permanent right to use the reservoir and related facilities of the McGee Creek project in accordance with said contract.

SEC. 706. The conservation and development of the fish and wildlife resources, and the enhancement of recreation opportunities in connection with the McGee Creek project, except the scenic recreation and wildlife management areas authorized by section 702 of this title, shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213), as amended.

16 USC 460l-12
note.

SEC. 707. There is hereby authorized to be appropriated for fiscal year 1978 and thereafter, for construction of the McGee Creek project the sum of \$83,239,000 (January 1976 price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for the operation and maintenance of the project.

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1382 accompanying H.R. 14578 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1122 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 6, considered and passed Senate.

Aug. 26, considered and passed House, amended, in lieu of H.R. 14578.

Sept. 13, Senate concurred in House amendments.

Public Law 94-424
94th Congress

An Act

Sept. 28, 1976

[H.R. 3348]

To amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes.

Veterans.
Exchange of
medical
information
program.
38 USC 5054.

Appropriation
authorization.
38 USC 5055.

38 USC 203.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter IV of chapter 81 of title 38, United States Code, is amended as follows:

(1) By inserting at the end of section 5054(b) the following new sentence: "Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation."; and

(2) By striking out in section 5055(c) (1) "\$3,000,000 for each fiscal year 1968 through 1971, and such sums as may be necessary for each fiscal year 1972 through 1975," and inserting in lieu thereof "\$3,500,000 for fiscal year 1976; \$1,700,000 for the period beginning July 1, 1976, and ending September 30, 1976; \$4,000,000 for fiscal year 1977; \$4,000,000 for fiscal year 1978; and \$4,000,000 for fiscal year 1979."

SEC. 2. (a) Subchapter I of chapter 2 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 203. Availability of appropriations

"Any funds appropriated to the Veterans' Administration may, to the extent provided in this title or an appropriations Act, remain available until expended."

(b) The table of sections for subchapter I of chapter 3 of title 38, United States Code, is amended by adding at the end thereof the following new item:

"203. Availability of appropriations."

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-286 (Comm. on Veterans' Affairs).

SENATE REPORT No. 94-891 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 16, considered and passed House.

Vol. 122 (1976): Sept. 13, considered and passed Senate, amended.

Sept. 16, House concurred in Senate amendment.

Public Law 94-425
94th Congress

An Act

To provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes.

Sept. 28, 1976

[H.R. 14973]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of Public Law 89-640 (80 Stat. 884) is amended by striking out section 2 in its entirety and substituting in lieu thereof the following new section:

"Sec. 2. Pursuant to the agreement concluded under the authority of section 1 of this Act, the United States Commissioner is authorized to construct, operate, and maintain the portion of the 'International Flood Control Project, Tijuana River Basin,' assigned to the United States, and there is hereby authorized to be appropriated to the Department of State for use of the United States section the sum of \$10,800,000 for construction costs of such project, as modified, based on estimated June 1976 prices, plus or minus such amounts as may be justified by reason of price index fluctuations in costs involved therein, and such sums as may be necessary for its maintenance and operation, except that no funds may be appropriated under this Act for the fiscal year ending on September 30, 1977. Contingent upon the furnishing by the city of San Diego of its appropriate share of the funds for the acquisition of the land and interests therein needed to carry out the agreement between the United States and Mexico to construct such project, the Secretary of State, acting through the United States Commissioner, is further authorized to participate financially with non-Federal interests in the acquisition of said lands and interest therein, to the extent that funds provided by the city of San Diego are insufficient for this purpose."

International
Tijuana River
flood control
project.
22 USC
277d-33.
22 USC
277d-32.
Appropriation
authorization.

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1399, Pt. 1 (Comm. on International Relations).

SENATE REPORT No. 94-1237 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.

Sept. 20, considered and passed Senate.

Public Law 94-426
94th Congress

An Act

Sept. 28, 1976
[H.R. 15319]

To approve in whole or in part, with amendments, certain rules relating to cases and proceedings under sections 2254 and 2255 of title 28 of the United States Code.

Federal Rules of Procedure.
Certain proposed amendments, approval and effective date.
28 USC 2071 note.

Ante, p. 822.

28 USC app.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the rules governing section 2254 cases in the United States district courts and the rules governing section 2255 proceedings for the United States district courts, as proposed by the United States Supreme Court, which were delayed by the Act entitled "An Act to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the United States Supreme Court" (Public Law 94-349), are approved with the amendments set forth in section 2 of this Act and shall take effect as so amended, with respect to petitions under section 2254 and motions under section 2255 of title 28 of the United States Code filed on or after February 1, 1977.

SEC. 2. The amendments referred to in the first section of this Act are as follows:

(1) Rule 2(c) of the rules governing section 2254 cases is amended—
(A) by inserting "substantially" immediately after "The petition shall be in"; and

(B) by striking out the sentence "The petition shall follow the prescribed form."

(2) Rule 2(e) of the rules governing section 2254 cases is amended to read as follows:

"(e) RETURN OF INSUFFICIENT PETITION.—If a petition received by the clerk of a district court does not substantially comply with the requirements of rule 2 or rule 3, it may be returned to the petitioner, if a judge of the court so directs, together with a statement of the reason for its return. The clerk shall retain a copy of the petition."

(3) Rule 2(b) of the rules governing section 2255 proceedings is amended—

(A) by inserting "substantially" immediately after "The motion shall be in"; and

(B) by striking out the sentence "The motion shall follow the prescribed form."

(4) Rule 2(d) of the rules governing section 2255 proceedings is amended to read as follows:

"(d) RETURN OF INSUFFICIENT MOTION.—If a motion received by the clerk of a district court does not substantially comply with the requirements of rule 2 or rule 3, it may be returned to the movant, if a judge of the court so directs, together with a statement of the reason for its return. The clerk shall retain a copy of the motion."

(5) Rule 8(c) of the rules governing section 2254 cases is amended by adding at the end: "These rules do not limit the appointment of counsel under 18 U.S.C. § 3006A at any stage of the case if the interest of justice so requires."

(6) Rule 8(c) of the rules governing section 2255 proceedings is amended by adding at the end the following: "These rules do not limit the appointment of counsel under 18 U.S.C. § 3006A at any stage of the proceeding if the interest of justice so requires." 28 USC app.

(7) Rule 9(a) of the rules governing section 2254 cases is amended by striking out the second and third sentences.

(8) Rule 9(b) is amended by striking out "is not excusable" and inserting in lieu thereof "constituted an abuse of the writ".

(9) Rule 9(a) of the rules governing section 2255 proceedings is amended by striking out the final sentence.

(10) Rule 9(b) of the rules governing section 2255 proceedings is amended by striking out "is not excusable" and inserting in lieu thereof "constituted an abuse of the procedure governed by these rules".

(11) Rule 10 of the rules governing section 2254 cases is amended by inserting ", and to the extent the district court has established standards and criteria for the performance of such duties" immediately after "rule of the district court".

(12) Rule 10 of the rules governing section 2255 proceedings is amended by inserting ", and to the extent the district court has established standards and criteria for the performance of such duties," immediately after "rule of the district court".

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1471 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 14, considered and passed House.

Sept. 16, considered and passed Senate.

Public Law 94-427
94th Congress

An Act

Sept. 28, 1976
[S. 2184]

To authorize appropriations for the winter Olympic games, and for other purposes.

Olympic Winter
Games
Authorization Act
of 1976.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Olympic Winter Games Authorization Act of 1976".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) it is desirable for Americans of present and future generations to be assured adequate outdoor recreational resources and wilderness areas;

(2) the XIII international Olympic winter games, which are to be held in the United States at Lake Placid, New York, in 1980, will further an awareness and appreciation of indoor and outdoor recreational activities and of the need for preserving wilderness areas;

(3) amateur athletics and amateur athletic competition have contributed to the health and well-being of the Nation and, as the host country for the XIII international Olympic winter games, the United States has a unique opportunity to encourage participation in such activities by furnishing limited financial assistance to assure the availability of adequate facilities, resources, and support for the Olympic winter games;

(4) the Congress has pledged its cooperation and support in the successful fulfillment of the XIII international Olympic winter games; and

(5) the Federal financial assistance authorized by this Act is provided in recognition of the unique economic circumstances of the Lake Placid area and should not be considered as establishing a precedent for any future Federal financial assistance for international athletic competitions.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Olympic winter games" means the XIII international Olympic winter games to be held in 1980 at Lake Placid, New York.

(2) The term "Secretary" means the Secretary of Commerce.

(3) The term "winter games facilities" means existing or proposed winter sports and supporting facilities which are necessary to carry out the Olympic winter games, including—

(A) a field house;

(B) ski jumps;

(C) skating ovals or arenas;

- (D) housing for athletes;
- (E) a winter sports arena;
- (F) administrative offices;
- (G) dressing rooms, equipment, and storage facilities;
- (H) a luge run;
- (I) parking facilities;
- (J) facilities for increased electrical power;
- (K) sanitary and water facilities; and
- (L) a scoreboard and other miscellaneous facilities.

FINANCIAL ASSISTANCE

SEC. 4. (a) GRANTS.—The Secretary shall provide financial assistance in the form of grants to—

(1) the Lake Placid 1980 Olympic Games, Incorporated, a not-for-profit corporation incorporated under the laws of the State of New York; or

(2) State, local, or other governmental agencies, for purposes of assisting in the planning, design, and construction or improvement of winter games facilities, and for purposes of land acquisition and legal and fiscal fees in connection with the Olympic winter games. Subject to the provisions of subsection (b) of this section, such grants shall be provided in such sums, at such times, and under such conditions as the Secretary considers necessary and appropriate.

(b) CONDITIONS.—The amount of any grant for a winter games facility under subsection (a) of this section shall be based initially on the estimated cost of such facility. If the actual cost of any winter games facility is less than such estimated cost, the difference may be applied to meet the excess cost of any other winter games facility. If the actual cost of any winter games facility exceeds such estimated cost, plus any amounts applied to the excess cost under the preceding sentence, the Secretary shall not provide any grant for more than 50 percent of the remaining excess cost of such facility.

(c) REVERSION.—All revenues generated by the Olympic winter games in excess of actual costs shall revert to the Treasury of the United States in an amount not to exceed the total amount of funds appropriated under the authority of section 9 of this Act.

(d) OTHER ASSISTANCE.—The Secretary may provide financial assistance for projects related to the Olympic winter games under the authority contained in title I of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131-3136). Any such assistance (1) shall not be subject to the requirements for a non-Federal matching share set forth in section 101(c) of such title, and (2) shall be excluded from the limitation on the amount available to any one State set forth in section 103 of such title.

42 USC 3131.

42 USC 3133.

ENVIRONMENTAL PROTECTION

SEC. 5. In carrying out the provisions of this Act, the Secretary—

(1) shall require that all winter games facilities for which Federal financial assistance is provided under this Act are planned, designed, and constructed or improved in a manner which is consistent in all respects with State laws, rules, regulations, and plans governing the use, management, and development of Adirondack Park;

(2) shall not, as a condition on the receipt of Federal financial assistance under this Act, require any modification in any such State law, rule, regulation, or plan; and

(3) shall take such action as may be necessary and appropriate to assure that all activities relating to the Olympic winter games are carried out in a manner designed to recognize the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area and meet the needs of the Olympic winter games.

CONTINUED PUBLIC USE

Consultation.

SEC. 6. The Secretary, in coordination and consultation with State and local officials, shall take such action as may be necessary and appropriate to assure that all winter games facilities for which Federal financial assistance is provided under this Act are planned, designed, and constructed or improved in a manner which will provide maximum continued public use and benefit following the conclusion of the Olympic winter games.

REPORTS

Submittal to Congress and President.

SEC. 7. (a) **INTERIM REPORTS.**—The Secretary shall, within 3 months after the end of fiscal year 1977 and within 3 months after the end of each of the 2 succeeding fiscal years, submit an interim report to the Congress and to the President on the progress of the planning, design, and construction or improvement of winter games facilities under this Act. Each such report shall summarize and evaluate the progress made in preparing for the Olympic winter games, and include any recommendations for any further Federal involvement which the Secretary considers necessary or appropriate.

Recommendations.

Submittal to Congress and President.

(b) **FINAL REPORT.**—The Secretary shall, within 3 months after the conclusion of the Olympic winter games, submit a final report to the Congress and to the President containing a summary of all actions taken under this Act, including a description of the action taken under section 6 of this Act to assure the maximum continued public use of winter games facilities.

RECORDS AND AUDIT

SEC. 8. (a) **RECORDS.**—Each recipient of Federal financial assistance under this Act, whether directly or indirectly, shall keep such records as the Secretary shall prescribe, including—

(1) records which fully disclose (A) the amount and the disposition by such recipient of the proceeds of such assistance, (B) the total cost of the winter games facility or related project for which such assistance is given or used, (C) the amount of that portion of the cost of such facility or project supplied by other sources, and (D) an identification of such other sources; and

(2) such other records as will facilitate an effective financial audit.

(b) **AUDIT.**—Until the expiration of 3 years after the completion of the winter games facility or related project referred to in subsection (a) of this section, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of each recipient of Federal financial assistance under this Act which the Secretary or the Comptroller General considers relevant to such Federal financial assistance.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. (a) GENERAL.—There is authorized to be appropriated to the Secretary the sum of \$49,040,000 for purposes of providing grants under section 4(a) of this Act for the Olympic winter games.

(b) ADMINISTRATION.—There is authorized to be appropriated to the Secretary the sum of \$250,000 for the administration of this Act.

(c) AVAILABILITY.—Sums appropriated under this section are authorized to remain available until expended.

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1167 accompanying H.R. 13490 (Comm. on Interstate and Foreign Commerce) and No. 94-1447 (Comm. of Conference).

SENATE REPORT No. 94-858 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 9, H.R. 13490 considered in House.

June 10, considered and passed Senate.

June 11, considered and passed House, amended, in lieu of H.R. 13490.

Sept. 10, House agreed to conference report.

Sept. 16, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:

Sept. 29, Presidential statement.

Public Law 94-428
94th Congress

An Act

Sept. 28, 1976

[S. 2286]

Albuquerque,
N. Mex.
Land conveyance.

To amend the Act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Act entitled "An Act granting land to the city of Albuquerque for public purposes", approved June 9, 1906 (34 Stat. 227), as amended, is further amended by striking out "A parcel of land situated within the northwest quarter" and all that follows through "containing 0.7041 acre more or less." and inserting in lieu thereof the following:

"A parcel of land situated within the northwest quarter of section 20, township 10 north, range 4 east of the New Mexico principal meridian and within tract numbered 4 and tract numbered 1 of the municipal addition numbered 2, an addition to the city of Albuquerque, New Mexico, said parcel of land being more particularly described as follows:

"Beginning at the northwest corner of tract numbered 1 of said addition, said northwest corner being the same as shown on the plat of said addition filed for record in the offices of the county clerk of Bernalillo County, New Mexico, on July 12, 1955, from which point the northwest corner of said section 20 bears north 89 degrees 29 minutes 40 seconds west, a distance of 1,355.11 feet;

"thence south 0 degrees 23 minutes 20 seconds west, a distance of 220.88 feet to a point on a curve on the new southerly right-of-way line of Lomas Boulevard Northeast as shown on the New Mexico State Highway Department right-of-way map for project numbered I-040-3(1)163, and the true point of beginning;

"thence southeasterly, along said southerly right-of-way line on a curve (said curve being concave to the northeast, having a radius of 1,461.13 feet, a central angle of 2 degrees 37 minutes 42 seconds, and a long chord which bears south 88 degrees 17 minutes 40 seconds east, a distance of 67.02 feet) a distance of 67.03 feet to a New Mexico State Highway Department right-of-way marker (station 14+47.46) and a point on the westerly right-of-way of Herndon Street Northeast;

"thence south 1 degree 49 minutes 00 seconds west, along said westerly right-of-way line, a distance of 11.81 feet to the point of curve marked by a New Mexico State Highway Department right-of-way marker (station 0+50);

"thence southeasterly, along said westerly right-of-way line on a curve (said curve being concave to the northeast, having a radius of 330.71 feet, a central angle of 48 degrees 55 minutes 00 seconds, and a long chord which bears south 22 degrees 38 minutes 30 seconds east, a distance of 273.85 feet) a distance of 282.35 feet to a New Mexico State Highway Department right-of-way marker (station 2+89.89);

"thence north 43 degrees 02 minutes 30 seconds east, along said westerly right-of-way line, a distance of 10.00 feet to a New Mexico State Highway marker (station 2+89.89) and a point on a curve;

“thence southeasterly, along said westerly right-of-way line on a curve (said curve being concave to the southwest, having a radius of 242.58 feet, a central angle of 33 degrees 46 minutes 00 seconds and a long chord which bears south 30 degrees 04 minutes 30 seconds east, a distance of 140.09 feet) a distance of 142.96 feet to a New Mexico State Highway Department right-of-way marker (station 4+56);

“thence north 64 degrees 32 minutes 30 seconds west, a distance of 1,343.09 feet to a point on a curve on the said southerly right-of-way line of Lomas Boulevard Northeast;

“thence southeasterly, along said southerly right-of-way line on a curve (said curve being concave to the southwest, having a radius of 1,361.94 feet, a central angle of 15 degrees 31 minutes 33 seconds and a long chord which bears south 79 degrees 46 minutes 46 seconds east, a distance of 367.93 feet) a distance of 369.04 feet to a New Mexico State Highway Department right-of-way marker (station 7+83.81);

“thence south 72 degrees 01 minutes 00 seconds east, along said southerly right-of-way line, a distance of 200.00 feet to a New Mexico State Highway Department right-of-way marker (station 9+83.81) and the point of curve;

“thence southeasterly, along said southerly right-of-way line on a curve (said curve being concave to the northeast, having a radius of 1,461.13 feet, a central angle of 16 degrees 24 minutes 18 seconds and a long chord which bears south 80 degrees 13 minutes 09 seconds east, a distance of 416.93 feet) a distance of 418.35 feet to the true point of beginning.

Said parcel of land containing 3.6586 acres more or less.”.

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1538 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-728 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 1, considered and passed Senate.

Sept. 20, considered and passed House.

Public Law 94-429
94th Congress

An Act

Sept. 28, 1976
[S. 2371]

To provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

National Park
System.
Mining activity,
regulation.
16 USC 1901.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(a) the level of technology of mineral exploration and development has changed radically in recent years and continued application of the mining laws of the United States to those areas of the National Park System to which it applies, conflicts with the purposes for which they were established; and

(b) all mining operations in areas of the National Park System should be conducted so as to prevent or minimize damage to the environment and other resource values, and, in certain areas of the National Park System, surface disturbance from mineral development should be temporarily halted while Congress determines whether or not to acquire any valid mineral rights which may exist in such areas.

16 USC 1902.

SEC. 2. In order to preserve for the benefit of present and future generations the pristine beauty of areas of the National Park System, and to further the purposes of the Act of August 25, 1916, as amended (16 U.S.C. 1) and the individual organic Acts for the various areas of the National Park System, all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within any area of the National Park System shall be subject to such regulations prescribed by the Secretary of the Interior as he deems necessary or desirable for the preservation and management of those areas.

SEC. 3. Subject to valid existing rights, the following Acts are amended or repealed as indicated in order to close these areas to entry and location under the Mining Law of 1872:

(a) the first proviso of section 3 of the Act of May 22, 1902 (32 Stat. 203; 16 U.S.C. 123), relating to Crater Lake National Park, is amended by deleting the words “and to the location of mining claims and the working of same”;

(b) section 4 of the Act of February 26, 1917 (39 Stat. 938; 16 U.S.C. 350), relating to Mount McKinley National Park, is hereby repealed;

(c) section 2 of the Act of January 26, 1931 (46 Stat. 1043; 16 U.S.C. 350a), relating to Mount McKinley National Park, is hereby repealed;

(d) the Act of June 13, 1933 (48 Stat. 139; 16 U.S.C. 447), relating to Death Valley National Monument, is hereby repealed;

(e) the Act of June 22, 1936 (49 Stat. 1817), relating to Glacier Bay National Monument, is hereby repealed;

(f) section 3 of the Act of August 18, 1941 (55 Stat. 631; 16 U.S.C. 450y-2), relating to Coronado National Memorial is amended by replacing the semicolon in subsection (a) with a period and deleting the prefix “(a)”, the word “and” immediately preceding subsection (b), and by repealing subsection (b); and

Repeals.

(g) The Act of October 27, 1941 (55 Stat. 745; 16 U.S.C. 450z), relating to Organ Pipe Cactus National Monument, is hereby repealed.

Repeal.

SEC. 4. For a period of four years after the date of enactment of this Act, holders of valid mineral rights located within the boundaries of Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument shall not disturb for purposes of mineral exploration or development the surface of any lands which had not been significantly disturbed for purposes of mineral extraction prior to February 29, 1976: *Provided*, That if the Secretary finds that enlargement of the existing excavation of an individual mining operation is necessary in order to make feasible continued production therefrom at an annual rate not to exceed the average annual production level of said operation for the three calendar years 1973, 1974, and 1975, the surface of lands contiguous to the existing excavation may be disturbed to the minimum extent necessary to effect such enlargement, subject to such regulations as may be issued by the Secretary under section 2 of this Act. For purposes of this section, each separate mining excavation shall be treated as an individual mining operation.

Certain mining operations, temporary cessation.
16 USC 1903.

SEC. 5. The requirements for annual expenditures on mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any claim subject to section 4 of this Act during the time such claim is subject to such section.

16 USC 1904.

SEC. 6. Within two years after the date of enactment of this Act, the Secretary of the Interior shall determine the validity of any unpatented mining claims within Glacier Bay National Monument, Death Valley and Organ Pipe Cactus National Monuments and Mount McKinley National Park and submit to the Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands. The Secretary shall also study and within two years submit to Congress his recommendations for modifications or adjustments to the existing boundaries of the Death Valley National Monument and the Glacier Bay National Monument to exclude significant mineral deposits and to decrease possible acquisition costs.

Certain unpatented mining claims, recommendations for acquisition.
16 USC 1905.

SEC. 7. Within four years after the date of enactment of this Act, the Secretary of the Interior shall determine the validity of any unpatented mining claims within Crater Lake National Park, Coronado National Memorial, and Glacier Bay National Monument, and submit to the Congress recommendations as to whether any valid or patented claims should be acquired by the United States.

Study. Recommendations, submittal to Congress.

Recommendations, submittal to Congress.
16 USC 1906.

SEC. 8. All mining claims under the Mining Law of 1872, as amended and supplemented (30 U.S.C. chapters 2, 12A, and 16 and sections 161 and 162) which lie within the boundaries of units of the National Park System shall be recorded with the Secretary of the Interior within one year after the effective date of this Act. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on the effective date of this Act, or which becomes invalid thereafter. Within thirty days following the date of enactment of this Act, the Secretary shall publish notice of the requirement for such recordation in the Federal Register. He shall also publish similar notices in newspapers of general circulation in the areas adjacent to those units of the National Park System listed in section 3 of this Act.

Mining claims, recordation.
16 USC 1907.

Publication in Federal Register.

SEC. 9. (a) Whenever the Secretary of the Interior finds on his own motion or upon being notified in writing by an appropriate scientific,

Landmarks. Report to Advisory Council on Historic Preservation.
16 USC 1908.

historical, or archeological authority, that a district, site, building, structure, or object which has been found to be nationally significant in illustrating natural history or the history of the United States and which has been designated as a natural or historical landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, he shall notify the person conducting such activity and submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a national landmark, to the Advisory Council on Historic Preservation, with a request for advice of the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity.

Report to
Congress.
Legislative
recommendations.

(b) The Council shall within two years from the effective date of this section submit to the Congress a report on the actual or potential effects of surface mining activities on natural and historical landmarks and shall include with its report its recommendations for such legislation as may be necessary and appropriate to protect natural and historical landmarks from activities, including surface mining activities, which may have an adverse impact on such landmarks.

Severability.
16 USC 1909.
Civil actions.
16 USC 1910.

Sec. 10. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

Sec. 11. The holder of any patented or unpatented mining claim subject to this Act who believes he has suffered a loss by operation of this Act, or by orders or regulations issued pursuant thereto, may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. The court shall expedite its consideration of any claim brought pursuant to this section.

16 USC 1911.

Sec. 12. Nothing in this Act shall be construed to limit the authority of the Secretary to acquire lands and interests in lands within the boundaries of any unit of the National Park System. The Secretary is to give prompt and careful consideration to any offer made by the owner of any valid right or other property within the areas named in section 6 of this Act to sell such right or other property, if such owner notifies the Secretary that the continued ownership of such right or property is causing, or would result in, undue hardship.

SUNSHINE IN GOVERNMENT

Interior
Department
employees,
financial
disclosure.
16 USC 1912.

SEC. 13. (a) Each officer or employee of the Secretary of the Interior who—

(1) performs any function or duty under this Act, or any Acts amended by this Act concerning the regulation of mining within the National Park System; and

(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a mining claim within the boundaries of units of the National Park System; shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term “known financial interest” for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year. Report to Congress.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section. Exemptions.

(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than \$2,500 or imprisoned not more than one year, or both. Penalty.

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1428 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-567 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Feb. 3, 4, considered and passed Senate.
Sept. 14, considered and passed House, amended.
Sept. 17, Senate concurred in House amendments.

Public Law 94-430
94th Congress

An Act

Sept. 29, 1976
[H.R. 366]

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty.

Public Safety
Officers' Benefits
Act of 1976.
42 USC 3701
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Safety Officers' Benefits Act of 1976".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

"PART J.—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

42 USC 3796.

"SEC. 701. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of \$50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

Interim payment.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

“(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

“(f) No benefit paid under this part shall be subject to execution or attachment.

“LIMITATIONS

“SEC. 702. No benefit shall be paid under this part—

42 USC 3796a.

“(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer’s intention to bring about his death;

“(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer’s death; or

“(3) to any person who would otherwise be entitled to a benefit under this part if such person’s actions were a substantial contributing factor to the death of the public safety officer.

“DEFINITIONS

“SEC. 703. As used in this part—

42 USC 3796b.

“(1) ‘child’ means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer’s death, is—

“(A) eighteen years of age or under;

“(B) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

“(C) over eighteen years of age and incapable of self-support because of physical or mental disability;

“(2) ‘dependent’ means a person who was substantially reliant for support upon the income of the deceased public safety officer;

“(3) ‘fireman’ includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

“(4) ‘intoxication’ means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

“(5) ‘law enforcement officer’ means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

“(6) ‘public agency’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

“(7) ‘public safety officer’ means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

“ADMINISTRATIVE PROVISIONS

“SEC. 704. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Adminis-

Rules and regulations.
42 USC 3796c.

tration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

“(b) In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration.”.

MISCELLANEOUS PROVISIONS

42 USC 3768. SEC. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new subsection:

Appropriation authorization.
42 USC 3796 note. “(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J.”.

SEC. 4. The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts.

Severability.
42 USC 3796 note. SEC. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

Effective date.
42 USC 3796 note. SEC. 6. The amendments made by this Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment of this Act.

Approved September 29, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1032 (Comm. on the Judiciary) and No. 94-1501 (Comm. of Conference).

SENATE REPORTS: No. 94-816 (Comm. on the Judiciary) and No. 94-825 accompanying S. 230 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 30, considered and passed House.

July 19, considered and passed Senate, amended.

Sept. 15, House agreed to conference report.

Sept. 16, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:

Sept. 29, Presidential statement.

Public Law 94-431
94th Congress

An Act

To authorize certain construction at military installations, and for other purposes.

Sept. 30, 1976
[H.R. 14846]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Military
construction and
guard and reserve
forces facilities
authorization
acts, 1977.

TITLE I—ARMY

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, \$33,293,000.
Fort Campbell, Kentucky, \$65,387,000.
Fort Carson, Colorado, \$10,589,000.
Fort Drum, New York, \$7,114,000.
Fort Greely, Alaska, \$2,854,000.
Fort Hood, Texas, \$20,033,000.
Fort Lewis, Washington, \$2,114,000.
Fort George G. Meade, Maryland, \$1,142,000.
Fort Ord, California, \$14,453,000.
Fort Polk, Louisiana, \$47,613,000.
Fort Riley, Kansas, \$5,694,000.
Fort Stewart/Hunter Army Air Field, Georgia, \$39,634,000.
Fort Wainwright, Alaska, \$17,163,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, \$6,052,000.
Fort Benning, Georgia, \$10,394,000.
Fort Bliss, Texas, \$3,856,000.
Fort Eustis, Virginia, \$3,016,000.
Fort Gordon, Georgia, \$2,224,000.
Fort Benjamin Harrison, Indiana, \$987,000.
Fort Knox, Kentucky, \$10,379,000.
Fort Leavenworth, Kansas, \$190,000.
Fort Lee, Virginia, \$1,115,000.
Fort Rucker, Alabama, \$1,841,000.
Fort Sill, Oklahoma, \$1,181,000.
Fort Leonard Wood, Missouri, \$15,249,000.

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

Fort McNair, District of Columbia, \$722,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, \$726,000.
Detroit Arsenal, Michigan, \$340,000.
Kansas Army Ammunition Plant, Kansas, \$493,000.
Letterkenny Army Depot, Pennsylvania, \$8,357,000.
Fort Monmouth, New Jersey, \$495,000.
Natick Laboratories, Massachusetts, \$118,000.
Picatinny Arsenal, New Jersey, \$560,000.
Pine Bluff Arsenal, Arkansas, \$6,934,000.
Pueblo Army Depot, Colorado, \$417,000.
Radford Army Ammunition Plant, Virginia, \$25,663,000.
Redstone Arsenal, Alabama, \$1,126,000.
Scranton Army Ammunition Plant, Pennsylvania, \$162,000.
Seneca Army Depot, New York, \$421,000.
Sharpe Army Depot, California, \$551,000.
Sierra Army Depot, California, \$1,489,000.
Tooele Army Depot, Utah, \$2,572,000.
USA Fuel Lubrication Research Laboratory, Texas, \$469,000.
Watervliet Arsenal, New York, \$3,383,000.
White Sands Missile Range, New Mexico, \$349,000.
Woodbridge Research Facility, Virginia, \$2,130,000.
Yuma Proving Ground, Arizona, \$6,978,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, \$1,118,000.
Indiana Army Ammunition Plant, Indiana, \$6,758,000.
Lone Star Army Ammunition Plant, Texas, \$116,000.
Longhorn Army Ammunition Plant, Texas, \$86,000.
Milan Army Ammunition Plant, Tennessee, \$512,000.
Radford Army Ammunition Plant, Virginia, \$387,000.
Sunflower Army Ammunition Plant, Kansas, \$15,238,000.
Volunteer Army Ammunition Plant, Tennessee, \$285,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, \$2,857,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fitzsimmons Army Medical Center, Colorado, \$244,000.
Walter Reed Army Medical Center, District of Columbia,
\$1,108,000.

UNITED STATES ARMY MILITARY TRAFFIC COMMAND

Sunny Point Army Terminal, North Carolina, \$531,000.

NUCLEAR WEAPONS SECURITY

Various locations, \$2,575,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY, KOREA

Various locations, \$13,669,000.

UNITED STATES ARMY, JAPAN

Okinawa, \$124,000.

UNITED STATES ARMY SECURITY AGENCY

Various locations, \$4,480,000.

UNITED STATES ARMY, EUROPE

Germany, various locations, \$15,907,000.

Italy, various locations, \$1,088,000.

Various locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations, including international military headquarters, for the collective defense of the North Atlantic Treaty Area, \$80,000,000. Within thirty days after the end of each quarter, the Secretary of the Army shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred as the United States share of such multilateral programs.

Report to
congressional
committees.

NUCLEAR WEAPONS SECURITY

Various locations, \$49,393,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop Army installations and facilities by proceeding with construction made necessary by changes in Army missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment in the total amount of \$10,000,000. The Secretary of the Army, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1978 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Congressional
committees,
notification.

Authorization
expiration.

TITLE II—NAVY

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances,

utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

TRIDENT FACILITIES

Various locations, \$92,278,000.

MARINE CORPS

Marine Corps Supply Center, Albany, Georgia, \$1,965,000.
Marine Corps Base, Camp Lejeune, North Carolina, \$22,001,000.
Marine Corps Base, Camp Pendleton, California, \$12,720,000.
Marine Corps Air Station, Cherry Point, North Carolina, \$526,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, \$1,900,000.
Fleet Marine Force Atlantic, Norfolk, Virginia, \$799,000.
Headquarters, Fleet Marine Force Pacific, Camp Smith, Oahu, Hawaii, \$1,046,000.
Marine Corps Recruit Depot, Paris Island, South Carolina, \$4,499,000.
Marine Corps Development and Education Command, Quantico, Virginia, \$532,000.
Marine Corps Air Station, Yuma, Arizona, \$940,000.

CHIEF OF NAVAL OPERATIONS

Naval Support Activity, Brooklyn, New York, \$491,000.
Naval Support Activity, New Orleans, Louisiana, \$1,400,000.
Commander in Chief Pacific, Pearl Harbor, Hawaii, \$4,300,000.
Naval Support Activity, Philadelphia, Pennsylvania, \$201,000.
Naval Support Activity, Seattle, Washington, \$667,000.
Headquarters Naval District Washington, Washington, District of Columbia, \$1,300,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Cecil Field, Florida, \$272,000.
Oceanographic System Atlantic, Dam Neck, Virginia, \$8,048,000.
Naval Air Station, Jacksonville, Florida, \$6,101,000.
Naval Station, Mayport, Florida, \$1,674,000.
Naval Submarine Base, New London, Connecticut, \$300,000.
Flag Administrative Unit, Atlantic, Norfolk, Virginia, \$223,000.
Naval Station, Norfolk, Virginia, \$24,246,000.
Naval Air Station, Oceana, Virginia, \$14,457,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, \$1,418,000.
Naval Air Station, Barbers Point, Hawaii, \$12,836,000.
Naval Air Station, Fallon, Nevada, \$2,376,000.
Naval Air Station, Miramar, California, \$4,958,000.
Naval Air Station, Moffett Field, California, \$896,000.
Naval Air Station, North Island, California, \$11,720,000.
Naval Station, Pearl Harbor, Hawaii, \$4,051,000.
Naval Submarine Base, Pearl Harbor, Hawaii, \$975,000.
Naval Facility, Point Sur, California, \$160,000.
Naval Station, San Diego, California, \$8,386,000.
Naval Air Station, Whidbey Island, Washington, \$1,055,000.

NAVAL EDUCATION AND TRAINING

Naval Academy, Annapolis, Maryland, \$1,639,000.
Naval Supply Corps School, Athens, Georgia, \$670,000.
Navy Fleet Ballistic Missile Submarine Training Center, Charleston, South Carolina, \$2,504,000.
Naval Air Station, Memphis, Tennessee, \$1,871,000.
Naval Submarine School, New London, Connecticut, \$672,000.
Naval Education and Training Center, Newport, Rhode Island, \$490,000.
Naval School of Diving and Salvage, Panama City, Florida, \$10,800,000.
Naval Air Station, Pensacola, Florida, \$1,546,000.
Naval Technical Training Center, Corry Station, Pensacola, Florida, \$900,000.
Naval Submarine Training Center, San Diego, California, \$3,520,000.
Naval Training Center, San Diego, California, \$5,455,000.
Naval Air Station, Whiting Field, Florida, \$1,208,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Jacksonville, Florida, \$7,393,000.
Portsmouth Naval Regional Medical Clinic, Kittery, Maine, \$4,058,000.
Naval Regional Dental Center, Newport, Rhode Island, \$1,975,000.
Naval Hospital, Orlando, Florida, \$23,850,000.
Navy Environmental and Preventive Medicine Unit No. 6, Pearl Harbor, Hawaii, \$283,000.
Naval Regional Dental Center, San Diego, California, \$2,501,000.
Navy Environmental and Preventive Medicine Unit No. 5, San Diego, California, \$1,270,000.

CHIEF OF NAVAL MATERIAL

Naval Air Rework Facility, Alameda, California, \$1,191,000.
Puget Sound Naval Shipyard, Bremerton, Washington, \$10,876,000.
Charleston Naval Shipyard, Charleston, South Carolina, \$11,256,000.
Naval Weapons Station, Charleston, South Carolina, \$8,796,000.
Polaris Missile Facility, Atlantic, Charleston, South Carolina, \$2,315,000.
Naval Weapons Center, China Lake, California, \$950,000.
Naval Weapons Support Center, Crane, Indiana, \$988,000.
Naval Weapons Station, Earle, New Jersey, \$2,835,000.
National Parachute Test Range, El Centro, California, \$732,000.
Naval Air Facility, El Centro, California, \$3,500,000.
Naval Construction Battalion Center, Gulfport, Mississippi, \$4,551,000.
Naval Ordnance Station, Indian Head, Maryland, \$383,000.
Naval Torpedo Station, Keyport, Washington, \$2,145,000.
Portsmouth Naval Shipyard, Kittery, Maine, \$12,789,000.
Naval Air Station, Lakehurst, New Jersey, \$117,000.
Long Beach Naval Shipyard, Long Beach, California, \$3,981,000.
Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, \$135,000.
Navy Public Works Center, Norfolk, Virginia, \$454,000.
Naval Air Test Center, Patuxent River, Maryland, \$2,701,000.

Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, \$11,985,000.
Naval Air Rework Facility, Pensacola, Florida, \$7,784,000.
Navy Public Works Center, Pensacola, Florida, \$95,000.
Navy Aviation Supply Office, Philadelphia, Pennsylvania, \$629,000.
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania,
\$4,607,000.
Pacific Missile Test Center, Point Mugu, California, \$3,087,000.
Naval Construction Battalion Center, Port Hueneme, California,
\$183,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, \$5,909,000.
Naval Undersea Center, San Diego, California, \$811,000.
Navy Public Works Center, San Francisco, California, \$190,000.
Mare Island Naval Shipyard, Vallejo, California, \$9,302,000.

OCEANOGRAPHER OF THE NAVY

Naval Oceanographic Center, Bay Saint Louis, Mississippi,
\$7,400,000.

NUCLEAR WEAPONS SECURITY

Various locations, \$34,581,000.

OUTSIDE THE UNITED STATES

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Keflavik, Iceland, \$6,009,000.
Naval Station, Roosevelt Roads, Puerto Rico, \$4,160,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Magazine, Guam, Mariana Islands, \$1,861,000.

NAVAL TELECOMMUNICATIONS COMMAND

Classified location, \$1,832,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Keflavik, Iceland, \$3,000,000.

NUCLEAR WEAPONS SECURITY

Various locations, \$2,494,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop Navy installations and facilities by proceeding with construction made necessary by changes in Navy missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation,

appurtenances, utilities, and equipment, in the total amount of \$10,000,000. The Secretary of the Navy, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1978 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Congressional
committees,
notification.

Authorization
expiration.

DEFICIENCY AUTHORIZATIONS

SEC. 203. Public Law 93-166, as amended, is amended by striking out in clause (2) of section 602 "\$549,849,000" and "608,682,000" and inserting in place thereof "\$560,849,000" and "\$619,682,000", respectively.

87 Stat. 679.

TITLE III—AIR FORCE

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Tyndall Air Force Base, Florida, \$1,720,000.

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, \$16,587,000.
Kelly Air Force Base, Texas, \$2,374,000.
McClellan Air Force Base, California, \$1,194,000.
Newark Air Force Station, Ohio, \$266,000.
Robins Air Force Base, Georgia, \$10,051,000.
Tinker Air Force Base, Oklahoma, \$5,348,000.
Wright-Patterson Air Force Base, Ohio, \$35,804,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, \$439,010,000.
Eglin Air Force Base, Florida, \$354,000.
Laurence G. Hanscom Air Force Base, Massachusetts, \$671,000.
Patrick Air Force Base, Florida, \$198,000.
Pillar Point Air Force Station, California, \$450,000.
Various locations, \$10,250,000.

AIR TRAINING COMMAND

Columbus Air Force Base, Mississippi, \$6,467,000.
Keesler Air Force Base, Mississippi, \$1,350,000.
Mather Air Force Base, California, \$3,883,000.
Randolph Air Force Base, Texas, \$4,927,000.
Reese Air Force Base, Texas, \$250,000.
Williams Air Force Base, Arizona, \$825,000.

AIR UNIVERSITY

Maxwell Air Force Base, Alabama, \$123,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, \$210,000.

Shemya Air Force Base, Alaska, \$3,110,000.

Fort Yukon Air Force Station, Alaska, \$448,000.

HEADQUARTERS COMMAND

Andrews Air Force Base, Maryland, \$2,880,000.

Bolling Air Force Base, District of Columbia, \$1,415,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, \$11,377,000.

Charleston Air Force Base, South Carolina, \$1,468,000.

Dover Air Force Base, Delaware, \$900,000.

Little Rock Air Force Base, Arkansas, \$2,305,000.

McChord Air Force Base, Washington, \$286,000.

Norton Air Force Base, California, \$900,000.

Pope Air Force Base, North Carolina, \$200,000.

Scott Air Force Base, Illinois, \$90,000.

PACIFIC AIR FORCES

Hickam Air Force Base, Hawaii, \$4,145,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, \$3,628,000.

Beale Air Force Base, California, \$7,825,000.

Blytheville Air Force Base, Arkansas, \$2,200,000.

Carswell Air Force Base, Texas, \$732,000.

Castle Air Force Base, California, \$1,270,000.

Davis-Monthan Air Force Base, Arizona, \$2,192,000.

Fairchild Air Force Base, Washington, \$100,000.

Grand Forks Air Force Base, North Dakota, \$2,441,000.

Griffiss Air Force Base, New York, \$699,000.

K. I. Sawyer Air Force Base, Michigan, \$270,000.

Malmstrom Air Force Base, Montana, \$3,150,000.

McConnell Air Force Base, Kansas, \$2,948,000.

Minot Air Force Base, North Dakota, \$980,000.

Offutt Air Force Base, Nebraska, \$38,060,000.

Plattsburgh Air Force Base, New York, \$588,000.

Rickenbacker Air Force Base, Ohio, \$704,000.

Vandenberg Air Force Base, California, \$1,454,000.

Whiteman Air Force Base, Missouri, \$133,000.

Wurtsmith Air Force Base, Michigan, \$1,607,000.

TACTICAL AIR COMMAND

England Air Force Base, Louisiana, \$198,000.

Holloman Air Force Base, New Mexico, \$500,000.

Luke Air Force Base, Arizona, \$987,000.

MacDill Air Force Base, Florida, \$1,022,000.

Moody Air Force Base, Georgia, \$5,796,000.

Myrtle Beach Air Force Base, South Carolina, \$1,570,000.
 Nellis Air Force Base, Nevada, \$245,000.
 Seymour-Johnson Air Force Base, North Carolina, \$1,030,000.
 East Coast Range, \$7,500,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, \$354,000.

NUCLEAR WEAPONS SECURITY

Various locations, \$15,523,000.

AIR INSTALLATION COMPATIBLE USE ZONES

Various locations, \$2,217,000.

OUTSIDE THE UNITED STATES

AIR FORCE SYSTEMS COMMAND

Classified locations, \$1,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, \$4,170,000.

UNITED STATES AIR FORCES IN EUROPE

Various locations, \$38,000,000.

NUCLEAR WEAPONS SECURITY

Various locations, \$13,180,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop Air Force installations and facilities by proceeding with construction made necessary by changes in Air Force missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines the deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of \$10,000,000. The Secretary of the Air Force, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1978 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Congressional
committees,
notification.

Authorization
expiration.

TITLE IV—DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

DEFENSE MAPPING AGENCY

Defense Mapping Agency Aerospace Center, Saint Louis, Missouri, \$1,023,000.

Defense Mapping Agency Topographic Center, Bethesda, Maryland, \$455,000.

DEFENSE SUPPLY AGENCY

Cameron Station, Alexandria, Virginia, \$8,000,000.

Defense Construction Supply Center, Columbus, Ohio, \$855,000.

Defense Electronics Supply Center, Dayton, Ohio, \$130,000.

Defense Fuel Support Point, Cincinnati, Ohio, \$191,000.

Defense Fuel Support Point, Lynn Haven, Florida, \$1,393,000.

Defense Fuel Support Point, Melville, Newport, Rhode Island, \$225,000.

Defense General Supply Center, Richmond, Virginia, \$1,624,000.

Defense Logistics Service Center, Battle Creek, Michigan, \$1,862,000.

Defense Property Disposal Office, Ayer, Fort Devens, Massachusetts, \$500,000.

Defense Property Disposal Office, Duluth Air Force Base, Minnesota, \$135,000.

Defense Property Disposal Office, Groton, Connecticut, \$231,000.

Defense Property Disposal Office, Gunter Air Force Base, Alabama, \$150,000.

Defense Property Disposal Office, Fort Riley, Kansas, \$772,000.

Defense Property Disposal Office, Wurtsmith, Michigan, \$162,000.

TERMINAL PROCUREMENT

Harrisville, Michigan, \$700,000.

Verona, New York, \$200,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, \$2,247,000.

OUTSIDE THE UNITED STATES

DEFENSE SUPPLY AGENCY

Defense Property Disposal Office, Kaiserslautern, Germany, \$575,000.

Defense Property Disposal Office, Nuremberg, Germany, \$649,000.

Defense Property Disposal Office, Seckenheim, Germany, \$867,000.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the secu-

city of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation appurtenances, utilities, and equipment, in the total amount of \$10,000,000. The Secretary of Defense, or his designee, shall notify the Committee on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

Congressional
committees,
notification.

TITLE V—MILITARY FAMILY HOUSING

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense, or his designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such locations in the United States until the Secretary has consulted with the Secretary of the Department of Housing and Urban Development as to the availability of suitable private housing at such locations. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

Secretary of
HUD,
consultation.

Congressional
committees,
notification.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States; but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority; and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

Cost limitation.

Restrictions.

(c) Family housing units:

Fort Polk, Louisiana, six hundred fifty-two units, \$25,510,000.

Naval Complex, Bangor, Washington, two hundred forty-two units, \$9,375,000.

Naval Station, Keflavik, Iceland, one hundred sixty units, \$17,200,000.

Gila Bend Air Force Auxiliary Field, Arizona, forty units, \$1,676,000.

(d) Any amount specified in this section may, at the discretion of the Secretary of Defense, or his designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time the request for such amount was sub-

mitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

ALTERATIONS OF EXISTING QUARTERS

SEC. 502. The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed—

- (1) for the Department of the Army, \$12,000,000 for energy conservation projects;
- (2) for the Department of the Navy, \$7,000,000 for energy conservation projects; and
- (3) for the Department of the Air Force, \$6,890,000 for energy conservation projects.

RENTAL QUARTERS

10 USC 2674
note.

SEC. 503. (a) Section 515 of Public Law 84-161 (69 Stat. 324, 352), as amended, is further amended by revising the third sentence to read as follows: "Expenditures for the rental of such housing facilities, including the cost of utilities and maintenance and operation, may not exceed: For the United States (other than Alaska, Hawaii, and Guam) and Puerto Rico, an average of \$265 per month for each military department or the amount of \$450 per month for any unit; and for Alaska, Hawaii, and Guam, an average of \$335 per month for each military department, or the amount of \$450 per month for any one unit."

(b) Section 507(b) of Public Law 93-166 (87 Stat. 661, 676) is amended by striking out "\$380" and "\$670" in the first sentence and inserting in lieu thereof "\$405" and "\$700", respectively.

SETTLEMENT OF CLAIMS

SEC. 504. Notwithstanding the provisions of any other law:

- (1) The Secretary of the Navy is authorized to settle claims regarding construction of public quarters at the Naval Station, Charleston, South Carolina, in the amount of \$1,675,000.
- (2) The Secretary of the Air Force is authorized to settle claims regarding construction of mobile home facilities at MacDill Air Force Base, Florida, in the amount of \$88,000, plus interest at 8½ per centum from April 23, 1975, the date of settlement.

HOUSING, APPROPRIATIONS LIMITATIONS

SEC. 505. There is authorized to be appropriated for use by the Secretary of Defense or, his designee, for military family housing as authorized by law for the following purposes:

- (1) For construction or acquisition of sole interest in family housing, including demolition, authorized improvements to public quarters, minor construction, relocation of family housing, rental guarantee payments, and planning, an amount not to exceed \$80,576,000.
- (2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premi-

ums authorized under section 222 of the National Housing Act, as amended (12 U.S.C. 1715m), an amount not to exceed \$1,223,947,000.

TITLE VI—GENERAL PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

APPROPRIATIONS LIMITATIONS

SEC. 602. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by title I, II, III, IV, and V shall not exceed—

- (1) for title I: Inside the United States, \$419,837,000; outside the United States, \$164,661,000; or a total of \$584,498,000.
- (2) for title II: Inside the United States, \$481,580,000; outside the United States, \$19,356,000; or a total of \$500,936,000.
- (3) for title III: Inside the United States, \$679,759,000; outside the United States, \$56,650,000; or a total of \$736,409,000.
- (4) for title IV: A total of \$32,946,000.
- (5) for title V: Military Family Housing, \$1,304,523,000.

COST VARIATIONS

SEC. 603. (a) Except as provided in subsections (b) and (c), any amount specified in titles I, II, III, and IV of this Act may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Hawaii and Alaska) and by 10 per centum when outside the United States or in Hawaii and Alaska, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time the request for such amount was submitted to the Congress.

(b) When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (a), he may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

Report to
congressional
committees.

(c) When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (a) or (b) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding any provision to the contrary in prior military construction authorizations Acts, the provisions of this subsection shall apply to such prior Acts.

Cost limitation.

(d) Notwithstanding the foregoing provisions of this section, the total cost of all construction and acquisition in each such title may not exceed the total amount authorized to be appropriated in that title.

(e) No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is \$400,000 or more may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

Report to
congressional
committees.

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress, until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for such reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives and either (A) thirty days have elapsed from the date of submission of such report, or (B) both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

Annual report to
Congress.

(f) The Secretary of Defense shall submit an annual report to the Congress identifying each individual project which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army, or the Naval Facilities Engineering Command, Department of the Navy, or such other department or Government agency as the Secretaries of the military

departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress, shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each such firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

Report to
Congress.

10 USC 2301
et seq.
Reports to
Congress.

REPEAL OF PRIOR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of January 1, 1978, all authorizations for military public works, including family housing to be accomplished by the Secretary of a military department, in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Act of October 7, 1975, Public Law 94-107 (89 Stat. 546), and all such authorizations contained in Acts approved before October 7, 1975, and not superseded or otherwise modified by a later authorization are repealed except—

Exceptions.

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions;

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before January 1, 1978, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of section 605 of the Act of October 7, 1975, Public Law 94-107 (89 Stat. 546, 565), authorizations for the following items shall remain in effect until January 1, 1979:

(1) Defense Satellite Communications System construction in the amount of \$1,054,000 at Stuttgart, Germany, authorized in section 101 of the Act of December 27, 1974 (88 Stat. 1747), as amended.

(2) Cold storage warehouse construction in the amount of \$1,215,000 at Fort Dix, New Jersey, authorized in section 101 of the Act of October 25, 1972 (86 Stat. 1135), as amended and extended in section 605(3)(B) of the Act of December 27, 1974 (88 Stat. 1762), as amended.

(3) Land acquisition, Murphy Canyon in the amount of \$3,843,000 at Naval Regional Medical Center, San Diego, California, authorized in section 201 of the Act of December 27, 1974 (88 Stat. 1750), as amended.

(4) Land acquisition in the amount of \$800,000 at Naval Security Group Activity, Sabana Seca, Puerto Rico, authorized in section 201 of the Act of December 27, 1974 (88 Stat. 1750), as amended.

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction project inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) \$39 per square foot for permanent barracks;

(2) \$42 per square foot for bachelor officer quarters;

unless the Secretary of Defense, or his designee, determines that because of special circumstances application to such project of the limitations on unit costs contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

INCREASES FOR SOLAR HEATING AND SOLAR COOLING EQUIPMENT

SEC. 607. The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In addition to all other authorized variations of cost limitations or floor area limitations contained in this Act or prior Military Construction Authorization Acts, the Secretary of Defense, or his designee, may permit increases in the cost limitations or floor area limitations by such amounts as may be necessary to equip any projects with solar heating and/or solar cooling equipment.

LAND CONVEYANCE, NEW JERSEY

SEC. 608. (a) The Secretary of the Navy is authorized to convey, without consideration, to the Airship Association, a nonprofit organization incorporated under the laws of the State of New Jersey, all right, title, and interest of the United States in and to that portion of the lands comprising the Naval Air Station, Lakehurst, New Jersey, described in subsection (b), for use as a permanent site for the museum described in subsection (c), subject to conditions of use set forth in such subsection.

(b) The land authorized to be conveyed by subsection (a) is a certain parcel of land containing 13.98 acres, more or less, situated in Ocean County, New Jersey, being a part of the Naval Air Station, Lakehurst, New Jersey, and more particularly described as follows:

Beginning at a point on the westerly side of Ocean County Route Numbered 547, 205.40 feet northerly from the intersection of the center line of new road and the westerly side of Route

Numbered 547 thence (1) north 10 degrees 14 minutes 19 seconds east, 770.25 feet along the westerly edge of road to a point thence (2) north 66 degrees 35 minutes 41 seconds west, 724.55 feet to a point thence (3) south 23 degrees 24 minutes 19 seconds west, 750 feet to a point thence (4) south 66 degrees 35 minutes 41 seconds east, 900 feet to the point and place of beginning.

(c) The conveyance authorized by subsection (a) shall be subject to the following conditions and such other terms and conditions as the Secretary of the Navy, or his designee, shall determine necessary to protect the interests of the United States:

(1) The lands so conveyed shall be used primarily for the construction and operation of an airship museum to collect, preserve, and display to the public materials, memorabilia, and other items of historical significance and interest relative to the development and use of the airship, and for purposes incidental thereto.

(2) All right, title, and interest in and to such lands, and any improvements constructed thereon, shall revert to the United States, which shall have an immediate right of entry thereon, if the construction of the airship museum is not undertaken within five years from the date of such conveyance or if the lands conveyed shall cease to be used for the purposes specified in paragraph (1).

(3) All expenses for surveys and the preparation and execution of legal documents necessary or appropriate to carry out the provisions of this section shall be borne by the Airship Association.

LAND CONVEYANCE, WEST VIRGINIA

SEC. 609. Notwithstanding any other provisions of law, the Secretary of Defense, or his designee, is authorized to convey to the city of South Charleston, West Virginia, subject to such terms and conditions as the Secretary shall deem to be in the public interest, all right, title, and interest of the United States in and to a section of land located on the property formerly known as the South Charleston Naval Ordnance Plant, with improvements, such land consisting of approximately 4.5 acres. In consideration of such conveyance by the Secretary, the city of South Charleston shall convey to the United States unencumbered fee title to eight acres of land owned by the municipality, improved in a manner acceptable to the Secretary, and subject to such other conditions as are acceptable to the Secretary. The exact acreages and legal descriptions of both properties are to be determined by accurate surveys as mutually agreed upon by the Secretary and the city of South Charleston. The Secretary is authorized to accept the lands so conveyed to the United States, which lands shall be administered by the Department of the Army.

STUDIES OF REUSE OF MILITARY BASES

SEC. 610. (a) Whenever a final decision has been made to close any military installation located in the United States, Guam, or Puerto Rico and, because of the location, facilities, and other particular characteristics of such installation, the Secretary of Defense determines that such installation may be suitable for some specific Federal or State use potentially beneficial to the Nation, the Secretary of Defense is authorized to conduct such studies, including, but not limited to, the preparation of an environmental impact statement in accordance

10 USC 133 note.

42 USC 4321
note.

with the National Environmental Policy Act of 1969, in connection with such installation and such potential use as may be necessary to provide information sufficient to make sound conclusions and recommendations regarding the possible use of such installation.

(b) Any study conducted under authority of this section shall be submitted to the President and the Congress together with such comments and recommendations as the Secretary of Defense may deem appropriate. Such studies shall also be available to the public.

“Military
installation.”

(c) As used in this section, the term “military installation” includes any camp, post, station, base, yard, or other installation under the jurisdiction of any military department.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

IMPACT ASSISTANCE, NONPROFIT COOPERATIVES

SEC. 611. Notwithstanding section 7 of the Act of August 23, 1912 (31 U.S.C. 679), the Secretary of Defense is authorized to use any funds appropriated to carry out the provisions of section 610 of the Military Construction Act, 1971 (84 Stat. 1224), to reimburse non-profit, mutual aid telephone cooperatives for their capital expenditures for the purchase and installation of nontactical communications equipment and related facilities, to the extent the Secretary determines that (1) such expenditures are not otherwise recoverable by such cooperatives, (2) such expenditures were incurred as the direct result of the construction, installation, testing, and operation of the SAFEGUARD Antiballistic Missile System, and (3) such cooperatives, as a result of the deactivation and termination of such system, would sustain an unfair and excessive financial burden in the absence of the financial assistance authorized by this section.

BASE REALIGNMENTS

SEC. 612. (a) Notwithstanding any other provision of law, no funds authorized to be appropriated in this Act may be used to effect or implement—

Congress,
notification.

(1) the closure of any military installation;

(2) any reduction in the authorized level of civilian personnel at any military installation by more than one thousand civilian personnel or 50 per centum of the level of such personnel authorized as of March 1, 1976, or the end of the fiscal year immediately preceding the fiscal year in which the Secretary of Defense or the Secretary of the military department concerned notifies the Congress that such installation is a candidate for closure or significant reduction, whichever occurs later; or

(3) any construction, conversion, or rehabilitation at any other military installation (whether or not such installation is a military installation as defined in subsection (b)) which will or may be required as a result of the relocation of civilian personnel to such other installation by reason of any closure or reduction to which this section applies;

unless—

Congress, written
notification.

(A) the Secretary of Defense or the Secretary of the military department concerned notifies the Congress in writing that such military installation is a candidate for closure or significant reduction; and then

(B) the Secretary of Defense or the Secretary of the military department concerned complies with all terms, conditions and requirements of the National Environmental Policy Act; and then

42 USC 4321
note.

(C) the Secretary of Defense or the Secretary of the military department concerned submits to the Committees on Armed Services of the House of Representatives and the Senate his final decision to close or significantly reduce such installation and a detailed justification for his decision, together with the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or reduction; and then

Final decision,
submittal to
congressional
committees.

(D) a period of at least sixty days expires following the date on which the justification referred to in clause (C) has been submitted to such committees, during which period the Secretary of Defense or the Secretary of the military department concerned may take no irrevocable action to implement the decision.

(b) For purposes of this section, the term "military installation" means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

"Military
installation."

(1) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(2) at which not less than five hundred civilian personnel are authorized to be employed.

(c) For purposes of this section, the term "civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

"Civilian
personnel."

(d) This section shall not apply to any closure or reduction if the President certifies to Congress that such closure or reduction must be implemented for reasons of any military emergency or national security or if such closure or reduction was publicly announced prior to January 1, 1976.

NAVAL MUSEUM, CHARLESTON, SOUTH CAROLINA

SEC. 613. The Congress hereby expresses its approval and encouragement with respect to the establishment, by the State of South Carolina, of a naval and maritime museum in the city of Charleston, South Carolina, and recognizes the historical importance of such museum and the patriotic purpose it is intended to serve.

AMENDMENT TO TITLE 10, UNITED STATES CODE; REAL PROPERTY EXCHANGE

SEC. 614. Section 2662(a) of title 10, United States Code, is amended by adding at the end thereof a new sentence as follows: "The report required by this subsection to be submitted to the Committees on Armed Services of the Senate and House of Representatives concerning any report of excess real property described in clause (5) shall contain a certification by the Secretary concerned that he has considered the feasibility of exchanging such property for other real property authorized to be acquired for military purposes and has determined that the property proposed to be declared excess is not suitable for such purpose."

SHORT TITLE

SEC. 615. Titles I, II, III, IV, V, and VI of this Act may be cited as the "Military Construction Authorization Act, 1977".

Guard and
Reserves Forces
Facilities
Authorization
Act, 1977.
10 USC 2231
et seq.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed—

- (1) For the Department of the Army:
 - (a) Army National Guard of the United States, \$54,745,000.
 - (b) Army Reserve, \$44,459,000.
- (2) For the Department of the Navy: Naval and Marine Corps Reserves, \$21,800,000.
- (3) For the Department of the Air Force:
 - (a) Air National Guard of the United States, \$33,900,000.
 - (b) Air Force Reserve, \$9,773,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

SHORT TITLE

SEC. 703. This title may be cited as the "Guard and Reserves Forces Facilities Authorization Act, 1977".

Approved September 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1371 (Comm. on Armed Services).
SENATE REPORT No. 94-1233 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.
Sept. 15, considered and passed Senate, amended.
Sept. 16, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:
Sept. 30, Presidential statement.

38 USC 415.

- (6) by striking out “\$4,500” in subsection (d)(3) and inserting in lieu thereof “\$4,760”; and
- (7) by striking out “\$69” in subsection (h) and inserting in lieu thereof “\$74”.

TITLE IV—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

SEC. 401. Section 322(b) of title 38, United States Code, is amended by striking out “\$69” and inserting in lieu thereof “\$74”.

Dependent
parents.

SEC. 402. Subsection 102(a)(2) of title 38, United States Code, is amended to read as follows:

“(2) Dependency of a parent shall not be denied (A) solely because of remarriage, or (B) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Administrator shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support.”.

38 USC 3001 *et*
seq.

SEC. 403. Chapter 51 of title 38, United States Code, is amended as follows:

- (1) the analysis of subchapter I is amended by adding at the end the following:

“3006. Furnishing of information by other agencies.”;

and

- (2) subchapter I is amended by adding at the end thereof the following new section:

38 USC 3006.

“§ 3006. Furnishing of information by other agencies

“The head of any Federal department or agency shall provide such information to the Administrator as he may request for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.”.

Nonservice-
connected
disability or
death.

38 USC 501 note.
38 USC 501 *et*
seq.

SEC. 404. (a) The Congress finds and declares that the pension program for nonservice-connected disability or death, authorized in chapter 15 of title 38, United States Code, and administered by the Veterans' Administration—

- (1) does not provide sufficient assistance to meet the needs of some eligible veterans and survivors;
- (2) has developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner; and
- (3) subjects many pensioners annually to reductions in their pensions.

The Congress further finds and declares that it lacks sufficient long-range information as to actual and anticipated financial characteristics of potential pensioners (and their families) upon which to estimate costs of existing alternative pension programs.

Report to
Congress and
President.

(b) No later than October 1, 1977, the Administrator of Veterans' Affairs shall submit a report to Congress and the President. The report shall contain the findings and recommendations of a comprehensive investigation, analysis, and evaluation of existing and alternative nonservice-connected pension programs, and shall include, but not be limited to, the following:

- (1) Income characteristics of veterans and survivors currently in receipt of nonservice-connected pension.

(2) Actual and anticipated long-term financial characteristics of pensioners including those veterans and survivors (and their families) who may be potentially eligible for benefits under the nonservice-connected pension program during the next 25 years.

(3) Identification and analysis of existing inequities, anomalies, and inconsistencies contained in the current nonservice-connected pension program.

(4) Current and proposed income exclusions.

(5) Particular problems and needs of catastrophically disabled nonservice-connected pensioners.

(6) Alternative proposals which—

(A) assure a level of income for eligible veterans at or above the national minimum standard of need;

(B) treat similarly circumstanced pensioners alike; and

(C) provide the greatest amount of assistance to those with the greatest amount of need.

(c) On the basis of the investigation, analysis, and evaluation required to be made in subsection (b), the report shall identify alternative courses of legislative or administrative action (including proposed legislation) and long-range cost estimates therefor which, in the judgment of the Administrator, would result in a more equitable nonservice-connected pension program.

SEC. 405. (a) The provisions of this Act, other than titles II and III and section 401, shall take effect on the date of the enactment of this Act.

Effective dates.
38 USC 521 note.

(b) Titles II and III and section 401 of this Act shall take effect January 1, 1977.

Approved September 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1269 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 21, considered and passed House.

Aug. 4, considered and passed Senate, amended.

Sept. 9, House concurred in Senate amendment with an amendment.

Sept. 20, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:

Sept. 30, Presidential statement.

Public Law 94-433
94th Congress

An Act

Sept. 30, 1976
[H.R. 14299]

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes.

Veterans
Disability
Compensation
and Survivor
Benefits Act of
1976.
38 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Veterans Disability Compensation and Survivor Benefits Act of 1976”.

TITLE I—VETERANS DISABILITY COMPENSATION

SEC. 101. (a) Section 314 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) “\$35” and inserting in lieu thereof “\$38”;

(2) by striking out in subsection (b) “\$65” and inserting in lieu thereof “\$70”;

(3) by striking out in subsection (c) “\$98” and inserting in lieu thereof “\$106”;

(4) by striking out in subsection (d) “\$134” and inserting in lieu thereof “\$145”;

(5) by striking out in subsection (e) “\$188” and inserting in lieu thereof “\$203”;

(6) by striking out in subsection (f) “\$236” and inserting in lieu thereof “\$255”;

(7) by striking out in subsection (g) “\$280” and inserting in lieu thereof “\$302”;

(8) by striking out in subsection (h) “\$324” and inserting in lieu thereof “\$350”;

(9) by striking out in subsection (i) “\$364” and inserting in lieu thereof “\$393”;

(10) by striking out in subsection (j) “\$655” and inserting in lieu thereof “\$707”;

(11) by striking out in subsection (k) “\$52” and “\$814” and “\$1,139” each time they appear and inserting in lieu thereof “\$56” and “\$879” and “\$1,231”, respectively;

(12) by striking out in subsection (l) “\$814” and inserting in lieu thereof “\$879”;

(13) by striking out in subsection (m) “\$896” and inserting in lieu thereof “\$968”;

(14) by striking out in subsection (n) “\$1,018” and inserting in lieu thereof “\$1,099”;

(15) by striking out in subsection (o) and (p) “\$1,139” each time it appears and inserting in lieu thereof “\$1,231”;

(16) by striking out in subsection (r) “\$489” and inserting in lieu thereof “\$528”; and

(17) by striking out in subsection (s) “\$732” and inserting in lieu thereof “\$791”.

Rate adjustment.
38 USC 314 note.
38 USC prec.
101.
38 USC 301,
et seq.

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

"(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by \$31 for each such child.

"(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by \$78 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person."

Children.

SEC. 202. Section 413 of title 38, United States Code, is amended to read as follows:

"Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

"(1) one child, \$131;

"(2) two children, \$189;

"(3) three children, \$243; and

"(4) more than three children, \$243, plus \$49 for each child in excess of three."

Children,
supplemental
compensation.

SEC. 203. Section 414 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "\$72" and inserting in lieu thereof "\$78";

(2) by striking out in subsection (b) "\$121" and inserting in lieu thereof "\$131"; and

(3) by striking out in subsection (c) "\$62" and inserting in lieu thereof "\$67".

Study.
38 USC 410 note.
38 USC 401
et seq.

SEC. 204. (a) The Administrator shall carry out a thorough and detailed study of the dependency and indemnity compensation program authorized under chapter 13 of this title and of its beneficiaries to measure and evaluate the adequacy of benefits provided under this program and to determine whether, or to what extent, benefits should be based on the military pay grade of the person upon whose death entitlement is predicated.

Report.

(b) The report of such study shall include such full statistical data as may be obtained concerning surviving spouses and dependents in receipt of dependency and indemnity compensation other than under section 415 of title 38, United States Code, and in each instance the data shall include a breakdown of the distribution of the surviving spouses and dependents amongst the pay grade levels set forth in section 411(a) of title 38, United States Code. Data concerning such surviving spouses and dependents shall include (1) full statistical information concerning the number and ages of surviving spouses and dependents, the number of surviving spouses that remarry, the number of surviving spouses with dependents, and the number of surviving spouses in receipt of aid and attendance; (2) full statistical information concerning the number of surviving spouses and the number of dependents in receipt of old-age, survivors, and disability insurance (OASDI) cash benefits and the amount and type thereof, the number of surviving spouses and the number of dependents in receipt of other Federal or State assistance and the amount and type thereof, the number of surviving spouses in receipt of State survivor benefits and the amount and type thereof to include a breakdown by State, and the number of surviving spouses who work and their earnings therefrom; (3) full statistical information concerning the educational attainment of the survivor's deceased spouse; and (4) full statistical information concerning those surviving spouses whose veteran spouse was in receipt

Ante, p. 1375.

of disability compensation pursuant to chapter 11 of title 38, prior to death and the rating of disability thereof.

(c) The report together with such comments and recommendations by the Administrator for improving the program as are appropriate shall be submitted to the Congress and the President not later than October 1, 1977.

38 USC 301
et seq.

Submittal to
Congress and
President.

TITLE III—OTHER DISABLED VETERANS PROGRAM IMPROVEMENTS

SEC. 301. Section 362 of title 38, United States Code, is amended by striking out "\$175" and inserting in lieu thereof "\$190".

Clothing
allowance.

SEC. 302. Section 806 of title 38, United States Code, is amended by striking out in subsection (c) "\$30,000," and inserting in lieu thereof "\$40,000".

Mortgage
Protection Life
Insurance.

SEC. 303. Section 1901 of title 38, United States Code, is amended—

(1) by striking out in paragraph (1) before the colon at the end of clause (A) "during World War II or thereafter" and inserting in lieu thereof "on or after September 16, 1940"; and

(2) by striking out in paragraph (1) before the period at the end of clause (B) "during World War II or thereafter" and inserting in lieu thereof "on or after September 16, 1940".

SEC. 304. (a) Chapter 23 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 908. Transportation of deceased veteran to a national cemetery

38 USC 908.

"Where a veteran dies as the result of a service-connected disability, or is in receipt of (but for the receipt of retirement pay or pension under this title would have been entitled to) disability compensation, the Administrator may pay, in addition to any amount paid pursuant to section 902 or 907 of this title, the cost of transportation of the deceased veteran for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available."

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"908. Transportation of deceased veterans to a national cemetery."

TITLE IV—MISCELLANEOUS AND TECHNICAL AMEND- MENTS AND EFFECTIVE DATE PROVISIONS

SEC. 401. Chapter 11 of title 38, United States Code, is amended—

38 USC 301.

(1) by striking out in the table of sections at the beginning of such chapter 11

"356. Minimum rating for arrested tuberculosis.";

(2) by striking out in paragraph (3) of section 301 "Leprosy" and inserting in lieu thereof "Hansen's disease";

(3) by striking out in paragraph (4) of section 301 "Leprosy", and by inserting in paragraph (4) of such section "Hansen's disease" between "Filiariasis" and "Leishmaniasis, including kala-azar";

(4) by striking out in clause (o) of section 314 "in combination with total blindness with 5/200 visual acuity or less,"; and

(5) by striking out in clause (r) of section 314 "3203(f)" and inserting in lieu thereof "3203(e)".

SEC. 402. Section 3012(b) of title 38, United States Code, is amended—

- (1) by inserting in clause (2) "annulment," immediately before "divorce" each time it appears; and
- (2) by striking out in clause (9) "his" and inserting in lieu thereof "the beneficiary's".

Amputees,
cardiovascular
disorders, study.
38 USC 301 note.

SEC. 403. (a) The Administrator of Veterans' Affairs shall conduct a scientific study to determine if there is a causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders.

(b) The report of the study shall include (1) a comprehensive review and professional analysis of the literature covering other such studies conducted or underway of such relationship; and (2) an analysis of statistically valid samples of disability claims of veterans having service-connected extremity amputation matched by age, sex and war period with nonamputee veterans.

Report to
Speaker of the
House and
President of the
Senate.
38 USC 301.

(c) The report, together with such comments and recommendations as the Administrator deems appropriate, shall be submitted to the Speaker of the House and the President of the Senate not later than June 30, 1977.

SEC. 404. Chapter 11 of title 38, United States Code, is further amended—

(1) by striking out in clauses (A) and (B) of section 301(2) "him" and inserting in lieu thereof "such veteran";

(2) by striking out in section 302(a) "widow of a veteran under this chapter unless she was married to him" and inserting in lieu thereof "surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran";

(3) by striking out in section 302(b) "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(4) by striking out in the catchline of section 302 "widows" and inserting in lieu thereof "surviving spouses";

(5) by striking out in the table of sections at the beginning of such chapter 11.

"302. Special provisions relating to widows."
and inserting in lieu thereof

"302. Special provisions relating to surviving spouses.";

(6) by striking out in clauses (m) and (o) of section 314 "him" and inserting in lieu thereof "such veteran";

(7) by striking out in section 314(p) "in his discretion";

(8) by striking out in clauses (r) and (s) of section 314 "he" and "his" each time they appear and inserting in lieu thereof "such veteran" and "such veteran's", respectively;

(9) by striking out in clauses (A), (B), (C), (D), (E), (F), and (G) of section 315(1) "wife" each time it appears and inserting in lieu thereof "spouse";

(10) by striking out in section 315(1)(H) "mother or father, either or both dependent upon him" and inserting in lieu thereof "parent dependent upon such veteran";

(11) by striking out in section 315(2) "his";

(12) by striking out in section 321 "widow" and inserting in lieu thereof "spouse";

(13) by striking out in paragraphs (1) and (2) of section 322(a) "Widow" and inserting in lieu thereof "Surviving spouse";

(14) by striking out in paragraphs (3), (4), and (5) of section 322(a) "widow" and inserting in lieu thereof "surviving spouse";

(15) by striking out in section 322(a)(6) "mother or father" and inserting in lieu thereof "parent";

(16) by striking out in section 322(a)(7) "Dependent mother and father" and inserting in lieu thereof "Both dependent parents"; 38 USC 322.

(17) by striking out in section 322(b) "widow" and inserting in lieu thereof "surviving spouse";

(18) by striking out in section 341 "widow" and inserting in lieu thereof "spouse";

(19) by striking out in section 351 "him", and by striking out in such section "his" and inserting in lieu thereof "such veteran's";

(20) by striking out in section 354(a) "his" and "he" each time they appear and inserting in lieu thereof "such veteran's" and "such veteran", respectively;

(21) by striking out in section 358 "in his discretion", and by striking out in such section "his wife" and "a wife" and inserting in lieu thereof "such veteran's spouse" and "such spouse", respectively;

(22) by striking out in section 360 "his" each time it appears and inserting in lieu thereof "such veteran's";

(23) by striking out in section 361 "his" and inserting in lieu thereof "such former member's"; and

(24) by striking out in section 362 "he" and inserting in lieu thereof "the Administrator".

SEC. 405. Chapter 13 of title 38, United States Code, is amended— 38 USC 401

(1) by striking out in subsections (a) and (b) of section 402 "his" and "he" each time they appear and inserting in lieu thereof "such veteran's" and "such veteran", respectively; *et seq.*

(2) by striking out in subsections (c) and (d) of section 402 "he" and "his widow" and inserting in lieu thereof "such veteran" and "such veteran's surviving spouse", respectively;

(3) by striking out in section 402(e) "his" and "he" each time they appear and inserting in lieu thereof "such person's" and "such person", respectively;

(4) by striking out in section 404 "widow", "she", and "him", and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(5) by striking out in the catchline of section 404 "widows" and inserting in lieu thereof "surviving spouses";

(6) by striking out in the table of sections at the beginning of such chapter 13

"404. Special provisions relating to widows."

and inserting in lieu thereof

"404. Special provisions relating to surviving spouses.";

(7) by striking out in subsections (a) and (b) of section 410 "his widow", "widow", "he", and "his" and inserting in lieu thereof "such veteran's surviving spouse", "surviving spouse", "such veteran", and "such veteran's", respectively;

(8) by striking out in the table of sections at the beginning of such chapter 13

"411. Dependency and indemnity compensation to a widow."

and inserting in lieu thereof

"411. Dependency and indemnity compensation to a surviving spouse.";

(9) by striking out in subsections (a) and (b) of section 412 "his", "he", and "widow" each time they appear and inserting in lieu thereof "such veteran's", "such veteran", and "surviving spouse", respectively;

38 USC 414.

(10) by striking out in subsections (a), (b), and (c) of section 414 “him”, “woman”, “widow”, and “her deceased husband” each time they appear and inserting in lieu thereof “such child”, “person”, “surviving spouse”, and “such person’s deceased spouse”, respectively;

(11) by striking out in paragraphs (1) and (2) of section 416(a) “widow” and “his” and inserting in lieu thereof “surviving spouse” and “such person’s”, respectively;

(12) by striking out in section 416(b)(1) “widow” and “her” and inserting in lieu thereof “surviving spouse” and “such surviving spouse”, respectively;

(13) by striking out in section 416(c) “him” and inserting in lieu thereof “such child”;

(14) by striking out in section 416(d) “him” each time it appears and inserting in lieu thereof “such parent”;

(15) by striking out in section 416(e)(1) “he” and “his” and inserting in lieu thereof “such person” and “such beneficiary’s”, respectively;

(16) by striking out in section 416(e)(3) “his” and “he” and inserting in lieu thereof “such child’s” and “the Administrator”, respectively;

(17) by striking out in section 421 “him” and inserting in lieu thereof “the Administrator”;

(18) by striking out in section 422(a) “his” and “him” and inserting in lieu thereof “such veteran’s” and “such Secretary”, respectively; and

(19) by striking out in section 423 “him” and “he” each time they appear and inserting in lieu thereof “the Administrator”.

Effective date.

38 USC 301 note.

SEC. 406. The provisions of this Act shall become effective on October 1, 1976.

Approved September 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1270 (Comm. on Veterans' Affairs).

SENATE REPORT No. 94-1226 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 21, considered and passed House.

Sept. 20, considered and passed Senate, amended.

Sept. 21, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:

Sept. 30, Presidential statement.

Public Law 94-434
94th Congress

An Act

To authorize the Secretary of Agriculture to convey certain lands in the State of Idaho, and for other purposes.

Sept. 30, 1976
[S. 2511]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture is authorized to convey by quitclaim deed, subject to the provisions of subsection (b) of this section, all right, title, and interest of the United States in and to the following described tract of land and the improvements thereon:

Boise, Idaho.
Land conveyance.

A part of the Riverside Park Addition to Boise City, Ada County, Idaho, in sections 9 and 10, township 3 north, range 2 east, Boise meridian, according to the plat thereof, filed in book 6 of plats at page 250, records of Ada County, Idaho.

All of block 6, except lots 9 and 10; all of block 3, except lots 10 to 13, inclusive; and all of the adjacent vacated streets and alleys described as follows:

Tenth Street between the south line of River Street and the north line of Park Boulevard; alley running in a northerly and southerly direction in block 3 from the south line of River Street to the south line of lot 9, block 3; all of alley running in a northerly and southerly direction in block 6; all of alley running in an easterly and westerly direction between lots 16 and 20 and lots 21 to 32, inclusive, block 6; alley running in an easterly and westerly direction between lots 13 and 17 and lots 1 to 12, inclusive, in block 6 from west line of Tenth Street to west line of lot 8, block 6; all the alley running in an easterly and westerly direction in block 3; and the following two tracts:

Tract 1: A tract 12 feet wide lying west and adjacent to lots 1 through 9, inclusive, block 3, Riverside Park Addition, more particularly described as follows:

Beginning at the northwest corner of lot 1, block 3, Riverside Park Addition; then north 87 degrees 36 minutes west 12 feet, thence south 2 degrees 24 minutes west 225 feet; thence south 87 degrees 36 minutes east 12 feet; thence north 2 degrees 24 minutes east 225 feet to the northwest corner of lot 1, the place of beginning.

Tract 2: A tract 12 feet wide lying east and adjacent to lots 36 and 15, also a tract 12 feet wide, lying along the easterly line of lot 14 and being approximately 50 feet in length along said lot 14, all in block 3 of Riverside Park Addition, more particularly described as follows:

Beginning at the northeast corner of lot 36, block 3, Riverside Park Addition; thence south 2 degrees 24 minutes west 256 feet, to a point extending approximately 50 feet, more or less, southerly from the north end of lot 14, which would be intersected by the projection of the south line of lot 9; thence south 87 degrees 36 minutes east 12 feet; thence north 2 degrees 24 minutes east 249 feet; thence north 55 degrees 06 minutes west 14 feet to the place of beginning.

Containing 5.22 acres, more or less.

Conditions.

(b) Any such conveyance pursuant to subsection (a) of this section shall be conditioned upon the Secretary of Agriculture (hereinafter referred to as the "Secretary") entering into an agreement or other arrangement, including an exchange, sufficient to assure the Secretary that the party to whom such conveyance is to be made will cause to be constructed, for the United States, on the southeast quarter northwest quarter northeast quarter southwest quarter, section 27, township 3 north, range 2 east, Boise meridian, containing 2.50 acres, more or less (withdrawn from the public domain for administrative site purposes), or on an alternative site to be determined by the Secretary, administrative improvements of at least equal value to the lands and the improvements thereto authorized to be conveyed by subsection (a) of this section: *Provided*, That if the value of the lands and the improvements thereon authorized to be conveyed by subsection (a) exceeds the value of the administrative improvements determined necessary by the Secretary to be constructed under this subsection, the party to whom the conveyance is made shall make a cash payment to the United States in an amount equal to the difference between the two values.

**Public offers,
solicitation.**

(c) In carrying out the provisions of this Act, the Secretary shall solicit public offers. Such solicitation shall be made with sufficient time to permit such full and free competition as is necessary to meet the requirements of the agency concerned. All offers shall be publicly opened at the time and place stated in the solicitation notice. After considering price, value and other factors, the Secretary shall enter into such agreement or arrangement with the responsible party whose offer, conforming to the solicitation notice, is determined by the Secretary to be most advantageous to the Government. Notwithstanding any other provision of this Act, all offers may be rejected by the Secretary if he determines that it is in the public interest to do so.

Approved September 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1539 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-745 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 13, considered and passed Senate.

Sept. 20, considered and passed House.

Public Law 94-435
94th Congress

An Act

To improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes.

Sept. 30, 1976
[H.R. 8532]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hart-Scott-Rodino Antitrust Improvements Act of 1976".

Hart-Scott-
Rodino Antitrust
Improvements
Act of 1976.
15 USC 1311
note.

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TITLE I—ANTITRUST CIVIL PROCESS ACT
AMENDMENTS

DEFINITIONS

SEC. 101. Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311) is amended—

(1) in subsection (a)—

(A) by inserting "and" after the semicolon at the end of paragraph (1);

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) by striking out "(A)" and ", or (B) any unfair trade practice in or affecting such commerce" in paragraph (2) (as redesignated by subparagraph (B)).

(2) by amending subsection (c) to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation;"

(3) by amending subsection (f) to read as follows:

"(f) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law;"

(4) by amending subsection (h) to read as follows:

"(h) The term 'custodian' means the custodian or any deputy custodian designated under section 4(a) of this Act."

Post, p. 1387.

CIVIL INVESTIGATIVE DEMANDS

SEC. 102. Section 3 of the Antitrust Civil Process Act (15 U.S.C. 1312) is amended to read as follows:

“CIVIL INVESTIGATIVE DEMANDS

“SEC. 3. (a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to answer in writing written interrogatories, to give oral testimony concerning documentary material or information, or to furnish any combination of such material, answers, or testimony.

“(b) Each such demand shall—

“(1) state the nature of—

“(A) the conduct constituting the alleged antitrust violation, or

“(B) the activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if consummated, may result in an antitrust violation,

which are under investigation and the provision of law applicable thereto;

“(2) if it is a demand for production of documentary material—

“(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

“(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

“(C) identify the custodian to whom such material shall be made available; or

“(3) if it is a demand for answers to written interrogatories—

“(A) propound with definiteness and certainty the written interrogatories to be answered;

“(B) prescribe a date or dates at which time answers to written interrogatories shall be submitted; and

“(C) identify the custodian to whom such answers shall be submitted; or

“(4) if it is a demand for the giving of oral testimony—

“(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

“(B) identify an antitrust investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted.

“(c) No such demand shall require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony, if such material, answers, or testimony would be protected from disclosure under—

“(1) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States in aid of a grand jury investigation, or

Documentary
material,
production.

Interrogatories,
answers.

Oral testimony.

“(2) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this Act.

28 USC app.

“(d) (1) Any such demand may be served by any antitrust investigator, or by any United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

Service.

“(2) any such demand or any petition filed under section 5 of this Act may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that such court would have if such person were personally within the jurisdiction of such court.

Jurisdiction.

“(e) (1) Service of any such demand or of any petition filed under section 5 of this Act may be made upon a partnership, corporation, association, or other legal entity by—

Service upon legal entities.

“(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

“(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

“(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

“(2) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

Service upon natural person.

“(A) delivering a duly executed copy thereof to the person to be served; or

“(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

“(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

Proof of service.

“(g) The production of documentary material in response to a demand served pursuant to this section shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

“(h) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under

a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons responsible for answering each interrogatory, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

Procedures
governing oral
examinations.

“(i) (1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

“(2) The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking such testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30), shall not apply to such examinations.

“(3) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the antitrust investigator conducting the examination and such person.

Transcript.

“(4) When the testimony is fully transcribed, the antitrust investigator or the officer shall afford the witness (who may be accompanied by counsel) a reasonable opportunity to examine the transcript; and the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the officer or the antitrust investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days of his being afforded a reasonable opportunity to examine it, the officer or the antitrust investigator shall sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reason, if any, given therefor.

Certification.

“(5) The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness, and the officer or antitrust investigator shall promptly deliver it or send it by registered or certified mail to the custodian.

Copies.

“(6) Upon payment of reasonable charges therefor, the antitrust investigator shall furnish a copy of the transcript to the witness only, except that the Assistant Attorney General in charge of the Antitrust Division may for good cause limit such witness to inspection of the official transcript of his testimony.

Right to counsel.

“(7) (A) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence,

either upon the request of such person or upon counsel's own initiative, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not by himself or through counsel otherwise interrupt the oral examination. If such person refuses to answer any question, the anti-trust investigator conducting the examination may petition the district court of the United States pursuant to section 5 of this Act for an order compelling such person to answer such question.

Post, p. 1389.

“(B) If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code.

18 USC 6001.

“(8) Any person appearing for oral examination pursuant to a demand served under this section shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.”

Fees and mileage.

CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

SEC. 103. Section 4 of such Act is amended to read as follows:

15 USC 1313.

“CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

“SEC. 4. (a) The Assistant Attorney General in charge of the Anti-trust Division of the Department of Justice shall designate an anti-trust investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this Act, and such additional antitrust investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

Documentary materials, availability.
Ante, p. 1384.

“(b) Any person, upon whom any demand under section 3 of this Act for the production of documentary material has been duly served, shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to section 5(d) of this Act) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute copies for originals of all or any part of such material.

15 USC 1314.

“(c) (1) The custodian to whom any documentary material, answers to interrogatories, or transcripts of oral testimony are delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return of documentary material, pursuant to this Act.

Responsibility for materials.

“(2) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any duly authorized official or employee of the Department of Justice under regulations which shall be promulgated by the Attorney General. Notwith-

Regulations; official use of materials.

standing paragraph (3) of this subsection, such material, answers, and transcripts may be used by any such official or employee in connection with the taking of oral testimony pursuant to this Act.

Disclosure,
limitation.

“(3) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, so produced shall be available for examination, without the consent of the person who produced such material, answers, or transcripts, by any individual other than a duly authorized official or employee of the Department of Justice. Nothing in this section is intended to prevent disclosure to either body of the Congress or to any authorized committee or subcommittee thereof.

Documentary
materials,
availability to
producer.

“(4) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe, (A) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by any duly authorized representative of such person, and (B) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or his counsel.

Legal actions, use
of investigative
files.

“(d) (1) Whenever any attorney of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case, grand jury, or proceeding as such attorney determines to be required. Upon the completion of any such case, grand jury, or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

FTC investi-
gations or
proceedings,
use of
investigative
files.

“(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to the Federal Trade Commission, in response to a written request, copies of such material, answers, or transcripts for use in connection with an investigation or proceeding under the Commission's jurisdiction. Such material, answers, or transcripts may only be used by the Commission in such manner and subject to such conditions as apply to the Department of Justice under this Act.

Documentary
material, return
to producer,
limitation.

“(e) If any documentary material has been produced in the course of any antitrust investigation by any person pursuant to a demand under this Act and—

“(1) any case or proceeding before any court or grand jury arising out of such investigation, or any proceeding before any Federal administrative or regulatory agency involving such material, has been completed, or

“(2) no case or proceeding, in which such material may be used, has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

“(f) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced under any demand issued pursuant to this Act, or the official relief of such custodian from responsibility for the custody and control of such material, answers, or transcripts, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such material, answers, or transcripts, and (2) transmit in writing to the person who produced such material, answers, or testimony notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such material, answers, or transcripts all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred prior to his designation.”.

Successor
custodians,
appointment.
Notice.

JUDICIAL PROCEEDINGS

SEC. 104. (a) Section 5(a) of such Act is amended by striking out “, except that if” and all that follows down through the end of the sentence and inserting in lieu thereof a period. 15 USC 1314.

(b) The first sentence of subsection (b) of section 5 of such Act is amended to read as follows: “Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such antitrust investigator a petition for an order of such court modifying or setting aside such demand.”.

Order, filing.

(c) The second sentence of subsection (b) of section 5 is amended by striking out the period at the end thereof and by inserting in lieu thereof: “, except that such person shall comply with any portions of the demand not sought to be modified or set aside.”.

(d) Subsection (c) of section 5 is amended by striking out “delivered” and inserting in lieu thereof “or answers to interrogatories delivered, or transcripts of oral testimony given”.

(e) Section 5 is further amended by adding at the end thereof the following:

“(f) Any documentary material, answers to written interrogatories, or transcripts of oral testimony provided pursuant to any demand issued under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.”.

Disclosure,
exemption.

CRIMINAL PENALTY

SEC. 105. The third paragraph of section 1505 of title 18, United States Code, is amended to read as follows:

“Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or”.

15 USC 1311
note.

EFFECTIVE DATE

15 USC 1311
note.

Ante, p. 1384.

SEC. 106. The amendments to the Antitrust Civil Process Act and to section 1505 of title 18, United States Code, made by this title shall take effect on the date of enactment of this Act, except section 3(i)(8) of the Antitrust Civil Process Act (as amended by this Act) shall take effect on the later of (1) the date of enactment of this Act, or (2) October 1, 1976. Any such amendment which provides for the production of documentary material, answers to interrogatories, or oral testimony shall apply to any act or practice without regard to the date on which it occurred.

TITLE II—PREMERGER NOTIFICATION

NOTIFICATION AND WAITING PERIOD

SEC. 201. The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 7 of such Act the following new section:

Filing.
15 USC 18a.

"SEC. 7A. (a) Except as exempted pursuant to subsection (c), no person shall acquire, directly or indirectly, any voting securities or assets of any other person, unless both persons (or in the case of a tender offer, the acquiring person) file notification pursuant to rules under subsection (d) (1) and the waiting period described in subsection (b) (1) has expired, if—

"(1) the acquiring person, or the person whose voting securities or assets are being acquired, is engaged in commerce or in any activity affecting commerce;

"(2) (A) any voting securities or assets of a person engaged in manufacturing which has annual net sales or total assets of \$10,000,000 or more are being acquired by any person which has total assets or annual net sales of \$100,000,000 or more;

"(B) any voting securities or assets of a person not engaged in manufacturing which has total assets of \$10,000,000 or more are being acquired by any person which has total assets or annual net sales of \$100,000,000 or more; or

"(C) any voting securities or assets of a person with annual net sales or total assets of \$100,000,000 or more are being acquired by any person with total assets or annual net sales of \$10,000,000 or more; and

"(3) as a result of such acquisition, the acquiring person would hold—

"(A) 15 per centum or more of the voting securities or assets of the acquired person, or

"(B) an aggregate total amount of the voting securities and assets of the acquired person in excess of \$15,000,000.

In the case of a tender offer, the person whose voting securities are sought to be acquired by a person required to file notification under this subsection shall file notification pursuant to rules under subsection (d).

Waiting period.

"(b) (1) The waiting period required under subsection (a) shall—

"(A) begin on the date of the receipt by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereinafter referred to in this section as the 'Assistant Attorney General') of—

"(i) the completed notification required under subsection (a), or

“(ii) if such notification is not completed, the notification to the extent completed and a statement of the reasons for such noncompliance, from both persons, or, in the case of a tender offer, the acquiring person; and

“(B) end on the thirtieth day after the date of such receipt (or in the case of a cash tender offer, the fifteenth day), or on such later date as may be set under subsection (e) (2) or (g) (2).

“(2) The Federal Trade Commission and the Assistant Attorney General may, in individual cases, terminate the waiting period specified in paragraph (1) and allow any person to proceed with any acquisition subject to this section, and promptly shall cause to be published in the Federal Register a notice that neither intends to take any action within such period with respect to such acquisition.

Waiting period,
termination.
Publication in
Federal Register.

“(3) As used in this section—

“(A) The term ‘voting securities’ means any securities which at present or upon conversion entitle the owner or holder thereof to vote for the election of directors of the issuer or, with respect to unincorporated issuers, persons exercising similar functions.

“Voting
securities.”

“(B) The amount or percentage of voting securities or assets of a person which are acquired or held by another person shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by such other person and each affiliate thereof.

“(c) The following classes of transactions are exempt from the requirements of this section—

Exempt
transactions.

“(1) acquisitions of goods or realty transferred in the ordinary course of business;

“(2) acquisitions of bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

“(3) acquisitions of voting securities of an issuer at least 50 per centum of the voting securities of which are owned by the acquiring person prior to such acquisition;

“(4) transfers to or from a Federal agency or a State or political subdivision thereof;

“(5) transactions specifically exempted from the antitrust laws by Federal statute;

“(6) transactions specifically exempted from the antitrust laws by Federal statute if approved by a Federal agency, if copies of all information and documentary material filed with such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

“(7) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842);

“(8) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), or section 5 of the Home Owners’ Loan Act of 1933 (12 U.S.C. 1464), if copies of all information and documentary material filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General at least 30 days prior to consummation of the proposed transaction;

“(9) acquisitions, solely for the purpose of investment, of voting securities, if, as a result of such acquisition, the securities

acquired or held do not exceed 10 per centum of the outstanding voting securities of the issuer;

“(10) acquisitions of voting securities, if, as a result of such acquisition, the voting securities acquired do not increase, directly or indirectly, the acquiring person’s per centum share of outstanding voting securities of the issuer;

“(11) acquisitions, solely for the purpose of investment, by any bank, banking association, trust company, investment company, or insurance company, of (A) voting securities pursuant to a plan of reorganization or dissolution; or (B) assets in the ordinary course of its business; and

“(12) such other acquisitions, transfers, or transactions, as may be exempted under subsection (d) (2) (B).

“(d) The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code, consistent with the purposes of this section—

“(1) shall require that the notification required under subsection (a) be in such form and contain such documentary material and information relevant to a proposed acquisition as is necessary and appropriate to enable the Federal Trade Commission and the Assistant Attorney General to determine whether such acquisition may, if consummated, violate the antitrust laws; and

“(2) may—

“(A) define the terms used in this section;

“(B) exempt, from the requirements of this section, classes of persons, acquisitions, transfers, or transactions which are not likely to violate the antitrust laws; and

“(C) prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.

Rules.

Acquisitions,
additional
information.

“(e) (1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b) (1) of this section, require the submission of additional information or documentary material relevant to the proposed acquisition, from a person required to file notification with respect to such acquisition under subsection (a) of this section prior to the expiration of the waiting period specified in subsection (b) (1) of this section, or from any officer, director, partner, agent, or employee of such person.

Waiting period,
extension.

“(2) The Federal Trade Commission or the Assistant Attorney General, in its or his discretion, may extend the 30-day waiting period (or in the case of a cash tender offer, the 15-day waiting period) specified in subsection (b) (1) of this section for an additional period of not more than 20 days (or in the case of a cash tender offer, 10 days) after the date on which the Federal Trade Commission or the Assistant Attorney General, as the case may be, receives from any person to whom a request is made under paragraph (1), or in the case of tender offers, the acquiring person, (A) all the information and documentary material required to be submitted pursuant to such a request, or (B) if such request is not fully complied with, the information and documentary material submitted and a statement of the reasons for such noncompliance. Such additional period may be further extended only by the United States district court, upon an application by the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (g) (2).

“(f) If a proceeding is instituted or an action is filed by the Federal Trade Commission, alleging that a proposed acquisition violates section 7 of this Act or section 5 of the Federal Trade Commission Act, or an action is filed by the United States, alleging that a proposed acquisition violates such section 7 or section 1 or 2 of the Sherman Act, and the Federal Trade Commission or the Assistant Attorney General (1) files a motion for a preliminary injunction against consummation of such acquisition pendente lite, and (2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection—

15 USC 18, 45.

15 USC 1, 2.

“(A) upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

“(B) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited.

“(g) (1) Any person, or any officer, director, or partner thereof, who fails to comply with any provision of this section shall be liable to the United States for a civil penalty of not more than \$10,000 for each day during which such person is in violation of this section. Such penalty may be recovered in a civil action brought by the United States.

Civil penalty.

“(2) If any person, or any officer, director, partner, agent, or employee thereof, fails substantially to comply with the notification requirement under subsection (a) or any request for the submission of additional information or documentary material under subsection (e) (1) of this section within the waiting period specified in subsection (b) (1) and as may be extended under subsection (e) (2), the United States district court—

Compliance.

“(A) may order compliance;

“(B) shall extend the waiting period specified in subsection (b) (1) and as may have been extended under subsection (e) (2) until there has been substantial compliance, except that, in the case of a tender offer, the court may not extend such waiting period on the basis of a failure, by the person whose stock is sought to be acquired, to comply substantially with such notification requirement or any such request; and

“(C) may grant such other equitable relief as the court in its discretion determines necessary or appropriate, upon application of the Federal Trade Commission or the Assistant Attorney General.

“(h) Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

Disclosure exemption.

“(i) (1) Any action taken by the Federal Trade Commission or the Assistant Attorney General or any failure of the Federal Trade Commission or the Assistant Attorney General to take any action under this section shall not bar any proceeding or any action with respect to such acquisition at any time under any other section of this Act or any other provision of law.

“(2) Nothing contained in this section shall limit the authority of the Assistant Attorney General or the Federal Trade Commission to secure at any time from any person documentary material, oral testimony, or other information under the Antitrust Civil Process Act, the Federal Trade Commission Act, or any other provision of law.

“(j) Beginning not later than January 1, 1978, the Federal Trade Commission, with the concurrence of the Assistant Attorney General, shall annually report to the Congress on the operation of this section. Such report shall include an assessment of the effects of this section, of the effects, purpose, and need for any rules promulgated pursuant thereto, and any recommendations for revisions of this section.”.

15 USC 1311
note.

15 USC 58.
Report to
Congress.

Legislative
recommendations.

EFFECTIVE DATES

15 USC 18a note.

SEC. 202. (a) The amendment made by section 201 of this Act shall take effect 150 days after the date of enactment of this Act, except that subsection (d) of section 7A of the Clayton Act (as added by section 201 of this Act) shall take effect on the date of enactment of this Act.

Ante, p. 1390.
15 USC 18a.

TITLE III—PARENS PATRIAE

PARENS PATRIAE ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 301. The Clayton Act is amended by inserting immediately following section 4B the following new sections:

“ACTIONS BY STATE ATTORNEYS GENERAL

15 USC 15c.

“SEC. 4C. (a) (1) Any attorney general of a State may bring a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any district court of the United States having jurisdiction of the defendant, to secure monetary relief as provided in this section for injury sustained by such natural persons to their property by reason of any violation of the Sherman Act. The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief (A) which duplicates amounts which have been awarded for the same injury, or (B) which is properly allocable to (i) natural persons who have excluded their claims pursuant to subsection (b) (2) of this section, and (ii) any business entity.

15 USC 1-7.

“(2) The court shall award the State as monetary relief threefold the total damage sustained as described in paragraph (1) of this subsection, and the cost of suit, including a reasonable attorney’s fee.

Treble damage
awards.
Costs.
Notice,
publication.

“(b) (1) In any action brought under subsection (a) (1) of this section, the State attorney general shall, at such times, in such manner, and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

"(2) Any person on whose behalf an action is brought under subsection (a) (1) may elect to exclude from adjudication the portion of the State claim for monetary relief attributable to him by filing notice of such election with the court within such time as specified in the notice given pursuant to paragraph (1) of this subsection. Monetary relief, exclusion.

"(3) The final judgment in an action under subsection (a) (1) shall be res judicata as to any claim under section 4 of this Act by any person on behalf of whom such action was brought and who fails to give such notice within the period specified in the notice given pursuant to paragraph (1) of this subsection. Final judgment.

"(c) An action under subsection (a) (1) shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs. Dismissal or compromise of action, notice.

"(d) In any action under subsection (a)— Attorneys' fees.

"(1) the amount of the plaintiffs' attorney's fee, if any, shall be determined by the court; and

"(2) the court may, in its discretion, award a reasonable attorney's fee to a prevailing defendant upon a finding that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"MEASUREMENT OF DAMAGES

"SEC. 4D. In any action under section 4C(a) (1), in which there has been a determination that a defendant agreed to fix prices in violation of the Sherman Act, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought. 15 USC 15d.
15 USC 1-7.

"DISTRIBUTION OF DAMAGES

"SEC. 4E. Monetary relief recovered in an action under section 4C(a) (1) shall— 15 USC 15e.

"(1) be distributed in such manner as the district court in its discretion may authorize; or

"(2) be deemed a civil penalty by the court and deposited with the State as general revenues;

subject in either case to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the net monetary relief.

"ACTIONS BY ATTORNEY GENERAL OF THE UNITED STATES

"SEC. 4F. (a) Whenever the Attorney General of the United States has brought an action under the antitrust laws, and he has reason to believe that any State attorney general would be entitled to bring an action under this Act based substantially on the same alleged violation of the antitrust laws, he shall promptly give written notification thereof to such State attorney general. Notification.
15 USC 15f.

"(b) To assist a State attorney general in evaluating the notice or in bringing any action under this Act, the Attorney General of the United States shall, upon request by such State attorney general, make Investigative files, availability.

available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under this Act.

“DEFINITIONS

15 USC 15g. “SEC. 4G. For the purposes of sections 4C, 4D, 4E, and 4F of this Act:

“(1) The term ‘State attorney general’ means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 4C of this Act, and includes the Corporation Counsel of the District of Columbia, except that such term does not include any person employed or retained on—

“(A) a contingency fee based on a percentage of the monetary relief awarded under this section; or

“(B) any other contingency fee basis, unless the amount of the award of a reasonable attorney’s fee to a prevailing plaintiff is determined by the court under section 4C(d) (1).

“(2) The term ‘State’ means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

“(3) The term ‘natural persons’ does not include proprietorships or partnerships.

“APPLICABILITY OF PARENS PATRIAE ACTIONS

15 USC 15h. “SEC. 4H. Sections 4C, 4D, 4E, 4F, and 4G shall apply in any State, unless such State provides by law for its nonapplicability in such State.”.

CONFORMING AMENDMENTS

SEC. 302. The Clayton Act (15 U.S.C. 12 et seq.), is amended—

(1) in section 4B (15 U.S.C. 15b), by striking out “sections 4 or 4A” and inserting in lieu thereof “section 4, 4A, or 4C”;

(2) in section 5(i) (15 U.S.C. 16(i)), by striking out “private right of action” and inserting in lieu thereof “private or State right of action”; and by striking out “section 4” and inserting in lieu thereof “section 4 or 4C”; and

(3) by adding at the end of section 16 (15 U.S.C. 26) the following: “In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney’s fee, to such plaintiff.”.

CONSOLIDATION

SEC. 303. Section 1407 of title 28, United States Code, is amended by adding at the end thereof the following new section:

28 USC 1404. “(h) Notwithstanding the provisions of section 1404 or subsection (f) of this section, the judicial panel on multidistrict litigation may consolidate and transfer with or without the consent of the parties, for both pretrial purposes and for trial, any action brought under section 4C of the Clayton Act.

Ante, p. 1394.

EFFECTIVE DATE

15 USC 15c note. SEC. 304. The amendments to the Clayton Act made by section 301 of this Act shall not apply to any injury sustained prior to the date of enactment of this Act.

SHORT TITLES FOR CERTAIN ANTITRUST LAWS

SEC. 305. (a) The Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies”, approved July 2, 1890 (15 U.S.C. 1 et seq.), is amended by adding immediately after the enacting clause the following: “That this Act may be cited as the ‘Sherman Act’.”. 15 USC 1 note.

(b) The Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes”, approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by—

(1) inserting “(a)” after “That” in the first section; and

(2) adding at the end of the first section the following new subsection:

“(b) This Act may be cited as the ‘Clayton Act’.”.

(c) The Act entitled “An Act to promote export trade, and for other purposes”, approved April 10, 1918 (40 Stat. 516; 15 U.S.C. 61 et seq.) is amended by adding at the end thereof the following new section:

“SEC. 6. This Act may be cited as the ‘Webb-Pomerene Act’.”. 15 USC 66.

(d) The Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes”, approved August 27, 1894 (28 Stat. 509; 15 U.S.C. 8 et seq.), is amended by adding at the end thereof the following new section:

“SEC. 78. Sections 73, 74, 75, 76, and 77 of this Act may be cited as the ‘Wilson Tariff Act’.”. 15 USC 8 note.

Approved September 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS No. 94-499, No. 94-499, Part 2, No. 94-1343 accompanying H.R. 13489, and No. 94-1373 accompanying H.R. 14580 (all from Comm. on the Judiciary).

SENATE REPORT No. 94-803 accompanying S. 1284 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 18, considered and passed House.

May 25, 27, 28, June 3, 4, 7-10, considered and passed Senate, amended.

Aug. 2, H.R. 13489 and H.R. 14580 considered and passed House.

Aug. 24, House agreed to Senate amendment with an amendment.

Aug. 27, 30, 31, Sept. 7, 8, Senate agreed to House amendment with an amendment.

Sept. 16, House agreed to Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:

Sept. 30, Presidential statement.

Public Law 94-436
94th Congress

An Act

Sept. 30, 1976
[H.R. 13325]

To amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the United States Railway Association, and for other purposes.

Regional Rail
Reorganization
Act of 1973,
amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

“(c) ASSOCIATION.—For the period beginning May 1, 1976, and ending September 30, 1977, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed \$20,000,000. Sums appropriated under this subsection are authorized to remain available until September 30, 1978.”

45 USC 743.

SEC. 2. Section 206(d) (5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d) (5)) is amended by adding at the end thereof the following new sentence: “The Corporation, its Board of Directors, and its individual directors shall not be liable to any party, for money damages or in any other manner, solely by reason of the fact that the Corporation transferred property pursuant to section 303 of this Act to meet the needs of commuter or intercity rail passenger service, except as otherwise provided with respect to the Corporation pursuant to section 303(c) (2) of this Act.”

Ante, p. 109.

SEC. 3. The first sentence of section 303(c) (5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c) (5)) is amended to read as follows: “Whenever the special court, pursuant to section 303(b) (1) of this title, orders the transfer or conveyance of rail properties—

45 USC 716.

“(A) designated under section 206(c) (1) (C) or (D) of this Act, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

“(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or any other responsible person (including a governmental entity), the United States shall indemnify such Corporation, railroad, State, or person against any costs or liabilities imposed thereon as the result of any judgment entered against such Corporation, railroad, State, or person under paragraph (3) of this subsection; plus interest on the amount of such judgment at such rate as is constitutionally required.”

Ante, p. 98.

SEC. 4. Section 206(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)) is amended by adding at the end thereof the following new paragraph:

“(7) Notwithstanding any contrary provision in the options conveyed to the Corporation by railroads in reorganization, or railroads leased, operated, or controlled by a railroad in reorganization, with respect to the acquisition, on behalf of a State (or a local or regional transportation authority) of rail properties designated under section 206(c) (1) (D) of this title, such options shall not be deemed to have expired prior to 7 days after the date of enactment of this paragraph. The exercise by the Corporation of any such option shall be effective if it is made, prior to the expiration of such 7-day period, in the manner prescribed in such options.”

SEC. 5. Section 303(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(e)) is amended by adding “or which are made at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of section 601(d) of this Act” at the end of the second parenthetical expression between “title” and the closing parenthesis.

Ante, p. 84.

Ante, p. 119.
45 USC 791.

Approved September 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1124 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-1194 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 7, considered and passed House.

Sept. 1, considered and passed Senate, amended.

Sept. 17, House concurred in Senate amendments, with amendments.

Sept. 20, Senate concurred in House amendments.

Public Law 94-437
94th Congress

An Act

Sept. 30, 1976
[S. 522]

To implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.

Indian Health
Care
Improvement
Act.
25 USC 1601
note.
25 USC 1601.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Health Care Improvement Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States. For example, for Indians compared to all Americans in 1971, the tuberculosis death rate was over four and one-half times greater, the influenza and pneumonia death rate over one and one-half times greater, and the infant death rate approximately 20 per centum greater.

(e) All other Federal services and programs in fulfillment of the Federal responsibility to Indians are jeopardized by the low health status of the American Indian people.

(f) Further improvement in Indian health is imperiled by—

(1) inadequate, outdated, inefficient, and undermanned facilities. For example, only twenty-four of fifty-one Indian Health Service hospitals are accredited by the Joint Commission on Accreditation of Hospitals; only thirty-one meet national fire and safety codes; and fifty-two locations with Indian populations have been identified as requiring either new or replacement health centers and stations, or clinics remodeled for improved or additional service;

(2) shortage of personnel. For example, about one-half of the Service hospitals, four-fifths of the Service hospital outpatient clinics, and one-half of the Service health clinics meet only 80 per centum of staffing standards for their respective services;

(3) insufficient services in such areas as laboratory, hospital inpatient and outpatient, eye care and mental health services, and services available through contracts with private physicians, clinics, and agencies. For example, about 90 per centum of the surgical operations needed for otitis media have not been performed, over 57 per centum of required dental services remain to be provided, and about 98 per centum of hearing aid requirements are unmet;

(4) related support factors. For example, over seven hundred housing units are needed for staff at remote Service facilities;

(5) lack of access of Indians to health services due to remote residences, undeveloped or underdeveloped communication and transportation systems, and difficult, sometimes severe, climate conditions; and

(6) lack of safe water and sanitary waste disposal services. For example, over thirty-seven thousand four hundred existing and forty-eight thousand nine hundred and sixty planned replacement and renovated Indian housing units need new or upgraded water and sanitation facilities.

(g) The Indian people's growth of confidence in Federal Indian health services is revealed by their increasingly heavy use of such services. Progress toward the goal of better Indian health is dependent on this continued growth of confidence. Both such progress and such confidence are dependent on improved Federal Indian health services.

DECLARATION OF POLICY

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy. 25 USC 1602.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) "Secretary", unless otherwise designated, means the Secretary of Health, Education, and Welfare. 25 USC 1603.

(b) "Service" means the Indian Health Service.

(c) "Indians" or "Indian", unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) hereof, except that, for the purpose of sections 102, 103, and 201(c) (5), such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(d) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. 43 USC 1601 note.

(e) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(f) "Urban Indian" means any individual who resides in an urban center, as defined in subsection (g) hereof, and who meets one or more

of the four criteria in subsection (c) (1) through (4) of this section.

(g) "Urban center" means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

(h) "Urban Indian organization" means a nonprofit corporate body situated in an urban center, composed of urban Indians, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

TITLE I—INDIAN HEALTH MANPOWER

PURPOSE

25 USC 1611.

SEC. 101. The purpose of this title is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians.

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

Grants.

25 USC 1612.

SEC. 102. (a) The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them (A) to enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (B), if they are not qualified to enroll in any such school, to undertake such post-secondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any school referred to in clause (1)(A) of this subsection or who are undertaking training necessary to qualify them to enroll in any such school; or

(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in clause (1)(A) of this subsection.

Application,
submittal and
approval.

(b) (1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe: *Provided*, That the Secretary shall give a preference to applications submitted by Indian tribes or tribal organizations.

Amount and
payment.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments pursuant to grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

Appropriation
authorization.

(c) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated \$900,000 for fiscal year 1978, \$1,500,000 for fiscal year 1979, and \$1,800,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for such payments such sums as may be specifically authorized by an Act enacted after this Act.

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

SEC. 103. (a) The Secretary, acting through the Service, shall make scholarship grants to Indians who—

Scholarship grants, eligibility requirements.
25 USC 1613.

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the capability to successfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions.

(b) Each scholarship grant made under this section shall be for a period not to exceed two academic years, which years shall be for compensatory preprofessional education of any grantee.

Two-year limitation.

(c) Scholarship grants made under this section may cover costs of tuition, books, transportation, board, and other necessary related expenses.

(d) There are authorized to be appropriated for the purpose of this section: \$800,000 for fiscal year 1978, \$1,000,000 for fiscal year 1979, and \$1,300,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

Appropriation authorization.

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

SEC. 104. Section 225(i) of the Public Health Service Act (42 U.S.C. 234(i)) is amended (1) by inserting "(1)" after "(i)", and (2) by adding at the end the following:

"(2) (A) In addition to the sums authorized to be appropriated under paragraph (1) to carry out the Program, there are authorized to be appropriated for the fiscal year ending September 30, 1978, \$5,450,000; for the fiscal year ending September 30, 1979, \$6,300,000; for the fiscal year ending September 30, 1980, \$7,200,000; and for fiscal years 1981, 1982, 1983, and 1984 such sums as may be specifically authorized by an Act enacted after the Indian Health Care Improvement Act, to provide scholarships under the Program to provide physicians, osteopaths, dentists, veterinarians, nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with this section except as provided in subparagraph (B).

Appropriation authorization.

"(B) (i) The Secretary, acting through the Indian Health Service, shall determine the individuals who receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative needs of Indians for additional service in specific health professions.

Distribution.

"(ii) The active duty service obligation prescribed by subsection (e) shall be met by the recipient of an Indian Health Scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act, or in the private practice of his profession if, as determined by the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

Active duty service obligation.
Post, p. 1410.

"(C) For purposes of this paragraph, the term 'Indians' has the same meaning given that term by subsection (c) of section 4 of the

"Indians."

Ante, p. 1401. Indian Health Care Improvement Act and includes individuals described in clauses (1) through (4) of that subsection.”.

INDIAN HEALTH SERVICE EXTERN PROGRAMS

25 USC 1614. SEC. 105. (a) Any individual who receives a scholarship grant pursuant to section 104 shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant.

(b) Any individual enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions may be employed by the Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year.

(c) Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department of Health, Education, and Welfare.

Appropriation
authorization.

(d) There are authorized to be appropriated for the purpose of this section: \$600,000 for fiscal year 1978, \$800,000 for fiscal year 1979, and \$1,000,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

CONTINUING EDUCATION ALLOWANCES

25 USC 1615. SEC. 106. (a) In order to encourage physicians, dentists, and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people resides, the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

Appropriation
authorization.

(b) There are authorized to be appropriated for the purpose of this section: \$100,000 for fiscal year 1978, \$200,000 for fiscal year 1979, and \$250,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

TITLE II—HEALTH SERVICES

HEALTH SERVICES

25 USC 1621. SEC. 201. (a) For the purpose of eliminating backlogs in Indian health care services and to supply known, unmet medical, surgical,

dental, optometrical, and other Indian health needs, the Secretary is authorized to expend, through the Service, over the seven-fiscal-year period beginning after the date of the enactment of this Act the amounts authorized to be appropriated by subsection (c). Funds appropriated pursuant to this section for each fiscal year shall not be used to offset or limit the appropriations required by the Service under other Federal laws to continue to serve the health needs of Indians during and subsequent to such seven-fiscal-year period, but shall be in addition to the level of appropriations provided to the Service under this Act and such other Federal laws in the preceding fiscal year plus an amount equal to the amount required to cover pay increases and employee benefits for personnel employed under this Act and such laws and increases in the costs of serving the health needs of Indians under this Act and such laws, which increases are caused by inflation.

(b) The Secretary, acting through the Service, is authorized to employ persons to implement the provisions of this section during the seven-fiscal-year period in accordance with the schedule provided in subsection (c). Such positions authorized each fiscal year pursuant to this section shall not be considered as offsetting or limiting the personnel required by the Service to serve the health needs of Indians during and subsequent to such seven-fiscal-year period but shall be in addition to the positions authorized in the previous fiscal year.

(c) The following amounts and positions are authorized, in accordance with the provisions of subsections (a) and (b), for the specific purposes noted:

**Employment
during seven-
fiscal-year period.**

**Appropriation
authorization.**

(1) Patient care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, \$8,500,000 and two hundred and twenty-five positions for fiscal year 1979, and \$16,200,000 and three hundred positions for fiscal year 1980.

(2) Field health, excluding dental care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, \$3,350,000 and eighty-five positions for fiscal year 1979, and \$5,550,000 and one hundred and thirteen positions for fiscal year 1980.

(3) Dental care (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, \$1,500,000 and eighty positions for fiscal year 1979, and \$1,500,000 and fifty positions for fiscal year 1980.

(4) Mental health: (A) Community mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, \$1,300,000 and thirty positions for fiscal year 1979, and \$2,000,000 and thirty positions for fiscal year 1980.

(B) Inpatient mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, \$400,000 and fifteen positions for fiscal year 1979, and \$600,000 and fifteen positions for fiscal year 1980.

(C) Model dormitory mental health services: sums and positions as provided in subsection (e) for fiscal year 1978, \$1,250,000 and fifty positions for fiscal year 1979, and \$1,875,000 and fifty positions for fiscal year 1980.

(D) Therapeutic and residential treatment centers: sums and positions as provided in subsection (e) for fiscal year 1978, \$300,000 and ten positions for fiscal year 1979, and \$400,000 and five positions for fiscal year 1980.

(E) Training of traditional Indian practitioners in mental health: sums as provided in subsection (e) for fiscal year 1978, \$150,000 for fiscal year 1979, and \$200,000 for fiscal year 1980.

(5) Treatment and control of alcoholism among Indians: \$4,000,000 for fiscal year 1978, \$9,000,000 for fiscal year 1979, and \$9,200,000 for fiscal year 1980.

(6) Maintenance and repair (direct and indirect): sums and positions as provided in subsection (e) for fiscal year 1978, \$3,000,000 and twenty positions for fiscal year 1979, and \$4,000,000 and thirty positions for fiscal year 1980.

(7) For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the items referred to in the preceding paragraphs such sums as may be specifically authorized by an Act enacted after this Act. For such fiscal years, positions are authorized for such items (other than the items referred to in paragraphs (4) (E) and (5)) as may be specified in an Act enacted after the date of the enactment of this Act.

Research funds.

(d) The Secretary, acting through the Service, shall expend directly or by contract not less than 1 per centum of the funds appropriated under the authorizations in each of the clauses (1) through (5) of subsection (c) for research in each of the areas of Indian health care for which such funds are authorized to be appropriated.

Appropriation authorization.

(e) For fiscal year 1978, the Secretary is authorized to apportion not to exceed a total of \$10,025,000 and 425 positions for the programs enumerated in clauses (c) (1) through (4) and (c) (6) of this section.

TITLE III—HEALTH FACILITIES

CONSTRUCTION AND RENOVATION OF SERVICE FACILITIES

25 USC 1631.

SEC. 301. (a) The Secretary, acting through the Service, is authorized to expend over the seven-fiscal-year period beginning after the date of the enactment of this Act the sums authorized by subsection (b) for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service.

Appropriation authorization.

(b) The following amounts are authorized to be appropriated for purposes of subsection (a):

(1) Hospitals: \$67,180,000 for fiscal year 1978, \$73,256,000 for fiscal year 1979, and \$49,742,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for hospitals such sums as may be specifically authorized by an Act enacted after this Act.

(2) Health centers and health stations: \$6,960,000 for fiscal year 1978, \$6,226,000 for fiscal year 1979, and \$3,720,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for health centers and health stations such sums as may be specifically authorized by an Act enacted after this Act.

(3) Staff housing: \$1,242,000 for fiscal year 1978, \$21,725,000 for fiscal year 1979, and \$4,116,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for staff housing such sums as may be specifically authorized by an Act enacted after this Act.

(c) Prior to the expenditure of, or the making of any firm commitment to expend, any funds authorized in subsection (a), the Secretary, acting through the Service shall—

Consultation.

(1) consult with any Indian tribe to be significantly affected by any such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning the

size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

(2) be assured that, wherever practicable, such facility, not later than one year after its construction or renovation, shall meet the standards of the Joint Committee on Accreditation of Hospitals.

CONSTRUCTION OF SAFE WATER AND SANITARY WASTE
DISPOSAL FACILITIES

SEC. 302. (a) During the seven-fiscal-year period beginning after the date of the enactment of this Act, the Secretary is authorized to expend under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the sums authorized under subsection (b) to supply unmet needs for safe water and sanitary waste disposal facilities in existing and new Indian homes and communities.

25 USC 1632.

(b) For expenditures of the Secretary authorized by subsection (a) for facilities in existing Indian homes and communities there are authorized to be appropriated \$43,000,000 for fiscal year 1978, \$30,000,000 for fiscal year 1979, and \$30,000,000 for fiscal year 1980. For expenditures of the Secretary authorized by subsection (a) for facilities in new Indian homes and communities there are authorized to be appropriated such sums as may be necessary for fiscal years 1978, 1979, and 1980. For fiscal years 1981, 1982, 1983, and 1984 for expenditures authorized by subsection (a) there are authorized to be appropriated such sums as may be specifically authorized in an Act enacted after this Act.

Appropriation
authorization.

(c) Former and currently federally recognized Indian tribes in the State of New York shall be eligible for assistance under this section.

New York Indian
tribes, eligibility
for assistance.

PREFERENCE TO INDIANS AND INDIAN FIRMS

SEC. 303. (a) The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an "Indian firm") in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.

25 USC 1633.

(b) For the purpose of implementing the provisions of this title, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act).

Construction
personnel, pay
rates.

40 USC 276a
note.

SOBOBA SANITATION FACILITIES

SEC. 304. The Act of December 17, 1970 (84 Stat. 1465), is hereby amended by adding the following new section 9 at the end thereof:

“SEC. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267).”.

42 USC 2004a.

TITLE IV—ACCESS TO HEALTH SERVICES

ELIGIBILITY OF INDIAN HEALTH SERVICE FACILITIES
UNDER MEDICARE PROGRAM42 USC 1395f,
1395n.

42 USC 1395x.

SEC. 401. (a) Sections 1814(c) and 1835(d) of the Social Security Act are each amended by striking out “No payment” and inserting in lieu thereof “Subject to section 1880, no payment”.

(b) Part C of title XVIII of such Act is amended by adding at the end thereof the following new section:

“INDIAN HEALTH SERVICE FACILITIES

Hospital or
skilled nursing
facility, eligibility
for payments.
42 USC 1395qq.

“SEC. 1880. (a) A hospital or skilled nursing facility of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets all of the conditions and requirements for such payments which are applicable generally to hospitals or skilled nursing facilities (as the case may be) under this title.

Ineligible
hospital or skilled
nursing facility,
submittal of plan
for compliance.

“(b) Notwithstanding subsection (a), a hospital or skilled nursing facility of the Indian Health Service which does not meet all of the conditions and requirements of this title which are applicable generally to hospitals or skilled nursing facilities (as the case may be), but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for payments under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted.

Fund for
improvements.

“(c) Notwithstanding any other provision of this title, payments to which any hospital or skilled nursing facility of the Indian Health Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the hospitals and skilled nursing facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements.

Post, p. 1413.
Post, p. 1410.

“(d) The annual report of the Secretary which is required by section 701 of the Indian Health Care Improvement Act shall include (along with the matters specified in section 403 of such Act) a detailed

statement of the status of the hospitals and skilled nursing facilities of the Service in terms of their compliance with the applicable conditions and requirements of this title and of the progress being made by such hospitals and facilities (under plans submitted under subsection (b) and otherwise) toward the achievement of such compliance.”

(c) Any payments received for services provided to beneficiaries hereunder shall not be considered in determining appropriations for health care and services to Indians.

(d) Nothing herein authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.

42 USC 1395qq
note.

Services to an
Indian
beneficiary.
42 USC 1395qq
note.
42 USC 1395.

SERVICES PROVIDED TO MEDICAID ELIGIBLE INDIANS

SEC. 402. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

“INDIAN HEALTH SERVICE FACILITIES

“SEC. 1911. (a) A facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

Eligibility for
reimbursement.
42 USC 1396j.

Ante, p. 1401.

“(b) Notwithstanding subsection (a), a facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.”

Facilities,
submittal of plan
for compliance.
42 USC 1396j
note.

42 USC 1396j
note.

42 USC 1396.

(b) The Secretary is authorized to enter into agreements with the appropriate State agency for the purpose of reimbursing such agency for health care and services provided in Service facilities to Indians who are eligible for medical assistance under title XIX of the Social Security Act, as amended.

(c) Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) is entitled under a State plan approved under title XIX of the Social Security Act by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such Service in the United States are in compliance with such conditions and requirements.

Supra.

42 USC 1396j
note.

Federal medical
assistance
percentage.
42 USC 1396d.

Ante, p. 1401.

(d) Any payments received for services provided recipients hereunder shall not be considered in determining appropriations for the provision of health care and services to Indians.

(e) Section 1905(b) of the Social Security Act is amended by inserting at the end thereof the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).".

REPORT

25 USC 1671
note.

42 USC 1395,
1396.

SEC. 403. The Secretary shall include in his annual report required by section 701 an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements through titles XVIII and XIX of the Social Security Act, as amended.

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

PURPOSE

25 USC 1651.

SEC. 501. The purpose of this title is to encourage the establishment of programs in urban areas to make health services more accessible to the urban Indian population.

CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

25 USC 1652.

SEC. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in the urban centers in which such organizations are situated, programs which meet the requirements set forth in sections 503 and 504.

CONTRACT ELIGIBILITY

25 USC 1653.

SEC. 503. (a) The Secretary, acting through the Service, shall place such conditions as he deems necessary to effect the purpose of this title in any contract which he makes with any urban Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake the following activities:

(1) determine the population of urban Indians which are or could be recipients of health referral or care services;

(2) identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians;

(3) assist such resources in providing service to such urban Indians;

(4) assist such urban Indians in becoming familiar with and utilizing such resources;

(5) provide basic health education to such urban Indians;

(6) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (3) through (5) of this subsection;

(7) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(8) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(9) where necessary, provide or contract for health care services to urban Indians.

(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations with which to contract pursuant to this title. Such criteria shall, among other factors, take into consideration:

Urban Indian organizations, selection criteria.

(1) the extent of the unmet health care needs of urban Indians in the urban center involved;

(2) the size of the urban Indian population which is to receive assistance;

(3) the relative accessibility which such population has to health care services in such urban center;

(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate any previous or current public or private health services project funded by another source in such urban center;

(5) the appropriateness and likely effectiveness of the activities set forth in subsection (a) in such urban center;

(6) the existence of an urban Indian organization capable of performing the activities set forth in subsection (a) and of entering into a contract with the Secretary pursuant to this title; and

(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other resource agencies.

OTHER CONTRACT REQUIREMENTS

SEC. 504. (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (48 Stat. 793), as amended.

25 USC 1654.

(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

49 Stat. 793.
40 USC 270a-270d.

(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this title as necessary to carry out the purposes of this title: *Provided, however*, That whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

Contract revision or amendment.

(d) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

Government facilities, use.

(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

REPORTS AND RECORDS

Report to
Secretary of the
Interior.
25 USC 1655.

SEC. 505. For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to section 503(a) (7) and (8), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.

Audit.

AUTHORIZATIONS

25 USC 1656.

SEC. 506. There are authorized to be appropriated for the purpose of this title: \$5,000,000 for fiscal year 1978, \$10,000,000 for fiscal year 1979, and \$15,000,000 for fiscal year 1980.

REVIEW OF PROGRAM

Submittal to
Congress.
Legislative
recommendations.
25 USC 1657.

SEC. 507. Within six months after the end of fiscal year 1979, the Secretary, acting through the Service and with the assistance of the urban Indian organizations which have entered into contracts pursuant to this title, shall review the program established under this title and submit to the Congress his assessment thereof and recommendations for any further legislative efforts he deems necessary to meet the purpose of this title.

RURAL HEALTH PROJECTS

25 USC 1658.

SEC. 508. Not to exceed 1 per centum of the amounts authorized by section 506 shall be available for not to exceed two pilot projects providing outreach services to eligible Indians residing in rural communities near Indian reservations.

TITLE VI—AMERICAN INDIAN SCHOOL OF MEDICINE; FEASIBILITY STUDY

FEASIBILITY STUDY

25 USC 1661.

Report to
Congress.

SEC. 601. The Secretary, in consultation with Indian tribes and appropriate Indian organizations, shall conduct a study to determine the need for, and the feasibility of, establishing a school of medicine to train Indians to provide health services for Indians. Within one year of the date of the enactment of this Act the Secretary shall complete such study and shall report to the Congress findings and recommendations based on such study.

TITLE VII—MISCELLANEOUS

REPORTS

SEC. 701. The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this Act. Within three months after the end of fiscal year 1979, the Secretary shall review expenditures and progress made under this Act and make recommendations to the Congress concerning any additional authorizations for fiscal years 1981 through 1984 for programs authorized under this Act which he deems appropriate. In the event the Congress enacts legislation authorizing appropriations for programs under this Act for fiscal years 1981 through 1984, within three months after the end of fiscal year 1983, the Secretary shall review programs established or assisted pursuant to this Act and shall submit to the Congress his assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and insure a health status for Indians, which are at a parity with the health services available to, and the health status, of the general population.

Report to the President and Congress.
25 USC 1671.

Program review, submittal to Congress.

REGULATIONS

SEC. 702. (a) (1) Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

Consultation.
25 USC 1672.

(2) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

Publication in Federal Register.

(3) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(b) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to this Act: *Provided*, That, prior to any revision of or amendment to such rules or regulations, the Secretary shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.

Rules or regulations, proposed revision or amendment; publication in Federal Register.

PLAN OF IMPLEMENTATION

SEC. 703. Within two hundred and forty days after enactment of this Act, a plan will be prepared by the Secretary and will be submitted to the Congress. The plan will explain the manner and schedule (including a schedule of appropriation requests), by title and section, by which the Secretary will implement the provisions of this Act.

Submittal to Congress.
25 USC 1673.

LEASES WITH INDIAN TRIBES

- 25 USC 1674. SEC. 704. Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes for periods not in excess of twenty years.

AVAILABILITY OF FUNDS

- 25 USC 1675. SEC. 705. The funds appropriated pursuant to this Act shall remain available until expended.

Approved September 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1026 pt. I and 94-1026 part IV (Comm. on Interior and Insular Affairs), No. 94-1026 pt. II (Comm. on Ways and Means), and No. 94-1026 pt. III (Comm. on Interstate and Foreign Commerce) all accompanying H.R. 2525.

SENATE REPORT No. 94-133 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): May 16, considered and passed Senate.

Vol. 122 (1976): July 30, considered and passed House, amended, in lieu of H.R. 2525.

Sept. 9, Senate concurred in House amendment with an amendment.

Sept. 16, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 40: Oct. 1, Presidential statement.

Public Law 94-438
94th Congress

Joint Resolution

Making supplemental appropriations for the Department of Defense for the repair and replacement of facilities on Guam damaged or destroyed by Typhoon Pamela, and for other purposes.

Sept. 30, 1976
[H.J. Res. 1096]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the period ending September 30, 1976, the fiscal year ending September 30, 1977, and for other purposes, namely:

Supplemental
appropriation,
1977.

DEPARTMENT OF DEFENSE, MILITARY

RESTORATION OF FACILITIES ON GUAM, DEFENSE

For replacement, repair, and restoration of supplies, equipment, and facilities on Guam, for the period ending September 30, 1976, \$122,033,000, and in addition, \$30,900,000, of which \$20,861,000 shall be derived by transfer from "Military Personnel, Navy, 1976", \$3,700,000 shall be derived by transfer from "Military Personnel, Army, 1976" and \$6,339,000 shall be derived by transfer from "Military Personnel, Air Force, 1976", to be immediately available, to be transferred as follows:

"Operation and maintenance, Navy," \$19,960,000;

"Operation and maintenance, Air Force," \$10,940,000;

"Military construction, Navy," \$65,699,000;

"Military construction, Air Force," \$25,843,000;

"Family housing, Defense," \$30,491,000, to be obligated and expended in the Family Housing Management Account established pursuant to section 501(a) of Public Law 87-554, in not to exceed the following amounts:

For the Navy and Marine Corps: Construction, \$12,250,000;

For the Air Force: Construction, \$18,241,000;

Provided, That amounts provided for construction shall remain available until expended: *Provided further*, That amounts provided for operation and maintenance shall be transferred, in whole or in part, to the designated appropriations which are available for obligation through September 30, 1976, or, to the extent obligations cannot be incurred as of September 30, 1976, for the purpose of this resolution, to fiscal year 1977 successor appropriations, to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred.

42 USC
1594a-1.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION AND REHABILITATION

For an additional amount for "Construction and Rehabilitation," for the fiscal year 1977, \$200,000,000, to remain available until expended: *Provided*, That this additional amount may be made available without reimbursement: *Provided further*, That this appropriation is for the payment of claims for damages to or loss of property, personal injury, or death proximately resulting from the failure on June 5, 1976, of the Teton River Dam, in accordance with Public Law 94-400 and such rules and regulations of the Secretary of the Interior as may be necessary and proper for the purpose of administering such claims and of determining the amounts to be allowed pursuant to this appropriation and the persons entitled to receive the same: *Provided further*, That nothing herein shall be construed to impose any liability on the United States or to allow for payment of claims that are paid or payable from any other source, public or private.

Ante, p. 1211.

DEPARTMENT OF THE TREASURY

CLAIMS AND JUDGMENTS

For payment of claims settled and determined by departments and agencies in accord with law and judgments rendered against the United States by the United States Court of Claims and United States district courts, as set forth in House Document Numbered 94-603, Ninety-fourth Congress, \$46,951,838, together with such amounts as may be necessary to pay interest (as and when specified in such judgments or provided by law) and such additional sums due to increases in rates of exchange as may be necessary to pay claims in foreign currency: *Provided*, That no judgment herein appropriated for shall be paid until it shall become final and conclusive against the United States by failure of the parties to appeal or otherwise: *Provided further*, That, unless otherwise specifically required by law or by judgment, payment of interest wherever appropriated for herein shall not continue for more than thirty days after the date of approval of the Act.

UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for "Payment to the Postal Service Fund" for fiscal year 1976 and for the period July 1, 1976, through September 30, 1976, \$500,000,000, to remain available until expended.

GENERAL SERVICES ADMINISTRATION

REFUNDS UNDER RENEGOTIATION ACT

For necessary expenses to carry out Section 201(f) of the Renegotiation Act of 1951 (50 U.S.C. App. 1231(f)), for the fiscal year 1977, \$1,000,000, to remain available until expended.

EXPENSES, PRESIDENTIAL TRANSITION

For an additional amount to carry out the provisions of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, Note), \$2,100,000, to remain available until September 30, 1977.

Approved September 30, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1603 (Comm. on Appropriations) and No. 94-1717 (Comm. on Conference).

SENATE REPORT No. 94-1301 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Sept. 28, considered and passed Senate, amended.

Sept. 30, House and Senate agreed to conference report and resolved amendments in disagreement.

Public Law 94-439
94th Congress

An Act

Sept. 30, 1976
[H.R. 14232]

Making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

Departments of
Labor and
Health,
Education, and
Welfare
Appropriation
Act, 1977.
Department of
Labor
Appropriation
Act, 1977.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$69,774,000, together with not to exceed \$30,887,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which \$5,598,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-2003.

EMPLOYMENT AND TRAINING ASSISTANCE

29 USC 801 note. For expenses necessary to carry into effect the Comprehensive Employment and Training Act of 1973, as amended, and sections 326 and 328 of the Trade Expansion Act of 1962 (19 U.S.C. 1951 and 1961) and sections 236, 237, and 238 of the Trade Act of 1974, (19 U.S.C. 2101) \$3,311,830,000, plus reimbursements, to remain available until September 30, 1978: *Provided*, That this appropriation shall be available for the purchase and hire of passenger motor vehicles, and for construction, alteration, and repair of buildings and other facilities and for the purchase of real property for training centers as authorized by the Comprehensive Employment and Training Act of 1973, as amended, (29 U.S.C. 801 et seq.).

19 USC 2296,
2297, 2298.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

42 USC 3056. To carry out title IX of the Older Americans Act, as amended,
42 USC 3056d. \$90,600,000, of which \$75,300,000 shall be for section 906(a) (1).

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

5 USC 8501 For payments during the current fiscal year of benefits and allow-
et seq. ances to unemployed Federal employees and ex-servicemen, as author-
19 USC 2291. ized by title 5, chapter 85 of the United States Code, of trade
adjustment benefit payments and allowances, as provided by law (19
U.S.C. 1941-1944 and 1952; part I, subchapter B, chapter 2, title II
of the Trade Act of 1974), and of unemployment assistance as author-
ized by title II of the Emergency Jobs and Unemployment Assistance

Act of 1974, as amended, \$860,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That, in addition, there shall be transferred from the Postal Service Fund to this appropriation such sums as the Secretary of Labor determines to be the cost of benefits for ex-Postal Service employees: *Provided further*, That amounts received during the current fiscal year from the Postal Service or recovered from the States pursuant to 5 U.S.C. 8505(d) shall be available for such payments during the year.

26 USC 3304
note.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For grants for activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49n; 39 U.S.C. 3202(a)(1)(E)); Veterans' Employment and Readjustment Act of 1972, as amended (38 U.S.C. 2001-2013); title III of the Social Security Act, as amended (42 U.S.C. 501-503); sections 312(e) and (g) of the Comprehensive Employment and Training Act of 1973, as amended; and necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, 19 U.S.C. 1941-1944, 1952, and chapter 2, title II, of the Trade Act of 1974, including upon the request of any State, the payment of rental for space made available to such State in lieu of grants for such purpose, \$89,100,000, together with not to exceed \$1,412,700,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund and of which \$239,800,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant was based, which cannot be provided for by normal budgetary adjustments: *Provided*, That any portion of the funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

29 USC 882.

19 USC 2271
et seq.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund, as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and for nonrepayable advances to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1978, \$5,000,000,000.

42 USC 1105,
1323.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Labor-Management Services Administration, \$48,319,000.

PENSION BENEFIT GUARANTY CORPORATION

The Pension Benefit Guaranty Corporation is authorized to make such expenditures within limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program through September 30, 1977 for such corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$92,952,000, together with \$250,000 which may be expended from the Special Fund in accordance with Sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act.

33 USC 939,
944.

SPECIAL BENEFITS

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, and title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and fifty per centum of the additional compensation and benefits required by section 10(h) of the Longshoremen's and Harbor Workers' Compensation Act, as amended, \$317,818,000, together with such amount as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1977.

30 USC 901.
5 USC 8101
et seq.
60 Stat. 679.
57 Stat. 494.

33 USC 910.

Whenever the Secretary of Labor finds it will promote the achievement of the above activities, qualified persons may be appointed to conduct hearings thereunder without meeting the requirements for hearing examiners appointed under 5 U.S.C. 3105: *Provided*, That no person shall hold a hearing in any case with which he has been concerned previously in the administration of such activities.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$130,333,000, of which not to exceed \$9,000,000 shall be available for reimbursement to States under section 7(c)(1) of

the Occupational Safety and Health Act of 1970 (29 U.S.C. 656(c) (1)) for the furnishing of consultation services to employers under section 21(c) of such Act (29 U.S.C. 670(c)): *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for 10 or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation and employs 10 or fewer employees.

29 USC 651 note.
29 USC 666.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$73,018,000, of which \$5,614,000 shall be for expenses of revising the Consumer Price Index, including salaries of temporary personnel assigned to this project without regard to competitive civil service requirements.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for departmental management and \$1,393,000 for the President's Committee on Employment of the Handicapped, \$49,182,000, together with not to exceed \$1,305,000, to be derived from the Employment Security Administration account, Unemployment Trust Fund.

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, \$70,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such agency for payments in the foregoing currencies.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

This title may be cited as the "Department of Labor Appropriation Act, 1977".

Citation of title.

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

For carrying out, except as otherwise provided, titles III, V, X, XI, and sections 1303, 1304(a) and 1304(b) of the Public Health Service Act, the Act of August 8, 1946 (5 U.S.C. 7901), section 1 of the Act of July 19, 1963 (42 U.S.C. 253a), section 108 of Public Law 93-353, and titles V and XI of the Social Security Act, \$1,016,021,000, of which \$1,200,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with leprosy: *Provided*, That any amounts received by the Secretary in connection with loans and loan guarantees under title XIII and any other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets, shall be available to the Secretary without fiscal year limitation for direct loans and loan guarantees, as authorized by said title XIII, in addition to funds specifically appropriated for that purpose: *Provided further*, That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses, hereafter incurred, by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health, Education, and Welfare, and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That when the Health Services Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That in addition, \$40,121,000 may be transferred to this appropriation as authorized by section 201(g) (1) of the Social Security Act, from any one or all of the trust funds referred to therein.

42 USC 241,
219, 300, 300b,
300e-2, 300e-3,
42 USC 253b and
note.
42 USC 701,
1301.
42 USC 300e.

42 USC 401.

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

To carry out, to the extent not otherwise provided, title III of the Public Health Service Act, title XVII of the Public Health Service Act, the Lead-Based Paint Poisoning Prevention Act, the Federal Coal Mine Health and Safety Act of 1969, and the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, \$175,228,000: *Provided*, That training of employees of private agencies shall be made subject to reimbursement or advances to this appropriation for the full cost of such training.

42 USC 241.
Ante, p. 695.
42 USC 300u.
42 USC 4801
note.
30 USC 801 note.
29 USC 651 note.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out, to the extent not otherwise provided, title IV of the Public Health Service Act with respect to cancer, \$815,000,000.

42 USC 281.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For expenses, not otherwise provided for, necessary to carry out titles IV and XI of the Public Health Service Act with respect to heart, lung, blood vessel, and blood diseases, \$396,661,000. 42 USC 281, 300b.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For expenses, not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to dental diseases, \$55,573,000.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

For expenses necessary to carry out title IV of the Public Health Service Act with respect to arthritis, rheumatism, metabolic diseases, and digestive diseases, \$209,000,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For expenses necessary to carry out, to the extent not otherwise provided, title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, \$155,500,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For expenses, not otherwise provided for, to carry out title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$141,000,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For expenses, not otherwise provided for, necessary to carry out title IV of the Public Health Service Act with respect to general medical sciences, \$205,000,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

To carry out, except as otherwise provided, titles IV and X of the Public Health Service Act with respect to child health and human development, \$145,543,000. 42 USC 300.

NATIONAL INSTITUTE ON AGING

To carry out, except as otherwise provided, title IV of the Public Health Service Act with respect to aging, \$30,000,000.

NATIONAL EYE INSTITUTE

For expenses necessary to carry out title IV of the Public Health Service Act, with respect to eye diseases and visual disorders, \$64,000,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

To carry out, except as otherwise provided, sections 301, 311, and 472 of the Public Health Service Act with respect to environmental health sciences, \$49,141,000. 42 USC 241, 243, 289f-1.

RESEARCH RESOURCES

42 USC 241,
289/-1. To carry out, except as otherwise provided, sections 301 and 472 of the Public Health Service Act with respect to research resources and general research support grants, \$137,500,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants programs any amount for indirect expenses in connection with such grants.

JOHN E. FOGARTY INTERNATIONAL CENTER FOR ADVANCED STUDY IN
THE HEALTH SCIENCES

For the John E. Fogarty International Center for Advanced Study in the Health Sciences, \$7,992,000, of which not to exceed \$1,400,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

42 USC 289,
280b. To carry out, to the extent not otherwise provided for, section 301 with respect to health information communications and parts I and J of title III of the Public Health Service Act, \$35,234,000.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, where not otherwise provided, \$67,400,000 to remain available until expended.

OFFICE OF THE DIRECTOR

For expenses necessary for the Office of the Director, National Institutes of Health, \$16,234,000.

42 USC 254a. Funds advanced to the National Institutes of Health management fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 328 of the Public Health Service Act and for the purchase of not to exceed thirteen passenger motor vehicles for replacement only.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

42 USC 4551
note.
42 USC 3401
note.
21 USC 1101
note. For carrying out the Public Health Service Act with respect to mental health, and except as otherwise provided, parts A, B, and D of the Community Mental Health Centers Act (42 U.S.C. 2681, et seq.), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, the Narcotic Addict Rehabilitation Act of 1966, and the Drug Abuse Office and Treatment Act of 1972, \$763,141,000.

SAINT ELIZABETHS HOSPITAL

For expenses necessary for the maintenance and operation of the hospital, including clothing for patients, and cooperation with organizations or individuals in the scientific research into the nature, causes, prevention, and treatment of mental illness, \$60,464,000, or such amounts as may be necessary to provide a total appropriation equal

to the difference between the amount of the reimbursements received during the current fiscal year on account of patient care provided by the hospital during such year and \$84,244,000.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

For carrying out, to the extent not otherwise provided, titles III, VIII, and XV and section 472 of the Public Health Service Act, section 1122 of the Social Security Act and section 222 of the Social Security Amendments of 1972, \$359,008,000 of which \$9,000,000 shall remain available until expended for carrying out section 305(b)(3) of the Public Health Service Act, without regard to the requirements of section 308 of said Act.

42 USC 241,
296, 300k-1,
289f-1.
42 USC
1320a-1.
42 USC 1395f
note.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

42 USC 242c.
42 USC 242f.

For carrying out title XVI of the Public Health Service Act, \$31,000,000 shall be available without fiscal year limitation for the payment of interest subsidies. The total principal amount of loans to be guaranteed or directly made, which may be allotted among the States, pursuant to titles VI and XVI of the Public Health Service Act shall not exceed a cumulative amount of \$1,750,000,000.

42 USC 300o.

42 USC 291.

PAYMENT OF SALES INSUFFICIENCIES AND INTEREST LOSSES

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interest or participations in the Health Professions Education Fund assets or Nurse Training Fund assets, authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, \$164,000, and for payment of amounts pursuant to section 744(b) or 827(b) of the Public Health Service Act to schools which borrow any sums from the Health Professions Education Fund or Nurse Training Fund, \$3,836,000: *Provided*, That the amounts appropriated herein shall remain available until expended.

81 Stat. 390.
12 USC 1717.

42 USC 294d,
297f.

HEALTH EDUCATION LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available in the Health Professions Education Fund and the Nurse Training Fund, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year.

31 USC 849.

ASSISTANT SECRETARY FOR HEALTH

SALARIES AND EXPENSES

For expenses necessary for the Office of the Assistant Secretary for Health, \$22,316,000.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

10 USC 1071
et seq.

For retired pay of commissioned officers, as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan; Survivor Benefit Plan and payments for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C., ch. 55), such amount as may be required during the current fiscal year.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses for conducting scientific activities overseas, as authorized by law, \$1,500,000, to remain available until expended: *Provided*, That this appropriation shall be available in addition to other appropriations for such activities, for payments in the foregoing currencies.

EDUCATION DIVISION

OFFICE OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

20 USC 241c,
241d, 1831,
880b.
20 USC 1901; 20
USC 1531 note.
20 USC 1226c.
47 USC 151; 20
USC 246.
21 USC 1001
note.
42 USC 2929.
86 Stat. 907.
20 USC 246.
47 USC 392a.

For carrying out, to the extent not otherwise provided, title I, part A (\$2,258,981,000), title I, part B (\$24,769,000), title IV, part C (\$184,522,000), title VII (\$115,000,000), and title IX of the Elementary and Secondary Education Act; title VII of the Education Amendments of 1974; the Environmental Education Act (\$3,500,000); section 417(a)(2) of the General Education Provisions Act; the Communications Act of 1934, as amended; section 842 of Public Law 93-380; the Alcohol and Drug Abuse Education Act; part B of the Headstart-Follow Through Act (\$59,000,000); and Public Law 92-506 as amended, \$2,703,572,000 of which \$10,500,000 shall remain available until September 30, 1978, for carrying out section 842 of Public Law 93-380 and \$15,000,000 for educational broadcasting facilities shall remain available until expended, including \$1,000,000 for carrying out section 392A of the Communications Act of 1934, as amended: *Provided*, That of the amounts appropriated above the following amounts shall become available for obligation on July 1, 1977, and shall remain available until September 30, 1978: title I, part A (\$2,258,981,000), title I, part B (\$24,769,000), title IV, part C (\$184,522,000) of the Elementary and Secondary Education Act and section 417(a)(2) of the General Education Provisions Act (\$1,250,000): *Provided further*, That amounts appropriated in Public Law 94-94 for carrying out title I of the Elementary and Secondary Education Act in the fiscal year 1977 shall be available for carrying out section 822 of Public Law 93-380. For carrying out title IV of the Elementary and Secondary Education Act an additional \$9,478,000 for fiscal year 1978: *Provided*, That none of such funds may be paid to any State for which the allocation for fiscal year 1978 exceeds the allocation for comparable purposes for fiscal year 1977.

89 Stat. 468.
20 USC 241a.

20 USC 241c
note.
20 USC 1801.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

20 USC 236
et seq.
20 USC 241.

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), \$768,000,000 of which \$52,500,000 shall be for payments under section 6, and \$715,500,000 shall be for pay-

ments under sections 2, 3, and 4 in accordance with subsection 5(c) (1) and (2) of said Act and for payments under subparagraphs (A), (B), (C), and (D) of section 305 of the Education Amendments of 1974.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), \$25,000,000, which shall remain available until expended, shall be for providing school facilities as authorized by said Act of September 23, 1950: *Provided*, That, with the exception of up to \$6,000,000 for repairs for facilities constructed under section 10, none of the funds contained herein for providing school facilities shall be available to pay for any other section of the Act of September 23, 1950, until payment has been made of 100 per centum of the amounts payable under section 5 and subsections 14(a) and 14(b): *Provided further*, That, of the funds provided herein for carrying out the Act of September 23, 1950, no more than \$8,000,000 may be used to fund section 5 of said Act: *Provided further*, That, notwithstanding section 421A(c)(2)(A) of the General Education Provisions Act, the Commissioner of Education is authorized to approve applications for funds to increase school facilities in communities located near the Trident Support Site, Bangor, Washington, on such terms and conditions as he may reasonably require without regard to any provision in law.

20 USC 237,
238, 239, 240.
20 USC 238.
20 USC 631
et seq.

20 USC 640.

20 USC 635,
644.

20 USC 1231.

EMERGENCY SCHOOL AID

For carrying out title IV of the Civil Rights Act of 1964 and the Emergency School Aid Act, \$274,700,000, of which \$35,750,000 shall be for section 708(a) and \$137,600,000 shall be for section 706(a) of the Emergency School Aid Act.

42 USC 2000c
et seq.
20 USC 1601
note.
20 USC 1607,
1605.

EDUCATION FOR THE HANDICAPPED

For carrying out, to the extent not otherwise provided, the Education of the Handicapped Act, as amended by Public Law 94-142, except for sections 607 and 618 \$467,625,000: *Provided*, That of this amount, \$315,000,000 for part B and \$12,500,000 for section 619 shall become available for obligation on July 1, 1977, and shall remain available until September 30, 1978: *Provided*, That the appropriations for "Education for the handicapped" contained in title I, chapter VI of Public Law 94-303 (Second Supplemental Appropriations Act, 1976) is amended by adding at the end thereof "to remain available until September 30, 1977": *Provided further*, That funds contained in this title for "Special benefits for disabled coal miners" shall remain available for benefit payments from July 1, 1976 through September 30, 1977.

20 USC 1401
note.
20 USC 1406,
1418.
20 USC 1419.

Ante, p. 611.

OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, parts B and C (\$844,000,000) and section 104(b) of the Vocational Education Act of 1963, as amended (20 U.S.C. 1241-1391), and the Adult Education Act of 1966, \$932,053,000, including not to exceed \$31,500,000 for research and training under part C of said 1963 Act: *Provided*, That of the amounts appropriated above the following amounts shall become available for obligation on July 1, 1977, and shall remain available until September 30, 1978: part B (\$475,000,000), part C (\$18,000,000) and section 104(b) (\$4,316,000) of the Vocational Education Act of 1963 and \$80,500,000 for the Adult Education Act.

20 USC 1201
note.
20 USC 1281.

20 USC 1244.

HIGHER EDUCATION

20 USC 1061,
1134r-1.
20 USC 1078a
note.
22 USC 2451
note.

For carrying out, to the extent not otherwise provided, title IV and section 966 of the Higher Education Act, the Emergency Insured Student Loan Act of 1969, the Mutual Educational and Cultural Exchange Act of 1961, and section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), \$352,170,000, of which \$325,000,000 for subsidies on guaranteed student loans shall remain available until expended.

LIBRARY RESOURCES

20 USC 352,
355e.
20 USC 1821.

For carrying out, to the extent not otherwise provided, titles I (\$56,900,000) and III (\$3,337,000) of the Library Services and Construction Act (20 U.S.C., ch. 16); and title IV, part B (\$154,330,000) of the Elementary and Secondary Education Act, \$214,567,000: *Provided*, That the amount appropriated above for title IV, part B of the Elementary and Secondary Education Act shall become available for obligation on July 1, 1977, and shall remain available until September 30, 1978.

SPECIAL PROJECTS AND TRAINING

20 USC 1851
note.
20 USC 1231a.

For carrying out the Special Projects Act (Public Law 93-380) and section 422(a) of the General Education Provisions Act, \$47,493,000.

EDUCATIONAL ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be in excess to the normal requirements of the United States, for necessary expenses of the Office of Education, as authorized by law, \$2,000,000, to remain available until expended: *Provided*, That this appropriation shall be available, in addition to other appropriations to such office, for payments in the foregoing currencies.

SALARIES AND EXPENSES

20 USC 1221
note.
20 USC 821 note.

For carrying out, to the extent not otherwise provided, the General Education Provisions Act, and the Education Amendments of 1974, including rental of conference rooms in the District of Columbia, \$115,784,000.

HIGHER EDUCATION FACILITIES LOAN AND INSURANCE FUND

81 Stat. 390.

For the payment of such insufficiencies as may be required by the trustee on account of outstanding beneficial interest or participations in assets of the Office of Education authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)), \$2,119,000, to remain available until expended, and the Secretary is hereby authorized to make such expenditures, within the limits of funds available in the Higher Education Facilities Loan and Insurance Fund, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 849) as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such fund.

OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

SALARIES AND EXPENSES

For necessary expenses to carry out sections 402 and 406 of the General Education Provisions Act, \$20,446,000, of which not to exceed \$1,500 may be for official reception and representation expenses. 20 USC 1221b, 1221e-1.

SOCIAL AND REHABILITATION SERVICE

PUBLIC ASSISTANCE

For carrying out, except as otherwise provided, titles I, IV, X, XI, XIV, XVI, XIX, and XX of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) \$18,040,850,000, of which \$56,500,000 shall be for child welfare services under part B of title IV. 42 USC 301, 601, 1201, 1301, 1351, 1381, 1396, 1397.

For making, after June 30 of the current fiscal year, payments to States under titles I, IV, X, XIV, XVI, XIX and XX, respectively, of the Social Security Act, for the last three months of the current fiscal year (except with respect to activities included in the appropriation for "Work incentives"); and for making after July 31 of the current fiscal year, payments for the first quarter of the succeeding fiscal year; such sums as may be necessary, the obligations incurred and the expenditures made thereunder for payments under each of such titles to be charged to the subsequent appropriations therefor for the current or succeeding fiscal year. 24 USC 321 *et seq.* 42 USC 620.

In the administration of titles I, IV (other than part C thereof), X, XIV, XVI, XIX, and XX, respectively, of the Social Security Act, payments to a State under any such titles for any quarter in the period beginning July 1, 1976, and ending September 30, 1977 may be made with respect to a State plan approved under such title prior to or during such period, but no such payment shall be made with respect to any plan for any quarter prior to the quarter in which a subsequently approved plan was submitted.

Such amounts as may be necessary from this appropriation shall be available for grants to States for any period in fiscal year 1976 and the period July 1, 1976 through September 30, 1976 subsequent to March 31, 1976.

WORK INCENTIVES

For carrying out a work incentives program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such program, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, \$370,000,000, which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes. 42 USC 630. 42 USC 602. 42 USC 631. 42 USC 603.

PROGRAM ADMINISTRATION

For expenses necessary for the administration of public assistance programs, \$62,895,000.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance, the Federal Disability Insurance, the Federal Hospital Insurance, and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217 (g), 228 (g), 229 (b), and 1844 of the Social Security Act, and sections 103 (c) and 111 (d) of the Social Security Amendments of 1965, \$6,713,902,000.

42 USC 417,
428, 429,
1395w.
42 USC 426a,
1395i-1.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, including the payment of travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, \$913,897,000: *Provided*, That after July 31, such amounts for benefit payments as may be necessary may be charged to the subsequent year appropriation.

30 USC 901.

Whenever the Commissioner of Social Security finds it will promote the achievement of the provisions of title IV of the Federal Coal Mine Health and Safety Act of 1939, as amended, qualified persons may be appointed to conduct hearings thereunder without meeting the requirements for administrative law judges appointed under 5 U.S.C. 3105, but such appointments shall terminate not later than March 31, 1978: *Provided*, That no person shall hold a hearing in any case with which he has been concerned previously in the administration of such title.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income program under title XVI of the Social Security Act, section 401 of Public Law 92-603, and section 212 of Public Law 93-66, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201 (g) (1) of the Social Security Act, \$5,895,122,000: *Provided*, That for carrying out these activities after July 31, such sums as may be necessary shall be available, the obligations and expenditures therefor to be charged to the appropriation for the succeeding fiscal year.

42 USC 1381.
42 USC 1382e
note.
87 Stat. 155.
42 USC 401.

LIMITATION ON SALARIES AND EXPENSES

For necessary expenses, not more than \$2,561,773,000 may be expended as authorized by section 201 (g) (1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That such amounts as are required shall be available to pay travel expenses either on an actual cost or commuted basis, to an individual for travel incident to medical examinations, and to parties, their representatives and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands to reconsideration interviews and to proceedings before administrative law judges under titles II, XVI, and XVIII of the Social Security Act: *Provided further*, That \$25,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes

42 USC 421 note.

42 USC 401,
1381, 1395.

(31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of title II of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That such amounts as may be required may be expended for administration within the United States of the social insurance program of the United Kingdom, under terms of an agreement wherein similar services will be provided by the United Kingdom in that country for administration of the social insurance program of the United States.

42 USC 1381,
1395, 421.

LIMITATION ON CONSTRUCTION

For acquisition of sites, construction and equipment of facilities and for payments of principal, interest, taxes, and any other obligations under contracts entered into pursuant to the Public Buildings Purchase Contract Act of 1954 and the Public Buildings Amendments of 1972, \$14,400,000, to be expended as authorized by section 201(g) (1) of the Social Security Act, from any one or all of the trust funds referred to therein, and to remain available until expended.

40 USC 356 note.
40 USC 603 note.
42 USC 401.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-105), \$3,012,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681, et seq.), \$12,675,000.

GALLAUDET COLLEGE

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet College authorized by the Act of June 18, 1954 (68 Stat. 265), \$40,840,000 of which \$15,575,000 shall be for construction and shall remain available until expended: *Provided*, That if requested by the college, such construction shall be supervised by the General Services Administration.

D.C. Code
31-1051 note.
D.C. Code
31-1025 note.

HOWARD UNIVERSITY

For the partial support of Howard University, \$82,409,000, of which \$2,500,000 shall be for construction and shall remain available until expended: *Provided*, That if requested by the university, such construction shall be supervised by the General Services Administration.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT

HUMAN DEVELOPMENT

For carrying out, except as otherwise provided, section 426 of the Social Security Act, the Act of April 9, 1912 (42 U.S.C. 191), the Older Americans Act of 1965, as amended, the Child Abuse Preven-

42 USC 626.
42 USC 3001
note.

42 USC 5101
note; 42 USC
5701 note.
42 USC 2701
note.
29 USC 816,
817, 875.
29 USC 701 note;
22 USC 2101
note.
42 USC 2661
note.
29 USC 701 note.
29 USC 730.

42 USC 401.

tion and Treatment Act, the Runaway Youth Act, the Community Services Act of 1974, sections 106, 107 and 306 of the Comprehensive Employment and Training Act of 1973, the Rehabilitation Act of 1973, as amended, the International Health Research Act of 1960, the Developmental Disabilities Services and Facilities Construction Act, as amended, and the White House Conference on Handicapped Individuals Act, \$1,896,023,000, of which \$740,000,000 shall be for activities under section 110(a) of the Rehabilitation Act of 1973; \$309,000 shall be for section 110(b) of such Act; and \$30,058,000 shall be for grants under part C of the Developmental Disabilities Services and Facilities Construction Act, as amended, together with not to exceed \$600,000 to be transferred from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund as provided by section 201(g)(1) of the Social Security Act: *Provided further*, That the level of operations for the nutrition services for the elderly program shall be \$225,000,000 per annum.

DEPARTMENTAL MANAGEMENT

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights \$29,685,000, together with not to exceed \$919,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

GENERAL DEPARTMENTAL MANAGEMENT

For expenses not otherwise provided, necessary for general departmental management, including hire of six medium sedans, \$89,511,000 together with not to exceed \$12,872,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

42 USC 2825.
42 USC 1310.

For carrying out, to the extent not otherwise provided, research studies under section 232 of the Community Services Act of 1974 and section 1110 of the Social Security Act, \$20,000,000.

GENERAL PROVISIONS

Withholding of
funds, restriction.

SEC. 201. None of the funds appropriated by this title to the Social and Rehabilitation Service for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any States which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

Expenditures
subject to audit.

SEC. 202. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet College shall be awarded to these institutions in the form of lump-sum grants and expenditures made therefrom shall be subject to audit by the Secretary of Health, Education, and Welfare.

SEC. 203. None of the funds provided herein shall be used to pay any recipient of a grant for the conduct of a research project an amount equal to as much as the entire cost of such project.

SEC. 204. None of the funds contained in this title shall be available for additional permanent positions in the Washington area if the total authorized positions in the Washington area is allowed to exceed the proportion existing at the close of fiscal year 1966.

Federal positions
in Washington.

SEC. 205. Appropriations in this Act for the Health Services Administration, the National Institutes of Health, the Center for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Health Resources Administration and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand eight hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; rental or lease of living quarters (for periods not exceeding 5 years), and provision of heat, fuel, and light, and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed \$9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

42 USC 209.

5 USC 5332 note.

SEC. 206. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Forced student
busing.

42 USC 2000c.

SEC. 207. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from

a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

42 USC 2000d. SEC. 208. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964.

SEC. 209. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

TITLE III—RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

42 USC 4951 note. For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$108,200,000.

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

For expenses of the Community Services Administration, \$511,170,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

47 USC 396 note. For payment to the Corporation for Public Broadcasting, as authorized by the Public Broadcasting Financing Act of 1975, an amount which shall be available within limitations specified by said Act, for the fiscal year 1977, \$103,000,000; for the fiscal year 1978, \$107,150,000; and for the fiscal year 1979, \$120,200,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties and similar forms of entertainment for government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity excluding from participation in, denying the benefits of, or discriminating against any person in the United States, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by

the President; hire of passenger motor vehicles; and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes, and for convening factfinding boards of inquiry appointed by the Director in the health care industry, \$20,328,000. 88 Stat. 395.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), \$492,575.

20 USC 1501
note.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$77,776,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary for carrying out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$3,606,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission, \$6,280,000.

RAILROAD RETIREMENT BOARD

PAYMENTS TO RAILROAD RETIREMENT TRUST FUND

For payment to the Railroad Retirement Account, as provided under sections 15(b) and 15(d) of the Railroad Retirement Act of 1974, \$250,000,000. 45 USC 231n.

REGIONAL RAIL TRANSPORTATION PROTECTIVE ACCOUNT

45 USC 779. For payment of benefits under section 509 of the Regional Rail Reorganization Act of 1973, to remain available until expended, including not to exceed \$100,000 for payment to the Railroad Retirement Board for administrative expenses, \$40,000,000.

LIMITATION ON SALARIES AND EXPENSES

For expenses necessary for the Railroad Retirement Board, \$33,723,000, to be derived from the railroad retirement accounts: *Provided*, That \$500,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the foregoing limitation has been achieved: *Provided further*, That notwithstanding any other provision in law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, \$15,373,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners of the Home and the Surgeon General of the Army.

TITLE IV—GENERAL PROVISIONS

Experts and consultants.

SEC. 401. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

5 USC 5332 note.
Uniform allowances.

SEC. 402. Appropriations contained in this Act available for salaries and expenses shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

Meetings.

SEC. 403. Appropriations contained in this Act available for salaries and expenses shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

Funds to campus disrupters, prohibition.

SEC. 404. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curriculum, or to prevent the faculty, administrative officials, or students in such institution from engaging

in their duties or pursuing their studies at such institution.

SEC. 405. The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

Transfer of funds.

SEC. 406. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Fiscal year limitation.

SEC. 407. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

Funds restriction.

SEC. 408. The Secretary of Labor and the Secretary of Health, Education, and Welfare are each authorized to make available not to exceed \$7,500 from funds available for salaries and expenses under titles I and II, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$2,500 from funds available for "Salaries and expenses, Federal Mediation and Conciliation Service".

Official receptions.

SEC. 409. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or his parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Research programs.

Regulations.

This Act may be cited as the "Departments of Labor and Health, Education, and Welfare Appropriation Act, 1977".

Short title.

CARL ALBERT

Speaker of the House of Representatives.

LEE METCALF

Acting President of the Senate pro Tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

September 30, 1976.

The House of Representatives having proceeded to reconsider the bill (H.R. 14232) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDMUND L. HENSHAW, JR.
Clerk.

I certify that this Act originated in the House of Representatives.

EDMUND L. HENSHAW, JR.
Clerk.

IN THE SENATE OF THE UNITED STATES,
September 30, 1976.

The Senate having proceeded to reconsider the bill (H.R. 14232) entitled "An Act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO
Secretary.

By Harold G. Ast
Legislative Clerk.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1219 (Comm. on Appropriations) and Nos. 94-1384 and 94-1555 (Comm. of Conference).

SENATE REPORT No. 94-997 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 23, 24, considered and passed House.

June 28-30, considered and passed Senate, amended.

Aug. 10, House agreed to conference report; receded and concurred in certain Senate amendments; concurred in certain others with amendments.

Aug. 25, Senate agreed to conference report; agreed to certain House amendments.

Sept. 16, House receded and concurred in Senate amendment with an amendment.

Sept. 17, Senate agreed to House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:

Sept. 29, vetoed; Presidential message.

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 29, House overrode veto.

Sept. 30, Senate overrode veto.

Public Law 94-440
94th Congress

An Act

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1977, and for other purposes.

Oct. 1, 1976
[H.R. 14238]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1977, and for other purposes, namely:

Legislative
Branch
Appropriation
Act, 1977.

TITLE I

SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS
AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND LEADERS OF
THE SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

2 USC 60a note.

For compensation and mileage of the Vice President and Senators of the United States, \$5,052,630.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND MAJORITY AND
MINORITY LEADERS

For expense allowance of the Vice President, \$10,000; Majority Leader of the Senate, \$3,000; and Minority Leader of the Senate, \$3,000; in all, \$16,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For clerical assistance to the Vice President, \$615,015.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For offices of the Majority and Minority Leaders, \$251,540.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For offices of the Majority and Minority Whips, \$195,260.

OFFICE OF THE CHAPLAIN

For office of the Chaplain, \$31,800.

OFFICE OF THE SECRETARY

For office of the Secretary, \$3,323,290, including \$151,370 required for the purpose specified and authorized by section 74b of Title 2, United States Code: *Provided*, That, effective October 1, 1976, the Secretary may appoint and fix the compensation of a Bill Clerk at not to exceed \$25,440 per annum in lieu of not to exceed \$19,080 per annum; an Assistant Bill Clerk at not to exceed \$19,080 per annum in lieu of not to exceed \$12,720 per annum; a Secretary at not to exceed \$17,172 per annum in lieu of a Receptionist at not to exceed \$17,172 per annum; a Registrar at not to exceed \$16,218 per annum in lieu of a Secretary to the Curator at not to exceed \$16,218 per annum; a Clerk at not to exceed \$10,812 per annum in lieu of an Assistant Messenger at not to exceed \$10,812 per annum; an Historian at not to exceed \$29,574 per annum; an Associate Historian at not to exceed \$18,126 per annum; a Photo Historian at not to exceed \$25,281 per annum; a Research Assistant to Historian at not to exceed \$10,335 per annum; a Secretary to Historian at not to exceed \$11,130 per annum; an Information Clerk, Digest, at not to exceed \$10,017 per annum; and a Secretary, Stationery Room, at not to exceed \$13,356 per annum: *Provided further*, That, effective October 1, 1976, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by \$37,842.

COMMITTEE EMPLOYEES

For professional and clerical assistance to standing committees and the Select Committee on Small Business, \$9,660,685.

CONFERENCE COMMITTEES

For clerical assistance to the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, \$227,255 for each such committee; in all, \$454,510.

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For administrative and clerical assistants to Senators, \$48,190,355.

LEGISLATIVE ASSISTANCE TO SENATORS

For legislative assistance to Senators, \$5,500,000.

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For office of the Sergeant at Arms and Doorkeeper, \$15,579,010: *Provided*, That, effective October 1, 1976, the Sergeant at Arms and Doorkeeper may appoint and fix the compensation of an Administrative Assistant to the Sergeant at Arms and Doorkeeper at not to exceed \$36,729 per annum in lieu of not to exceed \$35,298 per annum; a Superintendent, Service Department at not to exceed \$35,457 per annum in lieu of not to exceed \$31,482 per annum; a Director, Computer Center at not to exceed \$35,457 per annum in lieu of not to exceed \$34,344 per annum; a Director, Recording Studio at not to exceed \$35,457 per annum in lieu of not to exceed \$34,662 per annum; a Telecommunications Adviser at not to exceed \$29,574 per annum in lieu of not to exceed \$27,348 per annum; a Chief Cabinetmaker at not to exceed \$22,737 per annum in lieu of not to exceed \$20,670 per annum; a Chief Janitor at not to exceed \$19,557 per annum in lieu of

not to exceed \$17,808 per annum; an Assistant Superintendent, Service Department at not to exceed \$22,578 per annum in lieu of not to exceed \$20,988 per annum; a Night Supervisor, Service Department at not to exceed \$19,875 per annum in lieu of not to exceed \$15,264 per annum; a Supervisor, Printing Section at not to exceed \$18,921 per annum in lieu of a Foreman of Duplicating Department at not to exceed \$17,808 per annum; a Supervisor, Folding Section at not to exceed \$18,921 per annum in lieu of a Chief Machine Operator at not to exceed \$15,582 per annum; a Supervisor, Addressograph Section at not to exceed \$18,921 per annum in lieu of not to exceed \$14,628 per annum; two Audio Engineers at not to exceed \$13,356 per annum each in lieu of an Audio Engineer at not to exceed \$13,356 per annum; a Micrographics Supervisor at not to exceed \$21,147 per annum; an Assistant Micrographics Supervisor at not to exceed \$16,536 per annum; a Secretary-Receptionist at not to exceed \$10,812 per annum; a Senior Folding Machine Operator at not to exceed \$12,243 per annum; a Senior Addressograph Operator at not to exceed \$12,243 per annum; twenty Laborers, Service Department at not to exceed \$9,222 per annum each in lieu of seventeen Laborers, Service Department at not to exceed \$9,222 per annum each; ten Office Systems Specialists at not to exceed \$15,582 per annum each in lieu of seven Office Systems Specialists at not to exceed \$15,582 per annum each; ten Senior Programmer Analysts at not to exceed \$25,122 per annum each in lieu of eight Senior Programmer Analysts at not to exceed \$25,122 per annum each; three Network Technicians at not to exceed \$20,352 per annum each in lieu of a Network Technician at not to exceed \$20,352 per annum; two Secretary-Typists at not to exceed \$12,402 per annum each; three Systems Supervisors at not to exceed \$29,892 per annum each in lieu of a Systems Supervisor at not to exceed \$29,892 per annum; an Operations Supervisor at not to exceed \$20,988 per annum; eight Lead Operators at not to exceed \$14,628 per annum each in lieu of six Lead Operators at not to exceed \$14,628 per annum each; two Data Conversion Operators at not to exceed \$10,017 per annum each in lieu of a Data Conversion Operator at not to exceed \$10,017 per annum; a Training Specialist at not to exceed \$20,034 per annum; five Printing Operators at not to exceed \$14,946 per annum each; three Quality Controllers at not to exceed \$14,943 per annum each; three Assistant Chief Telephone Operators at not to exceed \$13,356 per annum each and an Auditor at not to exceed \$13,356 per annum in lieu of four Assistant Chief Telephone Operators at not to exceed \$13,356 per annum each; twenty-one Telephone Operators at not to exceed \$10,494 per annum each, a Secretary at not to exceed \$10,494 per annum, four Clerks at not to exceed \$10,494 per annum each, and an Auditor at not to exceed \$10,494 per annum in lieu of twenty-seven Telephone Operators at not to exceed \$10,494 per annum each; a Chief Barber at not to exceed \$12,084 per annum in lieu of a Foreman of Skilled Laborers at not to exceed \$12,084 per annum; a Chief Barber at not to exceed \$10,971 per annum; two Barbers at not to exceed \$11,130 per annum each in lieu of two Skilled Laborers at not to exceed \$11,130 per annum each; three Barbers at not to exceed \$9,381 per annum each; forty-eight Laborers at not to exceed \$9,222 per annum each and a Barber Shop Attendant at not to exceed \$9,222 per annum in lieu of forty-nine Laborers at not to exceed \$9,222 per annum each; a Barber Shop Attendant at not to exceed \$4,134 per annum; seven Detectives, Police Force at not to exceed \$14,946 per annum each in lieu of not to exceed \$13,992 per annum each; sixteen Technicians, Police Force at not to

exceed \$13,992 per annum each in lieu of not to exceed \$13,038 per annum each; eight Plainclothesmen, Police Force at not to exceed \$13,992 per annum each in lieu of not to exceed \$13,038 per annum each; and six K-9 Officers, Police Force at not to exceed \$13,992 per annum each in lieu of not to exceed \$13,038 per annum each: *Provided further*, That not to exceed \$45,000 of this appropriation may be used to employ special deputies.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For offices of the Secretary for the Majority and the Secretary for the Minority, \$311,645.

AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

For agency contributions for employee benefits and longevity compensation, as authorized by law, \$5,500,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the office of the Legislative Counsel of the Senate, \$629,700.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, \$422,855 for each such committee; in all, \$845,710.

AUTOMOBILES AND MAINTENANCE

For purchase, lease, exchange, maintenance, and operation of vehicles, one for the Vice President, one for the President pro tempore, one for the Majority Leader, one for the Minority Leader, one for the Majority Whip, one for the Minority Whip, for carrying the mails, and for official use of the offices of the Secretary and the Sergeant at Arms and Doorkeeper, \$45,000.

INQUIRIES AND INVESTIGATIONS

2 USC 190b. For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, including \$600,385 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, and Senate Resolution Numbered 140, agreed to May 14, 1975, \$21,854,485.

FOLDING DOCUMENTS

For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding \$4.07 per hour per person \$90,905.

MISCELLANEOUS ITEMS

For miscellaneous items, \$19,098,000: *Provided*, That not to exceed \$736,000 shall be available for the lease and alteration of space for the Senate Computer Center if the Committee on Rules and Administration determines that such facility cannot be located in existing space available to the Senate or the House of Representatives.

POSTAGE STAMPS

For postage stamps for the offices of the Secretaries for the Majority and Minority, \$420; Chaplain, \$200; and for air mail and special delivery stamps for the office of the Secretary, \$610; office of the Sergeant at Arms and Doorkeeper, \$240; and the President of the Senate, as authorized by law, \$1,215; in all, \$2,685.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, \$4,500, and for committees and officers of the Senate, \$27,150; in all, \$31,650.

ADMINISTRATIVE PROVISIONS

SEC. 101. (a) Effective October 1, 1976, section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified, is amended by striking out "calendar year" each place it appears and inserting in lieu thereof "fiscal year".

2 USC 61-1.

(b) Subject to the provisions of section 105(d)(2) of the Legislative Branch Appropriation Act, 1968, as amended and modified, the amount of accrued surplus available to any Senator under section 105(d)(1) of such Act at the close of September 30, 1976, shall be available to that Senator during the period beginning on October 1, 1976, and ending on December 31, 1976, for the purposes of fixing the number and rates of compensation of employees in his office.

SEC. 102. Section 108(c) of the Legislative Branch Appropriation Act, 1976, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

2 USC 72a-1c.

"(2) If (A) a Senator's service on a committee terminates (other than by reason of his ceasing to be a Member of the Senate) or a Senator's status on a committee as the chairman or ranking minority member of such committee or a subcommittee thereof changes, and (B) the appointment of an employee appointed under this section and designated to such committee by such Senator would (but for this paragraph) thereby terminate, such employee shall, subject to the provisions of subsection (e), be continued as an employee appointed by such Senator under this section until whichever of the following first occurs: (1) the close of the tenth day following the day on which such Senator's service on such committee terminates or his status on such committee changes or (2) the effective date on which such Senator notifies the Secretary of the Senate, in writing, that such employee is no longer to be continued as an employee appointed under this section. An employee whose appointment is continued under this paragraph shall perform such duties as the Senator who appointed him may assign."

SEC. 103. Section 5533(c)(1) of title 5, United States Code, is amended by inserting before the period at the end thereof "(\$10,540, in the case of pay disbursed by the Secretary of the Senate)".

SEC. 104. (a) The Secretary of the Senate is authorized to reimburse any bank which clears items for the United States Senate for the costs incurred therein. Such reimbursements shall be made from the contingent fund of the Senate.

2 USC 60c-2a.

(b) The Secretary of the Senate is authorized to prescribe such regulations as he deems necessary to govern the cashing of personal checks by the Disbursing Office of the Senate.

Check cashing regulations.

(c) Whenever an employee whose compensation is disbursed by the Secretary of the Senate becomes indebted to the Senate and such employee fails to pay such indebtedness, the Secretary of the Senate is authorized to withhold the amount of the indebtedness from any amount which is disbursed by him and which is due to, or on behalf of, such employee. Whenever an amount is withheld under this section, the appropriate account shall be credited in an amount equal to the amount so withheld.

SEC. 105. (a) Effective October 1, 1976, except as provided in subsections (b) and (c), the maximum annual compensation of a mail carrier in the Senate post office shall not exceed \$8,109.

(b) In the case of a mail carrier in the Senate post office who was serving as such a mail carrier on September 30, 1976, the maximum annual rate of compensation shall not exceed \$11,130, so long as his service as such a mail carrier remain continuous.

(c) In the case of a mail carrier in the Senate post office (other than a mail carrier whose compensation is fixed under subsection (b)) whose regularly scheduled daily tour of duty begins on or before 6 a.m., the annual rate of compensation may be increased, in the discretion of the Sergeant at Arms and Doorkeeper, by not to exceed 10 percent. If such annual rate of compensation, as so increased, is not a multiple of the figure set forth in the applicable Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, such rate shall be adjusted to the next higher multiple of such figure.

2 USC 60a notes.

Senate employees
Barber Shop
Revolving Fund,
establishment.
2 USC 121a.

SEC. 106. (a) There is hereby established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Employees Barber Shop Revolving Fund (hereafter in this section referred to as the "revolving fund").

(b) All moneys received by the Senate employees barber shop from fees for services or from any other source shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for additional compensation of personnel of the Senate employees barber shop, as determined by the Sergeant at Arms and Doorkeeper of the Senate, and for necessary supplies for the Senate employees barber shop.

(c) On or before December 31 of each year, the Secretary of the Senate shall withdraw from the revolving fund and deposit in the Treasury of the United States as miscellaneous receipts an amount equal to the amount in the revolving fund at the close of the preceding fiscal year, reduced by the amount of outlays from the revolving fund after the close of such year attributable to obligations incurred during such year.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) The Sergeant at Arms and Doorkeeper of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

Effective date.

2 USC 60a-1a.

(f) This section shall take effect on October 1, 1976.

SEC. 107. No provision of this Act or of any Act hereafter enacted which specifies a rate of compensation (including a maximum rate) for any position or employee whose compensation is disbursed by the Secretary of the Senate shall, unless otherwise specifically provided therein, be construed to affect the applicability of section 4 of the Federal Pay Comparability Act of 1970 to such rate.

2 USC 60a notes.

SEC. 108. The second paragraph under the heading "Administrative Provisions" in the Legislative Branch Appropriation Act, 1959 (72 Stat. 442; 2 U.S.C. 65b), is amended by striking out "\$2,000" and inserting in lieu thereof "\$4,000 during any fiscal year".

SEC. 109. Section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) is amended—

(1) by inserting after "Joint Committee on Congressional Operations" the following: "and the Select Committee on Intelligence of the Senate"; and

(2) by adding at the end thereof the following new sentence: "In the case of the Select Committee on Intelligence of the Senate, such consolidated report may, in the discretion of the chairman of such select committee, omit such information as would identify the foreign countries in which members and employees of such select committee traveled."

SEC. 110. (a) (1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Government Operations is authorized, during the fiscal year ending September 30, 1977, to employ one additional professional staff member at a per annum rate not to exceed the rate provided for the four professional staff members referred to in section 105(e) (3) (A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

2 USC 61-1.

(2) The provisions of paragraph (1) shall cease to be effective when and if the individual who was a reemployed annuitant and was employed by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, ceases to be so employed at such rate.

(b) (1) Notwithstanding any other provision of law but subject to the provisions of paragraph (2), the Committee on Commerce is authorized, during the fiscal year ending September 30, 1977, to pay one additional professional staff member at a per annum rate not to exceed the rate provided for the two professional staff members referred to in section 105(e) (3) (A) of the Legislative Branch Appropriations Act, 1968, as amended and modified.

(2) The provisions of paragraph (1) shall cease to be effective when and if any of the individuals who were paid by such Committee at the per annum rate referred to in such paragraph on August 25, 1976, cease to be paid at such rate.

SEC. 111. Amounts required to be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8344 of title 5, United States Code, with respect to any officer or employee of the Senate, including an employee in the office of a Senator, shall be paid from the contingent fund of the Senate during the fiscal year ending September 30, 1977.

TITLE II

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Phyllis Macdonald, widow of Torbert H. Macdonald, late a Representative from the State of Massachusetts, \$44,600. For payment to Charles and Mildred Litton, father and mother of Jerry L. Litton, late a Representative from the State of Missouri, \$44,600.

COMPENSATION AND MILEAGE FOR THE MEMBERS

COMPENSATION OF MEMBERS

2 USC 31.
2 USC 356a.

For compensation of Members, as authorized by law (wherever used herein the term "Member" shall include Members of the House of Representatives, the Resident Commissioner from Puerto Rico, the Delegate from the District of Columbia, the Delegate from Guam, and the Delegate from the Virgin Islands), \$21,543,800: *Provided*, That none of the funds contained in this Act shall be used to increase salaries of Members of the House of Representatives pursuant to section 204a of Public Law 94-82 in excess of the salary rate in effect on September 30, 1976, for such position or officer. No part of the funds appropriated in this Act or any other Act shall be used to pay the salary of an individual in a position or office referred to in section 225(f) of the Federal Salary Act of 1967, as amended (2 U.S.C. 356), including a Delegate to the House of Representatives, at a rate which exceeds the salary rate in effect on September 30, 1976, for such position or office except increases submitted by the President pursuant to section 225 of the Federal Salary Act of 1967.

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, \$210,000.

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, \$1,568,500, including: Office of the Speaker, \$460,500 including \$10,000 for official expenses of the Speaker; Office of the Majority Floor Leader, \$292,700, including \$5,000 for official expenses of the Majority Leader; Minority Floor Leader, \$292,700, including \$5,000 for official expenses of the Minority Leader; Majority Whip, \$261,300, including not to exceed \$46,432 for the Chief Deputy Majority Whip; Minority Whip, \$261,300, including not to exceed \$46,432 for the Chief Deputy Minority Whip.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, \$20,420,100, including: Office of the Clerk, \$4,672,000; Office of the Sergeant at Arms, \$8,456,000; Office of the Doorkeeper, \$3,537,400; Office of the Postmaster, \$1,073,000; including \$18,657 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed, \$10,039 per annum each; Office of the Chaplain, \$19,800; Office of the Parliamentarian, including the Parliamentarian and \$2,000 for preparing the Digest of the Rules, \$228,000; for compiling the precedents of the House of Representatives, \$255,000; Official Reporters of Debates, \$488,000; Official Reporters to Committees, \$560,800; two printing clerks, one for the majority appointed by the majority leader and one for the minority appointed by the minority leader, \$30,000 to be equally divided; a technical assistant in the Office of the Attending Physician, to be appointed by the Attending Physician subject to the approval of the Speaker, \$27,000; the House Democratic Steering Committee, \$357,200; the House Democratic Caucus, \$69,300; the House Republican Conference, \$426,500; and six minority employees, \$220,100.

Such amounts as deemed necessary for the payment of salaries of officers and employees within this appropriation may be transferred among offices upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, \$21,805,000.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, \$2,608,000. 2 USC 72a.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e), of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, \$329,000. 88 Stat. 300; 31 USC 11b, 1303; 88 Stat. 330.

OFFICE OF THE LAW REVISION COUNSEL

For salaries and expenses of the Office of the Law Revision Counsel of the House, \$357,000.

OFFICE OF THE LEGISLATIVE COUNSEL

For salaries and expenses of the Office of the Legislative Counsel of the House, \$1,293,000.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, \$96,566,000.

CONTINGENT EXPENSES OF THE HOUSE

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, \$48,137,450, including: Computer and related services for Members, \$3,500,000; constituent communication expenses, \$2,195,000; equipment (purchase, lease, and maintenance), \$5,150,000; district office expenses, \$865,000; postage stamps for official special delivery and overseas mail for the first session of the Ninety-fifth Congress to be procured and furnished by the Clerk of the House of Representatives (1) to each Representative, the Resident Commissioner of Puerto Rico, and the Delegates from the District of Columbia, Guam, and the Virgin Islands, upon request by such person, in an amount not exceeding \$290, (2) to the Speaker, the majority and minority leaders, and majority and minority whips of the House of Representatives, upon request by such person, in an amount not exceeding \$260, (3) to each standing committee of the House of Representatives, upon request of

the chairman thereof, in an amount not exceeding \$170, and (4) to each of the following officers of the House of Representatives, upon request of such person, in an amount not exceeding \$370 for the Clerk of the House, \$270 for the Sergeant at Arms, \$230 for the Doorkeeper, \$180 for the Postmaster, and \$50 for the Chaplain, in all, \$133,450; rental of district office space, \$6,220,000; transportation for Members, \$2,350,000; transportation for staff, \$900,000; telegraph and telephone, \$9,383,000; supplies and materials, \$1,512,000; furniture and furnishings, \$1,500,000; reporting hearings for stenographic reports of hearings of committees, including special and select committees, \$1,525,000; salaries authorized by House resolutions, \$1,680,000; Government contributions to employees' life insurance fund, retirement fund, and health benefits fund, \$10,141,300; miscellaneous items including, but not limited to, purchase, exchange, hire, driving, maintenance, repair, and operation of House motor vehicles, and not to exceed \$5,000 for the purposes authorized by section 1 of House Resolution 348, approved June 29, 1961, \$1,082,700.

Such amounts as deemed necessary for the payment of allowances and expenses within this appropriation may be transferred among accounts upon approval of the Committee on Appropriations of the House of Representatives.

STATIONERY (REVOLVING FUND)

For a stationery allowance for each Member for the first session of the Ninety-fifth Congress, as authorized by law, \$2,853,500, to remain available until expended.

SPECIAL AND SELECT COMMITTEES

For salaries and expenses of special and select committees authorized by the House, \$23,993,000.

ADMINISTRATIVE PROVISION

2 USC 60e-1a,
60e-1b.

2 USC 57a.

SEC. 101. The provisions of House Resolution 698, Ninety-fourth Congress, authorizing the payment of overtime compensation to employees of the Publication Distribution Service of the House of Representatives; House Resolution 732, Ninety-fourth Congress, authorizing the voluntary withholding of State income taxes of Members of the House of Representatives and employees whose compensation is disbursed by the Clerk of the House of Representatives; House Resolution 1368, Ninety-fourth Congress, establishing a Commission on Administrative Review in the House of Representatives; and House Resolution 1372, Ninety-fourth Congress, limiting the authority of the Committee on House Administration to fix and adjust allowances, shall be the permanent law with respect thereto.

TITLE III

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee \$1,423,475.

JOINT COMMITTEE ON ATOMIC ENERGY

For salaries and expenses of the Joint Committee on Atomic Energy, \$663,600.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, \$478,325.

AMERICAN INDIAN POLICY REVIEW COMMISSION

For salaries and expenses of the American Indian Policy Review Commission necessary to carry out the provisions of Public Law 93-580, \$263,000: *Provided*, That, not to exceed \$100,000 of the funds appropriated under this heading for fiscal year 1976 and for the period ending September 30, 1976, shall remain available until June 30, 1977.

25 USC 174 note.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

For salaries and expenses of the Joint Committee on Internal Revenue Taxation, \$1,636,000.

JOINT COMMITTEE ON DEFENSE PRODUCTION

For salaries and expenses of the Joint Committee on Defense Production, \$168,000.

JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

For salaries and expenses of the Joint Committee on Congressional Operations, including the Office of Placement and Office Management, \$661,500.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of \$1,000 per month to the Attending Physician; (2) an allowance of \$600 per month to one senior medical officer while on duty in the Attending Physician's office; (3) an allowance of \$200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of \$200 per month each to not exceed eight assistants on the basis heretofore provided for such assistance; and (5) \$262,073 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, \$387,800.

CAPITOL POLICE

GENERAL EXPENSES

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with

the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including \$40 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, \$702,000.

CAPITOL POLICE BOARD

Detailed
personnel.

D.C. Code
9-126a.

55 Stat. 456.
54 Stat. 629.

To enable the Capitol Police Board to provide additional protection for the Capitol Buildings and Grounds, including the Senate and House Office Buildings and the Capitol Power Plant, \$1,618,860. Such sum shall be expended only for payment of salaries and other expenses of personnel detailed from the Metropolitan Police of the District of Columbia, and the Mayor of the District of Columbia is authorized and directed to make such details upon the request of the Board. Personnel so detailed shall, during the period of such detail, serve under the direction and instructions of the Board and are authorized to exercise the same authority as members of such Metropolitan Police and members of the Capitol Police and to perform such other duties as may be assigned by the Board. Reimbursement for salaries and other expenses of such detail personnel shall be made to the Government of the District of Columbia, and any sums so reimbursed shall be credited to the appropriation or appropriations from which such salaries and expenses are payable and shall be available for all the purposes thereof: *Provided*, That any person detailed under the authority of this paragraph or under similar authority in the Legislative Branch Appropriation Act, 1942, and the Second Deficiency Appropriation Act, 1940, from the Metropolitan Police of the District of Columbia shall be deemed a member of such Metropolitan Police during the period or periods of any such detail for all purposes of rank, pay, allowances, privileges, and benefits to the same extent as though such detail had not been made, and at the termination thereof any such person shall have a status with respect to rank, pay, allowances, privileges, and benefits which is not less than the status of such person in such police at the end of such detail: *Provided further*, That the Mayor of the District of Columbia is directed (1) to pay the assistant chief detailed under the authority of this paragraph and serving as Chief of the Capitol Police, the salary of assistant chief plus \$2,000 and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, (2) to pay the two deputy chiefs detailed under the authority of this paragraph and serving as assistants to the Chief of the Capitol Police the salary of deputy chief and such increases in basic compensation as may be subsequently provided by law so long as these positions are held by the present incumbents, (3) to pay the inspector detailed under the authority of this paragraph the salary of inspector and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, (4) to pay the captain detailed under the authority of this paragraph the salary of captain and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, (5) to pay the captain detailed under the authority of this paragraph the salary of captain plus \$1,625 and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, (6) to pay the lieutenant detailed under the authority of this paragraph the salary of lieutenant

and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, (7) to elevate and pay the sergeant detailed under the authority of this paragraph the rank and salary of lieutenant and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, (8) to pay the three detective sergeants detailed under the authority of this paragraph the salary of detective sergeant and such increases in basic compensation as may be subsequently provided by law so long as these positions are held by the present incumbents, (9) to elevate and pay the detective, grade 2, detailed under the authority of this paragraph the rank and salary of detective sergeant and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, and (10) to pay the three sergeants of the uniform force detailed under the authority of this paragraph the salary of sergeant and such increases in basic compensation as may be subsequently provided by law so long as these positions are held by the present incumbents: *Provided further*, That \$109,230 of this amount is provided to cover the costs of a 6 percent salary increase, approved retroactive to October 1, 1975, for the purpose of reimbursing the District of Columbia government for the costs of that salary increase from October 1, 1975, through September 30, 1976.

No part of any appropriation contained in this Act shall be paid as compensation to any person appointed after June 30, 1935, as an officer or member of the Capitol Police who does not meet the standards to be prescribed for such appointees by the Capitol Police Board: *Provided*, That the Capitol Police Board is hereby authorized to detail police from the House Office, Senate Office, and Capitol Buildings for police duty on the Capitol Grounds and on the Library of Congress Grounds.

EDUCATION OF PAGES

For education of congressional pages and pages of the Supreme Court, pursuant to part 9 of title IV of the Legislative Reorganization Act, 1970, and section 243 of the Legislative Reorganization Act, 1946, \$180,200, which amount shall be advanced and credited to the applicable appropriation of the District of Columbia, and the Board of Education of the District of Columbia is hereby authorized to employ such personnel for the education of pages as may be required and to pay compensation for such services in accordance with such rates of compensation as the Board of Education may prescribe.

2 USC 88b-1 and
note; 40 USC
184a.
2 USC 88a.
D.C. Code
31-121.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs pursuant to title 39, U.S.C., section 3216, \$46,904,000, to be available immediately on enactment of this Act.

The foregoing amounts under "other joint items" shall be disbursed by the Clerk of the House.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, \$389,100, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than twenty-eight individuals.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the second session of the Ninety-fourth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriation bills as required by law, \$13,000, to be paid to the persons designated by the chairman of such committees to supervise the work.

TITLE IV

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), \$6,624,000.

TITLE V

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), \$9,319,200: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 208 staff employees: *Provided further*, That the Congressional Budget Office shall have the authority to contract without regard to section 5 of title 41 of the United States Code (section 3709 of the Revised Statutes, as amended).

TITLE VI

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, \$1,770,100.

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of \$20,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, to incur expenses authorized by the Act of December 13, 1973 (87 Stat. 704), and to meet unforeseen expenses in connection with activities under his care \$120,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For necessary expenditures for the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including improvements, maintenance, repair, equipment, supplies, material, fuel, oil, waste, and appurtenances; security installations authorized by H. Con. Res. 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by \$800,000; furnishings and office equipment; special and protective clothing for workmen; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902); personal and other services; cleaning and repairing works of art and prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes, as amended; 41 USC 5. preservation of historic drawings through use of document conservation laboratory facilities of the Library of Congress on a reimbursable basis; purchase or exchange, maintenance and operation of a passenger motor vehicle; purchase of necessary reference books and periodicals; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, \$5,853,900.

Not to exceed \$15,000 of the unobligated balance of the appropriation under this head for the fiscal year 1976 is hereby continued available until September 30, 1977.

Not to exceed \$193,500 of the unobligated balance of that part of the appropriation under this head for the fiscal year 1975, continued available until June 30, 1976, is hereby continued available until September 30, 1977.

CAPITOL GROUNDS

For care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant; personal and other services; care of trees; planting; fertilizer; repairs to pavements, walks, and roadways; waterproof wearing apparel; maintenance of signal lights; and for snow removal by hire of men and equipment or under contract without regard to section 3709 of the Revised Statutes, as amended, \$1,832,800: *Provided*, That hereafter, funds appropriated under this heading shall be available for the purchase or rental, maintenance and operation of passenger motor vehicles to provide shuttle service for Members and employees of Congress to and from the buildings in the Legislative group. 40 USC 223.

Not to exceed \$94,500 of the unobligated balance of the appropriation under this head for the fiscal year 1976 is hereby continued available until September 30, 1977.

SENATE OFFICE BUILDINGS

For maintenance, miscellaneous items and supplies, including furniture, furnishings, and equipment, and for labor and material incident thereto, and repairs thereof; for purchase of waterproof wearing apparel, and for personal and other services; for the care and operation of the Senate Office Buildings; including the subway and subway transportation systems connecting the Senate Office Buildings with the Capitol; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), prevention and eradication of insect and other

41 USC 5.

pests without regard to section 3709 of the Revised Statutes as amended; to be expended under the control and supervision of the Architect of the Capitol in all \$10,408,000, of which \$980,000 shall remain available until expended.

Not to exceed \$120,000 of the unobligated balance of the appropriation under this head for the fiscal year 1975, continued available until June 30, 1976, is hereby continued available until September 30, 1977.

SENATE GARAGE

For maintenance, repairs, alterations, personal and other services, and all other necessary expenses, \$139,500.

HOUSE OFFICE BUILDINGS

For maintenance, including equipment; waterproof wearing apparel; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902); prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes, as amended; miscellaneous items; and for all necessary services, including the position of Superintendent of Garages as authorized by law, \$14,448,000, of which \$2,065,000 shall remain available until expended.

CAPITOL POWER PLANT

For lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Supreme Court Building, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air-conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office, Washington City Post Office, and Folger Shakespeare Library, reimbursement for which shall be made and covered into the Treasury; personal and other services, fuel, oil, materials, waterproof wearing apparel, and all other necessary expenses in connection with the maintenance and operation of the plant, \$11,172,000.

MODIFICATIONS AND ENLARGEMENT, CAPITOL POWER PLANT

For an additional amount for "Modifications and Enlargement, Capitol Power Plant", \$12,000,000, to remain available until expended, and the limit of cost authorized by Public Law 93-50 (87 Stat. 109-110) for such project is increased by such additional amount.

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For necessary expenditures for mechanical and structural maintenance, including improvements, equipment, supplies, waterproof wearing apparel, and personal and other services, \$2,241,200, of which \$150,000 shall remain available until expended.

Not to exceed \$71,000 of the unobligated balance of the appropriation under this head for the fiscal year 1976 is hereby continued available until September 30, 1977.

AUTOMATIC ELEVATOR OPERATORS

No part of the funds appropriated under this Act shall be used for the payment of compensation for more than forty-six elevator

operator positions under the heading "Architect of the Capitol, Capitol Buildings"; sixteen elevator operator positions under the heading "Architect of the Capitol, Senate Office Buildings"; and twenty-eight elevator operator positions under the heading "Architect of the Capitol, House Office Buildings": *Provided*, That such provision shall not be applicable to present incumbents of elevator operator positions.

TITLE VII

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses incident to maintaining, operating, repairing, and improving the Botanic Garden and the nurseries, buildings, grounds, collections, and equipment pertaining thereto, including personal services; waterproof wearing apparel; not to exceed \$25 for emergency medical supplies; traveling expenses, including bus fares, not to exceed \$275; the prevention and eradication of insect and other pests and plant diseases by purchase of materials and procurement of personal services by contract without regard to the provisions of any other Act; purchase and exchange of motor trucks; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; purchase of botanical books, periodicals, and books of reference, not to exceed \$100; all under the direction of the Joint Committee on the Library, \$1,164,900.

TITLE VIII

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody, care, and maintenance of the Library Buildings; special clothing; cleaning, laundering, and repair of uniforms; preservation of motion pictures in the custody of the Library; for the National Program for Acquisition and Cataloging of Library material; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, \$66,978,000.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, \$9,408,300: *Provided*, That \$1,683,000 of this appropriation shall be available only upon enactment into law of S. 22 or equivalent legislation.

Post, p. 2541.
17 USC 101
et seq.

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

SALARIES AND EXPENSES

For necessary expenses of the National Commission on New Technological Uses of Copyrighted Works, \$559,500.

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166), \$19,293,200: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration.

DISTRIBUTION OF CATALOG CARDS

SALARIES AND EXPENSES

For necessary expenses for the preparation and distribution of catalog cards and other publications of the Library, \$11,993,000.

BOOKS FOR THE GENERAL COLLECTIONS

For necessary expenses (except personal services) for acquisition of books, periodicals, and newspapers, and all other material for the increase of the Library, \$1,760,000, to remain available until expended, including \$40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

BOOKS FOR THE LAW LIBRARY

For necessary expenses (except personal services) for acquisition of books, legal periodicals, and all other material for the increase of the law library, \$286,000, to remain available until expended.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931 (2 U.S.C. 135a), as amended, \$21,729,000.

COLLECTION AND DISTRIBUTION OF LIBRARY MATERIALS

(SPECIAL FOREIGN CURRENCY PROGRAM)

For necessary expenses for carrying out the provisions of section 104(b)(5) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704), to remain available until expended, \$2,910,200, of which \$2,680,200 shall be available only for payments in any foreign currencies owed to or owned by the United States which the Treasury Department shall determine to be excess to the normal requirements of the United States.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, \$2,942,000, of which \$1,729,000 shall be available until expended only for the purchase and

supply of furniture, book stacks, shelving, furnishings, and related costs necessary for the initial outfitting of the James Madison Memorial Library Building.

REVISION OF ANNOTATED CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses to enable the Librarian to revise and extend the Annotated Constitution of the United States of America, \$36,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

SEC. 801. Appropriations in this Act available to the Library of Congress for salaries shall be available for expenses of personnel security and suitability investigations of Library employees; special and temporary services (including employees engaged by day or hour or in piecework); and services as authorized by 5 U.S.C. 3109.

SEC. 802. Not to exceed fifteen positions in the Library of Congress may be exempt from the provisions of appropriation acts concerning the employment of aliens during the current fiscal year, but the Librarian shall not make any appointment to any such position until he has ascertained that he cannot secure for such appointments a person in any of the categories specified in such provisions who possesses the special qualifications for the particular position and also otherwise meets the general requirements for employment in the Library of Congress.

Aliens,
employment.
2 USC 169.

SEC. 803. Funds available to the Library of Congress may be expended to reimburse the Department of State for medical services rendered to employees of the Library of Congress stationed abroad and for contracting on behalf of and hiring alien employees for the Library of Congress under compensation plans comparable to those authorized by section 444 of the Foreign Service Act of 1946, as amended (22 U.S.C. 889(a)); for purchase or hire of passenger motor vehicles; for payment of travel, storage and transportation of household goods, and transportation and per diem expenses for families en route (not to exceed twenty-four); for benefits comparable to those payable under sections 911(9), 911(11), and 941 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1136(9), 1136(11), and 1156, respectively); and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (Public Law 87-195, 22 U.S.C. 2396(b)); subject to such rules and regulations as may be issued by the Librarian of Congress.

2 USC 143a.

SEC. 804. Payments in advance for subscriptions or other charges for bibliographical data, publications, materials in any other form, and services may be made by the Librarian of Congress whenever he determines it to be more prompt, efficient, or economical to do so in the interest of carrying out required Library programs.

Advance
payments.

SEC. 805. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed \$92,000, when specifically authorized by the Librarian, for expenses of attendance

at meetings concerned with the function or activity for which the appropriation is made.

SEC. 806. Funds available to the Library of Congress may be expended to provide additional parking facilities for Library of Congress employees in an area or areas in the District of Columbia outside the limits of the Library of Congress grounds, and to provide for transportation of such employees to and from such area or areas and the Library of Congress grounds without regard to the limitations imposed by 31 U.S.C. 638a(c)(2).

SEC. 807. Funds available to the Library of Congress may be expended to purchase, lease, maintain, and otherwise acquire automatic data processing equipment without regard to the provisions of 40 U.S.C. 759.

SEC. 808. The Disbursing Officer of the Library of Congress is authorized to disburse funds appropriated for the Congressional Budget Office, and the Library of Congress shall provide financial management support to the Congressional Budget Office as may be required and mutually agreed to by the Librarian of Congress and the Director of the Congressional Budget Office.

2 USC 142e.

All vouchers certified for payment by duly authorized certifying officers of the Library of Congress shall be supported with a certification by an officer or employee of the Congressional Budget Office duly authorized in writing by the Director of the Congressional Budget Office to certify payments from appropriations of the Congressional Budget Office. The Congressional Budget Office certifying officers shall (1) be held responsible for the existence and correctness of the facts recited in the certificate or otherwise stated on the voucher or its supporting paper and the legality of the proposed payment under the appropriation or fund involved, (2) be held responsible and accountable for the correctness of the computations of certifications made, and (3) be held accountable for and required to make good to the United States the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate made by him, as well as for any payment prohibited by law which did not represent a legal obligation under the appropriation or fund involved: *Provided*, That the Comptroller General of the United States may, at his discretion, relieve such certifying officer or employee of liability for any payment otherwise proper whenever he finds (1) that the certification was based on official records and that such certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained the actual facts, or (2) that the obligation was incurred in good faith, that the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and the United States has received value for such payment: *Provided further*, That the Comptroller General shall relieve such certifying officer or employee of liability for an overpayment for transportation services made to any common carrier covered by section 66 of title 49, whenever he finds that the overpayment occurred solely because the administrative examination made prior to payment of the transportation bill did not include a verification of transportation rates, freight classifications, or land grant deduction. (Public Law 85-53, paragraph 3, June 13, 1957, 71 Stat. 81.)

The Disbursing Officer of the Library of Congress shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate, the responsibility for which is imposed upon a certifying officer or employee of the Congressional Budget Office.

TITLE IX

COPYRIGHT ROYALTY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Commission, \$268,000, which shall be available only upon enactment into law of S. 22 or equivalent legislation.

TITLE X

GOVERNMENT PRINTING OFFICE

PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing, binding, and distribution of the Federal Register (including the Code of Federal Regulations) as authorized by law (44 U.S.C. 1509, 1510); and printing and binding of Government publications authorized by law to be distributed without charge to the recipient, \$93,639,000: *Provided*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

Hereafter, notwithstanding any other provisions of law, appropriations for the automatic distribution to Senators and Representatives (including Delegates to Congress and the Resident Commissioner from Puerto Rico) of copies of the United States Statutes at Large shall not be available with respect to any Senator or Representative unless such Senator or Representative specifically, in writing, requests that he receive copies of such document.

44 USC 728 note.

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed \$88,300): *Provided*, That expenditures in connection with travel expenses of the Depository Library Council to the Public Printer shall be deemed necessary to carry out the provisions of chapter 19 of title 44, United States Code; price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying books to depository libraries; \$47,188,400: *Provided*, That \$300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

44 USC 1901
et seq.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

31 USC 849.

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed \$3,500 may be expended on the certification of the Public Printer in connection with special studies of governmental printing, binding, and distribution practices and procedures: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of two passenger motor vehicles and the purchase of one passenger motor vehicle: *Provided further*, That funds available to the Government Printing Office may be expended to purchase, lease, maintain and otherwise acquire automatic data processing equipment without regard to the provisions of 40 U.S.C. 759: *Provided further*, That funds available to the Government Printing Office may be expended to maintain, repair, purchase, lease, and otherwise acquire any motor vehicle without regard to the provision of 31 U.S.C. 638a.

TITLE XI

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

5 USC 5332 note.

For necessary expenses of the General Accounting Office, including not to exceed \$5,000 to be expended on the certification of the Comptroller General of the United States in connection with special studies of governmental financial practices and procedures; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries notwithstanding section 3648, Revised Statutes, as amended (31 U.S.C. 529); benefits comparable to those payable under section 911(9), 911(11) and 942(a) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1136(9), 1136(11), and 1157(a), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (Public Law 87-195, 22 U.S.C. 2396(b)), \$150,580,000: *Provided*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Secretary and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be

credited as reimbursements to any appropriation from which costs involved are initially financed.

TITLE XII

COST-ACCOUNTING STANDARDS BOARD

SALARIES AND EXPENSES

For expenses of the Cost-Accounting Standards Board necessary to carry out the provisions of section 719 of the Defense Production Act of 1950, as amended (Public Law 91-379, approved August 15, 1970), \$1,700,000.

50 USC app.
2168.

TITLE XIII

GENERAL PROVISIONS

SEC. 1301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration.

SEC. 1302. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

46 Stat. 32.

SEC. 1303. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Fiscal year
limitation.

SEC. 1304. Notwithstanding any other provision of law, none of the funds in this Act shall be used to pay Pages of the House of Representatives at a gross annual maximum rate of compensation in excess of that in effect on June 30, 1975. Effective October 1, 1976, the gross annual maximum rate of compensation of Pages of the Senate shall be \$9,063, and such rate shall not be adjusted under any Order of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, except to the multiple specified in any such Order which is nearest to but not less than \$9,060.

2 USC 60a notes.

SEC. 1305. (a) The Sergeant at Arms and Doorkeeper of the Senate and Sergeant at Arms of the House may (1) designate as a private, first class, any private of the Capitol Police whose pay is disbursed by the Secretary of the Senate or Clerk of the House who has served satisfactorily as a member of the Capitol Police for thirty months or more, and (2) fix the compensation of any such private, first class, at not to exceed \$13,038 per annum: *Provided*, That the Sergeant at Arms of the House may fix the compensation of seven Detectives, Police Force at not to exceed \$14,946 per annum each in lieu of not to exceed \$13,992 per annum each; nineteen Technicians, Police Force at not to exceed \$13,992 per annum each in lieu of not to exceed \$13,038 per annum each; eight Plainclothesmen, Police Force at not to exceed \$13,992 per annum each in lieu of not to exceed \$13,038 per annum

each; and six K-9 Officers, Police Force at not to exceed \$13,992 per annum each in lieu of not to exceed \$13,038 per annum each.

Effective date.

(b) Subsection (a) shall take effect on October 1, 1976. Any designation of a private of the Capitol Police as a private, first class, shall be made effective on the first day of a month, and no such designation may be effective before the first day of the first month which begins after the day on which such private has served satisfactorily as a member of the Capitol Police for thirty months.

COST OF LIVING ADJUSTMENTS

SEC. 1306. (a) Section 8340(b) of title 5, United States Code, is amended by striking out "1 percent plus".

Effective date.

5 USC 8340 note.

(b) The amendment made by subsection (a) shall apply to any increase in annuities after the date of enactment of this Act.

(c) (1) Section 8340(b) of title 5, United States Code, as amended by subsection (a), is amended to read as follows:

"(b) (1) The Commission shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

"(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent."

Effective date.

5 USC 8340 note.

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Commission is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase under section 8340(b) of title 5, United States Code, as in effect immediately prior to the date of the enactment of this Act.

(d) (1) Section 1401a(b) of title 10, United States Code, is amended to read as follows:

"(b) (1) The Secretary of Defense shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for December of the preceding year over the index published for June of the preceding year; and

“(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the index published for June of such year over the index published for December of the previous year.

“(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the index, then—

“(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent; and

“(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.”.

(2) The amendment made by subsection (1) shall apply to any increase in retired pay or retainer pay after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary of Defense is to determine a percent change, such percent change shall be determined by computing the change in the index published for the month immediately preceding such first date over the index for the last month preceding the date of enactment of this Act used as the basis for the most recent adjustment of retired pay and retainer pay under section 1401a(b) of title 10, United States Code, as in effect immediately prior to the date of enactment of this Act.

(e) (1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), is amended to read as follows:

“(b) (1) The Secretary shall—

“(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

“(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

“(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

“(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

“(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph adjusted to the nearest 1/10 of 1 percent.”.

(2) The amendment made by subsection (1) shall apply to any increase in annuities after the date of enactment of this Act, except that with respect to the first date after the date of enactment of this Act on which the Secretary is to determine a percent change, such percent change shall be determined by computing the change in the

Effective date.
10 USC 1401a
note.

Effective date.
22 USC 1121
note.

price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), as in effect immediately prior to the date of enactment of this Act.

Short title.

This Act may be cited as the "Legislative Branch Appropriation Act, 1977".

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1225 (Comm. on Appropriations) and No. 94-1559 (Comm. of Conference).

SENATE REPORT No. 94-1201 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 1, considered and passed House.

Sept. 7, 8, considered and passed Senate, amended.

Sept. 22, House agreed to conference report; concurred in certain Senate amendments with amendments. Senate agreed to conference report; concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 40:

Oct. 1, Presidential statement.

Public Law 94-441
94th Congress

An Act

Making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

Oct. 1, 1976

[H.R. 14260]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes, namely:

Foreign
Assistance and
Related
Programs
Appropriations
Act, 1977.

TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, as amended, and for other purposes, to remain available until September 30, 1977, unless otherwise specified herein, as follows:

22 USC 2151
note.

ECONOMIC ASSISTANCE

Food and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, \$505,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available until expended.

22 USC 2151a.

Population planning and health, Development Assistance: For necessary expenses to carry out the provisions of section 104, \$214,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available until expended: *Provided further*, That of the funds made available for population planning and health, not less than \$15,000,000 shall be only available for programs providing training to auxiliary or paramedical personnel who will be engaged in the delivery of health and family planning services to rural areas.

22 USC 2151b.

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, \$70,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available until expended.

22 USC 2151c.

Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: For necessary expenses to carry out the provisions of section 106, \$67,000,000: *Provided*, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available until expended.

22 USC 2151d.

Loan allocation, Development Assistance: Of the new obligational authority appropriated under this Act to carry out the provisions of sections 103-106, not less than \$300,000,000 shall be available for loans for fiscal year 1977: *Provided*, That of the amount made available for loans, not to exceed \$210,000,000 of such amount shall be available for loans repayable within forty years following the date on which the funds were initially made available under the loan: *Provided*

22 USC
2151a-2151d.

further, That not to exceed \$60,000,000 of such amount shall be available for loans repayable within thirty years following such date: *Provided further*, That not to exceed \$30,000,000 of such amount shall be available for loans repayable within twenty years following such date.

22 USC 2221. International organizations and programs: For necessary expenses to carry out the provisions of section 301, \$187,000,000: *Provided*, That not more than \$20,000,000 shall be available for the United Nations Children's Fund: *Provided further*, That not less than \$1,000,000 shall be available until expended for a contribution to the International Atomic Energy Agency to strengthen the Agency's safeguards program: *Provided further*, That not less than \$100,000,000 shall be available only for the United Nations Development Program: *Provided further*, That none of the funds appropriated or made available pursuant to this Act shall be used to supplement the funds provided to the United Nations Development Program in fiscal year 1976.

22 USC 287 note. United Nations Environment Fund: For necessary expenses to carry out the provisions of section 2 of the United Nations Environment Program Participation Act of 1973, \$10,000,000.

22 USC 2174. American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, \$19,800,000.

American schools and hospitals abroad (special foreign currency program): For necessary expenses to carry out the provisions of section 214, \$7,000,000 in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, to remain available until expended.

22 USC 2222. Indus Basin Development Fund, grants: For necessary expenses to carry out the provisions of section 302(b)(2) with respect to Indus Basin Development Fund, grants, \$15,750,000.

22 USC 2261. Contingency fund: For necessary expenses, \$5,000,000, to be used for the purposes set forth in section 451.

22 USC 2292. International disaster assistance: For necessary expenses to carry out the provisions of section 491, \$25,000,000.

22 USC 2291. International narcotics control: For necessary expenses to carry out the provisions of section 481, \$34,000,000.

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund," as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 1105-1106), \$16,680,000.

22 USC 2362. Overseas training (special foreign currency program): For necessary expenses to carry out the provisions of section 612, \$400,000 in foreign currencies which the Treasury Department declares to be excess to the normal requirements of the United States.

Ante, p. 762. Lebanon Relief and Rehabilitation assistance: For necessary expenses to carry out the provisions of section 495C, \$20,000,000.

22 USC 2151 note. Except for the Contingency Fund, unobligated balances as of September 30, 1976, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, except as otherwise provided by law, are hereby continued available for the fiscal year 1977, for the same purposes for which appropriated and amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same purpose as any of the subparagraphs under "Economic Assistance," "Middle East Special Requirements Fund," "Security Supporting Assistance," "Operating Expenses

31 USC 200.

of the Agency for International Development," "International Military Education and Training," and "Indochina Postwar Reconstruction Assistance," are hereby continued available for the same period as the respective appropriations in such subparagraphs for the same purpose: *Provided*, That such purpose relates to a project or program previously justified to Congress, and the Committees on Appropriations of the House of Representatives and the Senate are notified prior to the reobligation of funds for such projects or programs.

None of the funds made available under this Act for "Food and nutrition, Development Assistance," "Population planning and health, Development Assistance," "Education and human resources development, Development Assistance," "Technical assistance, energy research, reconstruction, and selected development problems, Development Assistance," "International organizations and programs," "United Nations Environment Fund," "American schools and hospitals abroad," "Indus Basin Development Fund, grants," "International narcotics control," "Middle East special requirements fund," "Security supporting assistance," "Operating Expenses of the Agency for International Development," "Military assistance," "International military education and training," "Inter-American Foundation," "Peace Corps," "Cuban refugee assistance," "Special assistance to refugees from Cambodia, Vietnam, and Laos in the United States," "Migration and refugee assistance," or "Assistance to refugees from the Soviet Union or other Communist countries in Eastern Europe," shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for fiscal year 1977 unless the Appropriations Committees of both Houses of the Congress are previously notified fifteen days in advance.

MIDDLE EAST SPECIAL REQUIREMENTS FUND

Middle East special requirements fund: For necessary expenses to carry out the provisions of section 901 and section 903 of the Foreign Assistance Act of 1961, as amended, \$23,000,000: *Provided*, That none of the funds appropriated under this heading may be used to provide a United States contribution to the United Nations Relief and Works Agency.

22 USC 2441,
2443.

SECURITY SUPPORTING ASSISTANCE

Security supporting assistance: For necessary expenses to carry out the provisions of section 531 of the Foreign Assistance Act of 1961, as amended, \$1,734,700,000: *Provided*, That of the funds appropriated under this paragraph, \$735,000,000 shall be allocated to Israel, \$700,000,000 shall be allocated to Egypt, \$70,000,000 shall be allocated to Jordan, \$17,500,000 shall be allocated for Cyprus, \$55,000,000 shall be allocated for Portugal, \$80,000,000 shall be allocated to Syria, \$14,000,000 shall be allocated for Botswana and for regional training programs, not to exceed \$20,000,000 shall be allocated to Zaire, and not to exceed \$20,000,000 shall be allocated to Zambia: *Provided, further*, That \$7,000,000 of this appropriation shall be available only upon ratification of the Treaty of Friendship and Cooperation Between Spain and the United States of America.

22 USC 2346.
Allocation of
funds.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For "Operating Expenses of the Agency for International Development", \$192,000,000.

MILITARY ASSISTANCE

22 USC 2311.

Military assistance: For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, \$247,300,000: *Provided*, That none of the funds contained in this paragraph shall be available for the purchase of new automotive vehicles outside of the United States: *Provided further*, That \$15,000,000 of this appropriation shall be available only upon ratification of the Treaty of Friendship and Cooperation Between Spain and the United States of America.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

International military education and training: For necessary expenses for "International military education and training," \$25,000,000: *Provided*, That \$2,000,000 of this appropriation shall be available only upon ratification of the Treaty of Friendship and Cooperation Between Spain and the United States of America.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed \$10,000 for entertainment allowances), and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

INTER-AMERICAN FOUNDATION

The Inter-American Foundation is authorized to make such expenditures within the limits of funds available to it and in accordance with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be necessary in carrying out its authorized programs during the current fiscal year: *Provided*, That not to exceed \$7,000,000 shall be available to carry out the authorized programs during the current fiscal year.

GENERAL PROVISIONS

SEC. 101. None of the funds herein appropriated (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America as per memorandum of the President dated May 15, 1962.

SEC. 102. Except for the appropriations entitled "Contingency fund", "International disaster assistance", and appropriations of funds to be used for loans, not more than 20 per centum of any appropriation item made available by this title for fiscal year 1977 shall be obligated and/or reserved during the last month of availability.

SEC. 103. None of the funds herein appropriated nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any persons heretofore or hereafter serving in the armed forces of any recipient country.

SEC. 104. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

22 USC 2151
note.

SEC. 105. Of the funds appropriated or made available pursuant to this Act, not more than \$12,000,000 may be used during the current fiscal year in carrying out centrally funded research under sections 105 and 106 of the Foreign Assistance Act of 1961, as amended.

22 USC 2151c,
2151d.
United Nations
members,
assessments,
dues.

SEC. 106. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

SEC. 107. None of the funds contained in title I of this Act may be used to carry out the provisions of sections 209(d) and 251(h) of the Foreign Assistance Act of 1961, as amended.

22 USC 2169,
2211.
North and South
Vietnam, or Laos,
assistance,
prohibition.

SEC. 108. None of the funds appropriated or made available pursuant to this Act shall be used to provide assistance to the Democratic Republic of Vietnam (North Vietnam), South Vietnam, Cambodia, or Laos.

SEC. 109. Of the funds appropriated or made available pursuant to this Act, not to exceed \$108,000 shall be for official residence expenses of the Agency for International Development during the fiscal year ending September 30, 1977.

SEC. 110. Of the funds appropriated or made available pursuant to this Act, not to exceed \$20,000 shall be for entertainment expenses of the Agency for International Development during the fiscal year ending September 30, 1977.

SEC. 111. Of the funds appropriated or made available pursuant to this Act, not to exceed \$96,000 shall be for representation allowances of the Agency for International Development during the fiscal year ending September 30, 1977.

SEC. 112. Of the funds appropriated or made available pursuant to this Act, not to exceed \$75,000 shall be for entertainment expenses relating to the Military Assistance Program, International Military Education and Training, and Foreign Military Credit Sales during the fiscal year ending September 30, 1977.

TITLE II—FOREIGN MILITARY CREDIT SALES

FOREIGN MILITARY CREDIT SALES

For expenses not otherwise provided for, necessary to enable the President to carry out the provisions of the Foreign Military Sales Act, \$740,000,000: *Provided*, That of the amount provided for the total

22 USC 2751
note.

aggregate credit sale ceiling during the current fiscal year, not less than \$1,000,000,000 shall be allocated to Israel.

TITLE III—FOREIGN ASSISTANCE (OTHER)

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

PEACE CORPS

For expenses necessary for Action to carry out the provisions of the Peace Corps Act, as amended (22 U.S.C. 2501 et seq.), \$80,000,000: *Provided*, That of this amount \$49,563,000 shall be available for the direct support of volunteers: *Provided further*, That no less than \$3,600,000 of this amount shall be available only for the overseas technical support of volunteers.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

CUBAN REFUGEE ASSISTANCE

22 USC 2601
note.

For expenses necessary to carry out the provisions of the Migration and Refugee Assistance Act of 1962 (Public Law 87-510), relating to aid to Cuban refugees within the United States, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, \$82,000,000.

SPECIAL ASSISTANCE TO REFUGEES FROM CAMBODIA, VIETNAM, AND LAOS IN THE UNITED STATES

For assistance to refugees from Cambodia, Vietnam, and Laos in the United States, \$50,000,000: *Provided*, That all funds in this account shall remain available through September 30, 1977.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801-1158); allowances as authorized by 5 U.S.C. 5921-5925; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109; \$10,000,000 of which not to exceed \$8,171,000 shall remain available until December 31, 1977: *Provided*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere.

ASSISTANCE TO REFUGEES FROM THE SOVIET UNION AND OTHER
COMMUNIST COUNTRIES IN EASTERN EUROPE

For necessary expenses to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972 and the provisions of section 105 of the Foreign Relations Authorization Act, Fiscal Year 1977, \$15,000,000.

86 Stat. 490.

Ante, p. 824.

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

INVESTMENT IN ASIAN DEVELOPMENT BANK

For payment by the Secretary of the Treasury of the third and final installment of the United States subscription to the paid-in capital stock and the callable capital stock of the Asian Development Bank, authorized by the Asian Development Bank Act of December 22, 1974 (Public Law 93-537), \$90,477,000, to remain available until expended.

22 USC 285q,
285r.

INVESTMENT IN INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in subscription to (1) paid-in capital stock, (2) callable capital stock, and (3) the United States share of the increase in the resources of the Fund for Special Operations, \$270,000,000, to remain available until expended.

INVESTMENT IN INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment by the Secretary of the Treasury of the second installment of the United States contribution to the fourth replenishment of the resources of the International Development Association as authorized by the International Development Association Act of August 14, 1974 (Public Law 93-373), \$375,000,000, to remain available until expended.

22 USC 284f,
284m.

INVESTMENT IN AFRICAN DEVELOPMENT FUND

For payment by the Secretary of the Treasury of a United States contribution to the African Development Fund as authorized by the Act of May 31, 1976 (Public Law 94-302), \$10,000,000, to remain available until expended.

Ante, p. 591.TITLE IV—EXPORT-IMPORT BANK OF THE
UNITED STATES

The Export-Import Bank of the United States is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, except as hereinafter provided.

31 USC 849.

LIMITATION ON PROGRAM ACTIVITY

Not to exceed \$6,334,443,000 (of which not to exceed \$3,875,000,000 shall be for equipment and services loans) shall be authorized during the current fiscal year for other than administrative expenses.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$12,081,000 (to be computed on an accrual basis) shall be available during the current fiscal year for administrative expenses, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, and not to exceed \$24,000 for entertainment allowances for members of the Board of Directors: *Provided*, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes hereof.

TITLE V—GENERAL PROVISIONS

Publicity or
propaganda.

SEC. 501. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

Inspector
General, Foreign
Assistance.

SEC. 502. No part of any appropriation contained in this Act shall be used for expenses of the Inspector General, Foreign Assistance, after the expiration of the thirty-five day period which begins on the date the General Accounting Office or any committee of the Congress, or any duly authorized subcommittee thereof, charged with considering foreign assistance legislation, appropriations, or expenditures, has delivered to the Office of the Inspector General, Foreign Assistance, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in the custody or control of the Inspector General, Foreign Assistance, relating to any review, inspection or audit arranged for, directed, or conducted by him, unless and until there has been furnished to the General Accounting Office or to such committee or subcommittee, as the case may be, (A) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested or (B) a certification by the President, personally, that he has forbidden the furnishing thereof pursuant to such request and his reason for so doing.

Fiscal year
limitation.

SEC. 503. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Countries in
default.

SEC. 504. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act unless (1) such debt has been disputed by such country prior

to the enactment of this Act or (2) such country has either arranged to make payment of the amount in arrears or otherwise taken appropriate steps, which may include renegotiation, to cure the existing default.

SEC. 505. None of the funds appropriated or made available pursuant to this Act shall be used to provide military assistance, international military education and training, or foreign military credit sales to the Government of Uruguay.

Uruguay,
prohibition of
funds.

SEC. 505A. Not to exceed \$1,626,000 of the funds appropriated or made available pursuant to this Act for fiscal year 1977 shall be made available to the Office of the Inspector General of Foreign Assistance.

SEC. 506. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States' representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution or the compensation and related benefits of employees of the institution.

This Act may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1977".

Short title.

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1228 (Comm. on Appropriations) and No. 94-1642 (Comm. of Conference).

SENATE REPORT No. 94-1009 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 24, 25, 29, considered and passed House.

June 30, Sept. 9, 10, considered and passed Senate, amended.

Sept. 27, House agreed to conference report.

Sept. 28, Senate agreed to conference report.

Public Law 94-442
94th Congress

An Act

Oct. 1, 1976

[H.R. 589]

To authorize the Secretary of the Interior to provide relief to the Santa Ynez River Water Conservation District due to delivery of water to the Santa Ynez Indian Reservation lands.

Santa Ynez River
Water
Conservation
District.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to amend the repayment contract dated March 16, 1960, with the Santa Ynez River Water Conservation District, to reduce by \$1,120, annually, the amount due the United States. The reduction is to commence with the payment due on January 1 of the year following passage of this Act and continue as long as all of the lands of the Santa Ynez Indian Reservation, as presently constituted, remain in Federal ownership.

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-475 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1244 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 6, considered and passed House.

Vol. 122 (1976): Sept. 22, considered and passed Senate.

Public Law 94-443
94th Congress

An Act

To amend section 2 of the Act entitled "An Act to incorporate the National Society of the Daughters of the American Revolution".

Oct. 1, 1976

[H.R. 11149]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to incorporate the National Society of the Daughters of the American Revolution" approved February 20, 1896, as amended, is amended to read as follows:

"SEC. 2. The society is authorized to acquire by purchase, gift, devise, or bequest and to hold, convey, or otherwise dispose of such property, real or personal, as may be convenient or necessary for its lawful purposes, and may adopt a constitution and make bylaws not inconsistent with law, and may adopt a seal. Said society shall have its headquarters or principal office at Washington, in the District of Columbia."

SEC. 2. Add a new section to said Act to be numbered section 4 and to read as follows:

"SEC. 4. The society and its subordinate divisions shall have the sole and exclusive right to use the name 'National Society of the Daughters of the American Revolution'. The society shall have the exclusive and sole right to use, or to allow or refuse the use of, such emblems, seals, and badges as have heretofore been adopted or used by the National Society of the Daughters of the American Revolution."

National Society
of the Daughters
of the American
Revolution.
36 USC 18a.

36 USC 18c.

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1286 (Comm. on the Judiciary).
SENATE REPORT No. 94-1249 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):
July 19, considered and passed House.
Sept. 21, considered and passed Senate.

Public Law 94-444
94th Congress

An Act

Oct. 1, 1976
[H.R. 12987]

To authorize appropriations for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes.

Emergency Jobs
Programs
Extension Act of
1976.
29 USC 801 note.
29 USC 961.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Jobs Programs Extension Act of 1976".

SEC. 2. Title VI of the Comprehensive Employment and Training Act of 1973 is amended by striking out section 601 and inserting in lieu thereof the following:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 601. There are authorized to be appropriated such sums as may be necessary for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, and for fiscal year 1977, for carrying out the provisions of this title."

29 USC 843.
Funds, use
restrictions.

SEC. 3. (a) (1) Section 203(b) of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"(b) Notwithstanding the provisions of section 208(a) (7) of this Act, not less than 85 per centum of the funds allocated in accordance with the provisions of this title which are used by an eligible applicant for public service employment programs under this title shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title, and the remainder of such funds may be used for administrative costs, including rental costs (within such reasonable limitations as the Secretary may prescribe with respect to the rental of space), and to obtain necessary supplies, equipment, and materials."

29 USC 962.

(2) Section 602(b) of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"(b) Notwithstanding the provisions of section 208(a) (7) of this Act, not less than 85 per centum of the funds allocated in accordance with the provisions of this title which are used by an eligible applicant for public service employment programs under this title shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title, and the remainder of such funds may be used for administrative costs, including rental costs (within such reasonable limitations as the Secretary may prescribe with respect to the rental of space), and to obtain necessary supplies, equipment, and materials."

29 USC 984.

(b) Section 704 of the Comprehensive Employment and Training Act of 1973 is amended by inserting at the end thereof the following new subsection:

Financial
records,
maintenance and
availability.

"(d) Financial records of a prime sponsor relating to public service employment programs assisted under this Act and records of the names, addresses, positions, and salaries of all persons employed in public service jobs assisted under this Act shall be maintained and made available to the public."

SEC. 4. (a) (1) With respect to appropriations made by the Emergency Supplemental Appropriations Act of 1976 (Public Law 94-266, enacted April 15, 1976) for the purpose of carrying out activities authorized by title II of the Comprehensive Employment and Training Act of 1973—

29 USC 842 note.

Ante, p. 362.

29 USC 841.

(A) notwithstanding any other provision of law, funds made available under section 202(b) of the Comprehensive Employment and Training Act of 1973 may be used in any areas qualifying under title VI of such Act to provide a continuation of public service employment activities under both title II and title VI of such Act; and

29 USC 842.

29 USC 861.

(B) in order to enable persons employed in public service jobs financially assisted under title VI of such Act to be transferred to jobs financially assisted under title II of such Act, the Secretary of Labor is authorized to waive the provision of section 205(a) of such Act requiring a thirty-day period of unemployment.

Waiver.

29 USC 845.

(2) The provisions of paragraph (1) of this subsection shall be deemed to have taken effect on the date of enactment of the Emergency Supplemental Appropriations Act of 1976. Persons transferred after such date from jobs financially assisted under title VI of the Comprehensive Employment and Training Act of 1973 to jobs financially assisted under title II of such Act, using funds made available under the Emergency Supplemental Appropriations Act of 1976, shall after the date of enactment of this Act be considered to be public service jobholders financially assisted under such title VI.

Effective date.

(b) Subsection (b) of section 603 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end of such subsection the following new sentences: "In distributing funds available for the discretionary use of the Secretary of Labor under this subsection, the Secretary is authorized to utilize such funds to assure a continuation of public service employment activities supported under this Act. In distributing such funds under this subsection to prime sponsors, the Secretary shall base allocations upon the public service employment activities sustained within the jurisdiction of each unit of general local government within the area served by each such prime sponsor in accordance with subsection (c) of this section."

29 USC 963.

SEC. 5. (a) Title VI of the Comprehensive Employment and Training Act of 1973 is further amended by adding at the end thereof the following new sections:

**"RESERVATION OF FUNDS; EMPLOYMENT OF LONG-TERM UNEMPLOYED,
LOW-INCOME PERSONS**

"SEC. 607. (a) Each prime sponsor, in accordance with regulations which the Secretary shall prescribe, shall reserve out of any allocation which it receives under this title from appropriations for fiscal year 1977 such amount as will be sufficient, when added to funds available for use under title II of this Act during such fiscal year, to enable the prime sponsor to sustain throughout such fiscal year the number of public service jobholders supported under this title and title II of this Act on June 30, 1976.

29 USC 967.

29 USC 841.

"(b) The amount of each prime sponsor's allocation under this title remaining after funds are reserved for the purpose described in subsection (a) of this section shall be used to provide public service jobs for eligible unemployed persons (as described in section 608) in proj-

Post, p. 1478.

- Post*, p. 1479.
Time limitation.
- 29 USC 849.
Vacancies.
- Ante*, p. 362.
- Infra*.
- Post*, p. 1479.
- 29 USC 968.
- Ante*, p. 1477.
- 42 USC 601.
- "Lower living standard income level."
- Funds, equitable allocation.
- Ante*, p. 1477.
- Job applicants, household support obligations, consideration.
- ects and activities carried out by project applicants (as defined in section 701(a)(15) of this Act). Such projects and jobs shall not exceed twelve months in duration and shall provide employment consistent with the aim of maintaining average federally supported wage rates for public service jobholders (adjusted on a regional and area basis) as set forth under section 209(b) of this Act.
- "(c) Vacancies occurring after June 30, 1976, in jobs supported under this title and the Emergency Supplemental Appropriations Act of 1976 (Public Law 94-266) to which subsection (a) of this section is applicable shall be filled as follows:
- "(1) Fifty per centum of such vacancies shall be filled in accordance with the provisions of section 608.
- "(2) Fifty per centum of such vacancies shall be filled in accordance with the provisions of this title (other than the provisions of this section, except for this paragraph, and of sections 608 and 609) except that a prime sponsor may give preference in filling such vacancies to unemployed public health and safety personnel in public health and safety positions for which they are qualified.
- "ELIGIBILITY OF LONG-TERM UNEMPLOYED, LOW-INCOME PERSONS
- "SEC. 608. (a) In filling public service jobs with financial assistance available for the purposes of subsections (b) and (c)(1) of section 607, each prime sponsor shall determine that any person to be employed in any such public service job (1) is an individual—
- "(A) who has been receiving unemployment compensation for fifteen or more weeks;
- "(B) who is not eligible for such benefits and has been unemployed for fifteen or more weeks;
- "(C) who has exhausted unemployment compensation benefits;
- or
- "(D) who is, or whose family is, receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;
- and (2) is not a member of a household which has current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and other public payments which such individual will be disqualified from receiving by reason of employment under this title) at a rate exceeding 70 per centum of the lower living standard income level.
- "(b) For purposes of this section, the term 'lower living standard income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living standard budget' issued by the Bureau of Labor Statistics of the Department of Labor.
- "(c) In filling public service jobs, each prime sponsor shall take reasonable steps, which such sponsor shall determine, to insure that funds provided in accordance with subsections (b) and (c)(1) of section 607 shall be equitably allocated for jobs among the categories of eligible persons described in section 608(a) in light of the composition of the population of unemployed eligible persons served by the prime sponsor.
- "(d) In providing public service jobs and determining hours of work for eligible persons with financial assistance provided in accordance with subsections (b) and (c)(1) of section 607, each prime sponsor shall take into account the household support obligations of the

men and women applying for such jobs, and shall give special consideration to such alternative working arrangements as flexible hours of work, shared time, and part-time jobs, for eligible persons, particularly for parents of young children and for older persons.

“(e) The Secretary, through the affiliated State employment security agencies, shall take steps to inform the recipients of unemployment compensation benefits of any available public service jobs for which such recipients may be eligible, but such notification shall clearly state that such notification is designed only to inform, and in no way to coerce, such recipients with respect to the availability of such jobs.

Available jobs,
notification.

“APPROVAL OF PROJECTS

“Sec. 609. (a) In order for a project application submitted by a project applicant to be approved by the prime sponsor for financial assistance provided in accordance with subsection (b) of section 607, copies of such application shall have been submitted at the time of such application to the prime sponsor’s planning council established under section 104, for the purpose of affording such council an opportunity to submit comments and recommendations with respect to that application to the prime sponsor. No member of a prime sponsor’s planning council shall cast a vote on any matter in connection with a project in which that member (or any organization with which that member is associated) has a direct interest.

Applications.
29 USC 969.
Ante, p. 1477.

29 USC 814.

“(b) Consistent with procedures established by the prime sponsor in accordance with regulations which the Secretary shall prescribe, the prime sponsor shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the prime sponsor’s planning council and unless it has provided such applicant and the planning council with a written statement of its reasons for such disapproval.”

Disapproval.

(b)(1) Section 701(a) of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new paragraph:

29 USC 981.

“(15) ‘project applicants’ includes States and agencies thereof, units of general local government and agencies thereof or combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies as defined in section 801(f) of the Elementary and Secondary Education Act of 1965, institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965, community-based organizations as defined in paragraph (1) of this subsection, community development corporations, nonprofit groups and organizations serving Indians or Native Hawaiians, and other nonprofit private organizations or institutions engaged in public service.”

“Project
applicants.”

20 USC 881.
20 USC 1141.

(2) The last sentence of section 606 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows: “In reallocating any such funds, the Secretary shall give priority first to other areas within the same State and then to areas within other

Funds,
reallocation.
29 USC 966.

Ante, p. 1478.

States, taking into account the number of eligible unemployed individuals (as described in section 608) in such areas.”

29 USC 965.

(3) Section 605 of the Comprehensive Employment and Training Act of 1973 is amended by inserting after “projects and activities” a comma and the following: “including projects and activities to be carried out by project applicants as defined in section 701(a) (15) of this Act.”

Ante, p. 1479.

29 USC 982.

(c) Section 702 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

29 USC 841,
861.

“(c) The Secretary shall not, by regulation or otherwise, impose any quota or limitation on the number or percentage of persons hired under title II or VI, or both, of this Act who were former employees of public employers under this Act and who held jobs supported under title II or VI of this Act on June 30, 1976, or who are hired to fill vacancies under the provisions of section 607(c) (2). Any person who, between June 30, 1976, and the date of enactment of this Act, was laid off from a job supported under title II or VI of this Act by reason of such a quota or limitation may be reinstated by the prime sponsor without regard to the provisions of section 607(c). Nothing in this subsection shall be construed to relieve any prime sponsor from complying with section 205(c) (8) of this Act.”

Ante, p. 1478.29 USC 845.
Restriction.
29 USC 965.

(d) Section 605 of the Comprehensive Employment and Training Act of 1973 is amended by inserting “(a)” after such section designation and by adding at the end thereof the following new subsection:

“(b) No funds for public service employment programs under this Act may be used to provide public services, through a private or non-profit organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area served by the project.”

SEC. 6. (a) Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new part:

“PART B—REIMBURSEMENT FOR UNEMPLOYMENT BENEFITS PAID ON
BASIS OF PUBLIC SERVICE EMPLOYMENT

“PAYMENTS TO STATES

26 USC 3304
note.

“SEC. 220. (a) Each State shall be paid by the United States with respect to each individual—

“(1) who receives compensation with respect to any benefit year, and

“(2) whose base period wages for such benefit year include public service wages,

an amount which bears the same ratio to the total amount of compensation paid to such individual with respect to such benefit year for weeks of unemployment which begin on or after January 1, 1976, as the amount of the public service wages included in the individual's base period wages bears to the total amount of the individual's base period wages.

Payment
methods.

“(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary, the sum that the Secretary estimates is payable to such State under this part for each calendar month. The sum shall be reduced or increased by the amount

which the Secretary finds that his estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. Estimates shall be made on the basis of reports made by the State to the Secretary as prescribed by the Secretary.

“(c) The Secretary shall, from time to time, certify to the Secretary of the Treasury the sum payable to each State under this part. The Secretary of the Treasury, prior to audit and settlement by the General Accounting Office, shall pay the State in accordance with the certification from funds for carrying out the purposes of this part.

Certification.

“(d) Money paid to a State under this part may be used solely for the purpose of paying compensation. Money so paid which is not used for such purpose shall be returned, at the time specified by the Secretary, to the Treasury of the United States and credited to current applicable appropriations, funds, or accounts from which payments to States under this part may be made.

Unused funds,
return to
Treasury.

“(e) In the case of any political subdivision of a State which has in effect an unemployment compensation program which provides for the payment of compensation on the basis of services performed in its employ, such political subdivision shall be entitled to payments under this part in the same manner and to the same extent as if such political subdivision were a State.

Political
subdivision,
eligibility for
payments.

“STATE LAW PROVISIONS

“SEC. 221. (a) The unemployment compensation law of any State may provide that any organization which elects to make payments (in lieu of contributions) into the State unemployment compensation fund—

26 USC 3304
note.

“(1) shall not be liable to make such payments after the date of the enactment of this section with respect to any compensation to the extent that such State is entitled to payments with respect to such compensation under this part; and

“(2) shall receive credit against payments required to be made after such date of enactment for any such payments made on or before such date of enactment to the extent that such payments were made with respect to compensation for which the State is entitled to receive payments under this part.

“(b) The unemployment compensation law of any State may, without being deemed to violate the standards set forth in section 3303(a) of the Internal Revenue Code of 1954, provide for appropriate adjustments, as may be determined by the Secretary, in the account of any employer who has paid public service wages to reflect the payments to which such State is entitled under this part with respect to compensation attributable to such wages.

Adjustments.

26 USC 3303.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 222. There are hereby authorized to be appropriated for purposes of this part such sums as may be necessary.

26 USC 3304
note.

“DEFINITIONS

“SEC. 223. As used in this part, the term—

“(1) ‘State’ means the States of the United States, the District of Columbia, Puerto Rico, and the Virgin Islands;

26 USC 3304
note.

“(2) ‘compensation’ means cash benefits payable to individuals with respect to their unemployment, except that such term shall not include special unemployment assistance payable under part A;

29 USC 801 note.

“(3) ‘public service job’ means any public service job funded with assistance provided under the Comprehensive Employment and Training Act of 1973;

“(4) ‘public service wages’ means remuneration for services performed in a public service job to the extent that such remuneration is paid with funds provided under the Comprehensive Employment and Training Act of 1973;

“(5) ‘benefit year’ means the benefit year as defined by the applicable State unemployment compensation law;

“(6) ‘base period’ means the base period as defined by the applicable State unemployment compensation law for the benefit year; and

26 USC 3304 note.

“(7) ‘Secretary’ means the Secretary of Labor.”
(b) Title II of such Act is further amended—

(1) by inserting after the heading of such title the following:

“PART A—SPECIAL UNEMPLOYMENT ASSISTANCE”;

29 USC 850.

(2) by striking out “this title” each place it appears and inserting in lieu thereof “this part”; and

(3) by striking out “the title” in section 210(a) and inserting in lieu thereof “this title”.

Effective date.
29 USC 3304 note.

(c) The amendments made by this section shall take effect on October 1, 1976, with respect to compensation paid for weeks of unemployment beginning after December 31, 1975.

29 USC 845.

SEC. 7. Section 205(c) (24) of the Comprehensive Employment and Training Act of 1973 is amended by striking out “job category” in both places where that term occurs in such clause and inserting in lieu thereof “promotional line”.

29 USC 962.

SEC. 8. (a) Section 602(e) of the Comprehensive Employment and Training Act of 1973 is amended by striking out “Indian tribes on Federal or State reservations” and inserting in lieu thereof “Indian tribes, bands, and groups qualified under section 302(c) (1) of this Act”.

29 USC 872.

29 USC 963.

(b) Section 603(a) of the Comprehensive Employment and Training Act of 1973 is amended by redesignating paragraphs (1) and (2) thereof as paragraphs (2) and (3), respectively, and by inserting immediately after “(a)” the following: “(1) The Secretary shall reserve an amount equal to not less than 2 per centum of the amounts appropriated under section 601 for any fiscal year to enable Indian tribes, bands, and groups which are designated as eligible applicants under this title to carry out public service employment programs.”.

29 USC 861.

(c) Section 603(a) (2) of such Act, as redesignated by subsection (b) of this section, is amended by inserting after “per centum” the following: “of the remainder”.

Ante, p. 1476.

SEC. 9. (a) Section 704 of the Comprehensive Employment and Training Act of 1973 (as amended by section 3(b) of this Act) is further amended by adding at the end thereof the following new subsection:

“(e) Notwithstanding any other provision of law, funds allocated by a prime sponsor or an Indian tribe, band, or group for the employ-

ment of individuals under this Act may be expended in conjunction with funds from any other public or private source, but funds allocated under this Act may only be expended in accordance with the requirements of this Act.”.

(b) The heading of such section 704 is amended to read as follows: 29 USC 984.

“SPECIAL PROVISIONS”.

SEC. 10. Section 311 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

29 USC 881.

“(e) The Secretary is authorized to undertake projects (either directly or by grant or contract) for the purpose of demonstrating the feasibility of providing relocation assistance to unemployed workers residing in areas of substantial unemployment who would otherwise be eligible for public service employment under this Act. Such assistance shall be in such form and amount as the Secretary deems appropriate for demonstration purposes, except that he shall use as a general guideline the form and amount of relocation assistance available under chapter 2 of title II of the Trade Act of 1974.”.

Relocation assistance.

19 USC 2271.

SEC. 11. Section 704 of the Comprehensive Employment and Training Act of 1973 (as amended by sections 3(b) and 9 of this Act) is further amended by adding at the end thereof the following new subsection:

Ante, pp. 1476, 1482.

“(f) Notwithstanding any other provision of law, employment and training services furnished under this Act in connection with weatherization projects authorized under section 222(a)(12) of the Economic Opportunity Act of 1964 may include work on such projects for the near poor, including families having incomes which do not exceed 125 per centum of the poverty line as established by section 625 of the Economic Opportunity Act of 1964.”.

42 USC 2809.

42 USC 2971d.

SEC. 12. (a) Section 104(b) of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by—

38 USC 2002 note.

(1) striking out “by this Act” after “amended”; and

(2) inserting at the end of such subsection the following new sentence: “They shall also report to such committees on the same subjects not later than ninety days after the date of enactment of the Emergency Jobs Programs Extension Act of 1976.”.

Report to congressional committees.

(b) Title I of the Comprehensive Employment and Training Act of 1973 is amended by—

(1) inserting at the end of section 105(a)(3) the following “and (E) provides such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-job training opportunities available under section 1787 of title 38, United States Code;”; and

29 USC 815.

(2) striking out in section 106(b)(5) “provide special emphasis” and inserting in lieu thereof “take affirmative action”.

29 USC 816.

SEC. 13. (a) (1) The Congress finds and declares that—

29 USC 952 note.

(A) the reliable and comprehensive measurement of employment and unemployment is vital to assessing the Nation’s economic well-being and the utilization of its work force, and is an important determinant of public policies toward job creation, education, training, assistance for the jobless, and other labor market programs;

(B) the allocation of billions of dollars of Federal funds on the basis of unemployment data is increasing, making even more crucial the timely, accurate, and uniform measurement of the labor force;

(C) the formulation of public policies to promote the most effective use of our human resources is hindered by inadequate information on the utilization and effect of education and training programs;

(D) in order for governmental and private sector policy decisions to have maximum effect upon reducing unemployment and strengthening the labor force, an accurate and precise system for measuring employment and unemployment and its impacts on particular segments of the potential work force is essential;

(E) the current method of data collection and the form of its presentation, at national, regional, and subregional levels, may not fully reflect unemployment and employment trends, and may produce incomplete and, therefore, misleading conclusions, thus impairing the validity and utility of this critical economic indicator;

(F) it is critical to retain public confidence in the procedures, concepts, and methodology of collecting, analyzing, and presenting employment and unemployment statistics; and

(G) objectivity is a necessity in considering reform of statistical processes.

(2) It is the purpose of this section to establish a National Commission on Employment and Unemployment Statistics to have responsibility for examining the procedures, concepts, and methodology involved in employment and unemployment statistics and suggesting ways and means of improving them.

National
Commission on
Employment and
Unemployment
Statistics.
Establishment.
Membership.

(b)(1) There shall be established a National Commission on Employment and Unemployment Statistics (hereinafter in this section referred to as the "Commission") which shall consist of nine members appointed by the President, by and with the advice and consent of the Senate. Seven of the members shall be selected on the basis of their knowledge of and experience in the procedures, methodology, or use of employment and unemployment statistics, and shall be broadly representative of labor, business and finance, education and training, economics and statistics, and State and local government. Two of the members shall be selected from the general public. The membership of the Commission shall be generally representative of significant segments of the labor force, including women and minority groups. Any vacancy in the Commission shall not affect its powers as long as there continues to be at least five members; and any such vacancy may be filled in the same manner as the original appointment is made.

Vacancies.

Advisory
members.

(2) Except when six members of the Commission shall vote to hold an executive session for a particular purpose, the Secretary of Labor, the Secretary of Commerce, the Commissioner of Labor Statistics, the Director of the Bureau of the Census, the Director of the Office of Management and Budget, the Chairman of the National Commission for Manpower Policy, the Chairman of the Council of Economic Advisers, and a majority and a minority member each of the Joint Economic Committee, of the Committee on Labor and Public Welfare of the Senate, and of the Committee on Education and Labor of the House of Representatives, or in each case a designee, shall assist and participate in the hearings, deliberations, and other activities of the Commission on an advisory basis.

(3) The President shall designate a Chairman from among the appointed members of the Commission. Chairman.

(4) The Chairman, with the concurrence of the Commission, shall appoint an executive director, who shall be the chief executive officer of the Commission and shall perform such duties as are prescribed by the chairman or the Commission. The executive director may appoint, with the concurrence of the Chairman, such professional, technical, and clerical staff as are necessary to carry out the provisions of this section. The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code, governing appointments to the competitive service, governing appointments to the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of GS-18 of the General Schedule under section 5332 of such title. The executive director, with the concurrence of the Chairman, may obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. The Commission may utilize such staff, with or without reimbursement, from the Department of Labor, the Department of Commerce, and such other appropriate Federal agencies as may be available to assist the Commission in carrying out its responsibilities. Executive director, appointment.

5 USC 101 *et seq.*

5 USC 5101 *et seq.*, 5331.

5 USC 5332 note. Experts and consultants.

(5) The Commission shall determine its own internal procedures, including the constituting of a quorum.

(6) The Commission is authorized to accept and utilize voluntary and uncompensated services notwithstanding the provisions of section 665 (b) of title 31, United States Code.

(7) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of not to exceed the per diem equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the work of the Commission, including traveltime; and while serving away from their homes or regular places of business, shall be allowed travel expenses including per diem in lieu of subsistence, in the same manner as such expenses are authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. Compensation.

5 USC 5332 note.

(c) The Commission shall—

Duties.

(1) identify the needs of the Nation for labor force statistics and assess the extent to which current procedures, concepts, and methodology in the collection, analysis, and presentation of such statistics constitute a comprehensive, reliable, timely, and consistent system of measuring employment and unemployment and indicating trends therein; and

(2) conduct or provide (through contract with institutions, organizations, and individuals, or appropriate Federal or State agencies, or otherwise) for such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations.

The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purposes of carrying out the provisions of this section, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof. Hearings.

Report to
President and
Congress.

(d) (1) The Commission shall make a report of its findings and recommendations to the President and the Congress within eighteen months after the date of appointment of the first five members of the Commission.

(2) In preparing its report, the Commission shall consider the following:

(A) The methodology of collection of employment and unemployment data at all levels, including National, regional, State, and local statistics.

(B) The methodology of analysis of such data, including its relevance and application.

(C) The methodology of presentation of employment and unemployment statistics, including the dissemination, current utilization, and application of such statistics.

(D) Alternative methods of such collection, analysis, and presentation.

(E) The need for additional special statistical surveys (including longitudinal studies) and reports on a continuing basis.

(F) The need for additional data and analysis on job vacancies, job turnover, job matching, discouraged workers, part-time workers, youth, minorities, women, and other labor force participants.

(G) Accuracy and uniformity of seasonal adjustments in all categories of labor force statistics.

(H) Methods of achieving current, accurate, and uniform employment and unemployment statistics on a State and local basis, including their use as a determinant of the allocation of Federal assistance.

(I) The need for, and methods to obtain, data relating employment status and earnings, economic hardship, and family support obligations.

(J) The extent to which employment and earnings data assist in determining the impact of public programs and policies upon persons who are economically disadvantaged, unemployed, or underemployed.

(K) The availability of and need for periodic information on education and training enrollments and completions in the public and private sectors.

(L) Statistical indicators of the relationship between education and training and subsequent employment, earnings, and unemployment experience.

(M) The value and usefulness of other statistics regarding employment and unemployment, such as those obtained through operation of the unemployment insurance system.

(N) The availability of and need for current and projected occupational information, particularly on a local basis, to assist youths and adults in making training, education, and career choices.

(O) Such other matters as the Commission deems appropriate or necessary, including such matters as are suggested by the President or by the Congress that the Commission deems appropriate.

Draft regulations
and legislation.

(3) The Commission's report shall contain its findings and recommendations, including a feasible schedule for their implementation, cost estimates, and any appropriate draft regulations and legislation to implement such recommendations.

(4) The Commission may make such interim reports or recommendations as it may deem desirable.

(e) Upon submission of the Commission's final report, the Secretary of Labor shall take steps to ascertain the views of each affected executive agency and, within six months after the report's submission, shall make an interim report to the Congress on—

Report to Congress.

(1) the desirability, feasibility, and cost of implementing each of the Commission's recommendations, and the actions taken or planned with respect to their implementation; and

(2) recommendations with respect to any legislation proposed by the Commission, the need for any alternative or additional legislation to implement the Commission's recommendations, and any other proposals to strengthen and improve the measurement of employment and unemployment.

Within two years after submission of the Commission's final report, the Secretary shall submit a final report to the Congress detailing the actions taken with respect to the recommendations of the Commission, together with any further recommendations deemed appropriate.

(f) (1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to cooperate fully with the Commission in furnishing appropriate information to assist the Commission in carrying out its functions under this section.

(2) The head of each department, agency, or instrumentality of the Federal Government is authorized to provide such support and services to the Commission, upon request of the Chairman, as may be agreed between the head of the department, agency, or instrumentality and the Chairman.

(g) The Commission shall cease to exist one hundred and eighty days after submission of its final report as required under subsection (d) (1) of this section.

Termination.

(h) (1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Appropriation authorization.

(2) Notwithstanding any other provision of law, any funds appropriated to carry out this section which are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeeding fiscal year.

SEC. 14. (a) Section 202 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

29 USC 842.

“(c) Whenever the Secretary allocates any funds available under subsection (b) of this section through a distribution based upon a formula, he shall, not later than 30 days prior to such allocation, publish in the Federal Register for comment the specific formula upon which such distribution is based, the rationale supporting the selection of the formula, and the proposed distribution to each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall publish final allocations.”

Publication in Federal Register.

(b) Section 603 of such Act is amended by adding at the end thereof the following new subsection:

29 USC 963.

“(d) Whenever the Secretary allocates any funds available under subsection (b) of this section through a distribution based upon a formula, he shall, not later than 30 days prior to such allocation, publish in the Federal Register the specific formula upon which such distribution is based, the rationale behind the selection of the formula, and the proposed distribution for each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall publish final allocations.”

Publication in Federal Register.

Public service
employment
programs, study.
29 USC 953 note.
29 USC 951.
29 USC 841,
861.
Report to
Congress.

Appropriation
authorization.

SEC. 15. (a) The National Commission for Manpower Policy, established under title V of the Comprehensive Employment and Training Act of 1973, shall conduct a study of the net employment effects of the public service employment programs authorized by title II and title VI of the Comprehensive Employment and Training Act of 1973.

(b) The National Commission for Manpower Policy shall prepare and submit to the Congress not later than March 31, 1978, a report on the study required by this section, together with such recommendations, including recommendations for legislation, as such Commission deems advisable.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1019 (Comm. on Education and Labor) and No. 94-1514 (Comm. of Conference).

SENATE REPORT No. 94-883 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 30, considered and passed House.

Aug. 9, 10, considered and passed Senate, amended.

Sept. 17, House agreed to conference report.

Sept. 22, Senate agreed to conference report.

Public Law 94-445
94th Congress

An Act

To provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina and Georgia.

Oct. 1, 1976

[H.R. 15068]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by adding at the end thereof the following new subsection (i) :

“(i) Notwithstanding any provision of this section, when as a result of drought, flood, damage due to excessive rain, hail, wind, tornado, or other natural disaster, the Secretary determines (1) that one of the counties in South Carolina or Georgia has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage), and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within a designated county which has suffered a loss of 10 per centum or more in the number of acres of tobacco planted (or expected production from the planted acreage) of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or other counties within the same State, for use in such counties for the year 1976 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another county pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of the subsection.”

Tobacco.
Acreage
allotments or
quotas, S.C.-Ga.,
lease and
transfer.

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1430 (Comm. on Agriculture).

SENATE REPORT No. 94-1228 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.

Sept. 22, considered and passed Senate, amended.

Sept. 23, House concurred in Senate amendment.

Public Law 94-446
94th Congress

An Act

Oct. 1, 1976

[H.R. 15193]

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1977, and for other purposes.

District of
Columbia
Appropriation
Act, 1977.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1977, and for other purposes, namely:

TITLE I—DISTRICT OF COLUMBIA

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1977, \$259,797,400, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code 47-2501d); and \$2,707,000 in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government as authorized by the Act of May 18, 1954 (D.C. Code 43-1541 and 1611).

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

D.C. Code 1-121
note.

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, \$101,292,000, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Mayor: *Provided*, That notwithstanding any other provision of law, the Mayor is authorized to accept loans for the District from the United States Treasury, and the Secretary of the Treasury is authorized to lend the Mayor such sums as the Mayor may determine are required for financing capital projects for which appropriations are authorized in this title.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided:

GENERAL OPERATING EXPENSES

General operating expenses, \$84,453,300, of which \$799,300 shall be payable from the revenue sharing trust fund: *Provided*, That not to exceed \$2,500 for the Mayor and \$2,500 for the Chairman of the Council of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further*, That, for the purpose of assessing and reassessing real property in

the District of Columbia, \$5,000 of this appropriation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not in excess of \$100 per diem: *Provided further*, That not to exceed \$7,500 of this appropriation shall be available for test borings and soil investigations: *Provided further*, That \$4,480,700 of this appropriation (to remain available until expended) shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That not to exceed \$325,000 of this appropriation shall be available for settlement of property damage claims not in excess of \$1,500 each and personal injury claims not in excess of \$5,000 each: *Provided further*, That not to exceed \$50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor.

PUBLIC SAFETY

Public safety, including purchase of two hundred and sixty-five passenger motor vehicles for replacement only (including two hundred and sixty for police-type use and five for fire-type use without regard to the general purchase price limitation for the current fiscal year); \$247,160,400, of which \$5,530,400 shall be payable from the revenue sharing trust fund: *Provided*, That the Police Department is authorized to replace not to exceed twenty-five passenger carrying vehicles, and the Fire Department not to exceed five such vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths the cost of the replacement: *Provided further*, That funds appropriated for expenses under the Criminal Justice Act of 1974 (Public Law 93-412) for fiscal year 1977 shall be available for obligations incurred under that Act in fiscal year 1975 and fiscal year 1976: *Provided further*, That not to exceed \$200,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime.

D.C. Code
11-2601 note.

EDUCATION

Education, including the development of national defense education programs, \$245,287,700, of which \$5,179,800 shall be payable from the revenue sharing trust fund: *Provided*, That the District of Columbia Public Schools are authorized to accept not to exceed thirty-one motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$1,000 for the Superintendent of Schools, \$1,000 for the President of Federal City College, and \$1,000 for the President of Washington Technical Institute shall be available from this appropriation for expenditures for official purposes.

RECREATION

Recreation, \$17,674,400, of which \$208,200 shall be payable from the revenue sharing trust fund.

HUMAN RESOURCES

Human Resources, including care and treatment of indigent patients in institutions under contracts to be made by the Director of the

42 USC 1396.

Department of Human Resources, \$268,475,600, of which \$6,520,000 shall be payable from the revenue sharing trust fund: *Provided*, That the inpatient rate under such contracts shall not exceed \$76 per diem and the outpatient rate shall not exceed \$12 per visit, and the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be \$25.18 per diem: *Provided further*, That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed the amount for the fiscal year 1970: *Provided further*, That the hospital rates specified herein shall not apply, beginning July 1, 1969, to services provided to patients who are eligible for such services under the District of Columbia plan for medical assistance under title XIX of the Social Security Act: *Provided further*, That this appropriation shall be available for the furnishing of medical assistance to individuals sixty-five years of age or older who are residing in the District of Columbia: *Provided further*, That \$13,733,000 of this appropriation shall be available for care and treatment of the mentally retarded at Forest Haven.

TRANSPORTATION

Transportation, including rental of one passenger-carrying vehicle for use by the Mayor, \$54,182,600, of which \$6,262,300 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for the purchase of driver-training vehicles.

ENVIRONMENTAL SERVICES

Environmental services, \$69,036,000, of which \$1,500,000 shall be payable from the revenue sharing trust fund: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

PERSONAL SERVICES

For pay increases and related costs for police officers, firefighters and teachers, to be transferred by the Mayor of the District of Columbia to the appropriations for the fiscal year 1977 from which said employees are properly payable, \$16,245,000.

SETTLEMENT OF CLAIMS AND SUITS

D.C. Code 1-902
to 1-906.

For payment of property damage claims in excess of \$500 and of personal injury claims in excess of \$1,000, approved by the Mayor in accordance with the provisions of the Act of February 11, 1929, as amended (45 Stat. 1160; 46 Stat. 500; 65 Stat. 131), \$166,600.

REPAYMENT OF LOANS AND INTEREST

87 Stat. 832.
D.C. Code
43-1540,
43-1616, 7-133.
D.C. Code
2-1727.

For reimbursement to the United States of funds loaned in compliance with sections 108, 217, and 402 of the Act of May 18, 1954 (68 Stat. 103, 109, and 110), as amended; section 9 of the Act of September 7, 1957 (71 Stat. 619), as amended; section 1 of the Act of June 6,

1958 (72 Stat. 183), as amended; section 4 of the Act of June 12, 1960 (74 Stat. 211), as amended; and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198), as amended, including interest as required thereby, \$80,839,100: *Provided*, That there are hereby appropriated from the funds of the District of Columbia such sums as may be necessary to repay funds borrowed under the provisions of sections 471 and 472 of Public Law 93-198: *Provided further*, That the District is authorized to repay outstanding loans from the United States Treasury with funds received from the sale of general obligation bonds authorized for such purpose.

D.C. Code 9-220.
D.C. Code
43-1623.
D.C. Code 1-121
note.

D.C. Code
47-247, 47-248.
D.C. Code
47-241 note.

CAPITAL OUTLAY

For reimbursement to the United States of funds loaned in compliance with the Act of August 7, 1946 (60 Stat. 896), as amended, construction projects as authorized by the Acts of April 22, 1904 (33 Stat. 244), May 18, 1954 (68 Stat. 105, 110), June 6, 1958 (72 Stat. 183), August 20, 1958 (72 Stat. 686), and the Act of December 9, 1969 (83 Stat. 321); including acquisition of sites; preparation of plans and specifications; conducting preliminary surveys; erection of structures, including building improvement and alteration and treatment of grounds; to remain available until expended, \$36,586,700: *Provided*, That \$1,854,600 shall be available for construction services by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor, and the funds for the use of the Director of the Department of General Services shall be advanced to the appropriation account "Construction Services, Department of General Services": *Provided further*, That the amount appropriated to the Construction Services Fund, Department of General Services, be limited, during the current fiscal year, to ten per centum of appropriations for all construction projects, except for Project Numbered 24-99, Permanent Improvements, for which construction services shall be limited to twenty per centum of the appropriation: *Provided further*, Notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968 (Public Law 90-495, approved August 23, 1968), for which funds are provided by this paragraph, shall expire on September 30, 1978, except authorizations for projects as to which funds have been obligated in whole or in part prior to such date. Upon expiration of any such project authorization the funds provided herein for such project shall lapse: *Provided further*, That \$1,292,000 is hereby appropriated for the completion of the Sursum Corda Neighborhood Center; \$900,000 shall be for the completion of the Sursum Corda Neighborhood Center to be repaid to the city out of funds raised by Sursum Corda, Inc., through fundraising activities: *And provided further*, That all sums so collected be applied to the cost of construction with a corresponding reduction in, or refund of, appropriated District of Columbia funds; and \$392,000 shall be for equipment for the center.

72 Stat. 15.

D.C. Code
43-1510,
43-1604, 7-133,
9-220, 40-804,
1-1441 note.

D.C. Code 7-135
note.

GENERAL PROVISIONS—DISTRICT OF COLUMBIA

SEC. 102. Except as otherwise provided in this title, all vouchers covering expenditures of appropriations contained in this title shall be audited before payment by the designated certifying official and

Vouchers, audit.

the vouchers as approved shall be paid by checks issued by the designated disbursing official.

Maximum
allowances.

SEC. 103. Whenever in this title an amount is specified within an appropriation for particular purposes or object of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor.

Automobile
allowances.

SEC. 104. Appropriations in this title shall be available, when authorized or approved by the Mayor, for allowances for privately owned conveyances used for the performance of official duties at 13 cents per mile but not to exceed \$45 a month for each automobile and at 8 cents per mile but not to exceed \$30 a month for each motorcycle, unless otherwise therein specifically provided, except that one hundred and thirteen (eighteen for venereal disease investigators in the Department of Human Resources) such automobile allowances at not more than \$715 each per annum may be authorized or approved by the Mayor.

Travel expenses;
organization
dues.

SEC. 105. Appropriations in this title shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor.

Taxicabs,
restrictions.

SEC. 106. Appropriations in this title shall not be used for or in connection with the preparation, issuance, publication, or enforcement of any regulation or order of the Public Service Commission requiring the installation of meters in taxicabs, or for or in connection with the licensing of any vehicle to be operated as a taxicab except for operation in accordance with such system of uniform zones and rates and regulations applicable thereto as shall have been prescribed by the Public Service Commission.

Street lighting.
D.C. Code 7-701
note.

SEC. 107. Appropriations in this title shall not be available for the payment of rates for electric current for street lighting in excess of 2 cents per kilowatt-hour for current consumed.

Judgment
payments.

SEC. 108. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments which have been entered against the government of the District of Columbia: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of paragraph 3, subsection (c) of section 11 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, as amended.

D.C. Code
47-1586j.
D.C. Code 3-204
note.

SEC. 109. Appropriations in this title shall be available for the payment of public assistance without reference to the requirement of subsection (b) of section 5 of the District of Columbia Public Assistance Act of 1962 and for the non-Federal share of funds necessary to qualify for Federal assistance under the Act of July 31, 1968 (Public Law 90-445).

D.C. Code 3-204
note.
42 USC 3801
note.

SEC. 110. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Fiscal year
limitation.

Chauffeur
compensation.
D.C. Code
40-501a note.

SEC. 111. No part of any funds appropriated by this title shall be used to pay the compensation (whether by contract or otherwise) of any individual for performing services as a chauffeur or driver for any designated officer or employee of the District of Columbia government (other than the Mayor of the District of Columbia, Chief of Police and Fire Chief), or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use

of any such officer or employee (other than the Mayor of the District of Columbia, Chief of Police and Fire Chief). No part of any funds appropriated by this title, in excess of \$1,000 per month in the aggregate (\$12,000 per annum) shall be used to pay the compensation (whether by contract or otherwise) of individuals for performing services as a chauffeur or driver for the Mayor of the District of Columbia, or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of the Mayor of the District of Columbia.

SEC. 112. Not to exceed $4\frac{1}{2}$ per centum of the total of all funds appropriated by this title for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 113. The total expenditure of funds appropriated by this title for authorized travel and per diem costs outside the District of Columbia, Maryland, and Virginia shall not exceed \$210,000.

SEC. 114. Appropriations in this title shall not be available, during the fiscal year ending September 30, 1977, for the compensation of any person appointed—

(1) as full-time employee to a permanent, authorized position in the government of the District of Columbia during any month when the number of such employees is greater than 35,145, exclusive of positions initially authorized or funded by this title; and exclusive of the 20 positions approved in the transition period for Forest Haven, Department of Human Resources; 28 positions approved in fiscal year 1976 for Tax Administration, Department of Finance and Revenue; and 303 positions approved in fiscal year 1976 for the District of Columbia General Hospital, Department of Human Resources; or

(2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year.

SEC. 115. No funds appropriated in this title, for the government of the District of Columbia for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community group during non-school hours.

SEC. 116. Appropriations in this title shall be available for services as authorized by 5 U.S.C. 3109, at rates to be fixed by the Mayor.

SEC. 117. No part of any funds appropriated to the District of Columbia government for fiscal year 1977 shall be available for, or may be used to pay the compensation (whether by contract or otherwise) of any person for performing services normally performed by a public affairs officer, public relations officer, or community services officer, unless approved by a resolution adopted by the Council of the District of Columbia.

This Act may be cited as the "District of Columbia Appropriation Act, 1977".

Overtime or temporary positions, cost limitation.

Travel expenditure, limitation.

D.C. Code 1-216 note.

Partisan political activities.

Short title.

TITLE II—DEPARTMENT OF TRANSPORTATION

Ante, p. 1171.

Funds provided for the Coast Guard's Pollution Fund in Public Law 94-387, shall become available immediately upon enactment of this legislation into law.

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1415 (Comm. on Appropriations) and 94-1500 (Comm. of Conference).

SENATE REPORT No. 94-1167 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.

Aug. 30, considered and passed Senate, amended.

Sept. 17, House agreed to conference report, receded and concurred in certain Senate amendments with amendments.

Sept. 21, Senate agreed to conference report; concurred in House amendments.

Public Law 94-447
94th Congress

An Act

Making appropriations for public works employment for the period ending September 30, 1977, and for other purposes.

Oct. 1, 1976

[H.R. 15194]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for public works employment for the period ending September 30, 1977, and for other purposes, namely:

Public Works
Employment
Appropriations
Act.

TITLE I

CHAPTER I

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

LOCAL PUBLIC WORKS PROGRAM

For expenses necessary to carry out title I of the Public Works Employment Act of 1976 (Public Law 94-369), \$2,000,000,000: *Provided*, That not to exceed \$10,000,000 may be used for necessary administrative expenses, including expenses for program evaluation by the Secretary of Commerce.

Ante, p. 999.
42 USC 6701
note.

CHAPTER II

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

OFFICE OF REVENUE SHARING

ANTIRECESSION FINANCIAL ASSISTANCE FUND

For payments to State and local governments pursuant to title II of the Public Works Employment Act of 1976, \$312,500,000 for the period July 1, 1976, through September 30, 1976, and \$937,500,000 for the fiscal year 1977, in all, \$1,250,000,000, to remain available until September 30, 1978.

Ante, p. 1002.
42 USC 6721.

SALARIES AND EXPENSES

For an additional amount for necessary expenses in the Office of Revenue Sharing, \$1,633,000, to remain available until September 30, 1977.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

CONSTRUCTION GRANTS

33 USC 1281.

Ante, p. 1011.
33 USC 1287
note.

For necessary expenses for the fiscal year 1977 to carry out title II of the Federal Water Pollution Control Act, other than sections 206, 208, and 209, as authorized by title III of the Public Works Employment Act of 1976, \$480,000,000, to remain available until expended.

ABATEMENT AND CONTROL

For an additional amount for fiscal year 1977 for abatement and control activities, \$800,000, to remain available until September 30, 1978.

TITLE II

GENERAL PROVISIONS

Ante, p. 1002.
42 USC 6721.

42 USC 6722.

42 USC 6723.

42 USC 6724.

42 USC 6730.

Fiscal year
limitation.

Short title.

SEC. 201. Title II of the Public Works Employment Act of 1976 (Public Law 94-369), authorizing foregoing appropriations, is amended as follows:

(1) Section 202(d)(1) is amended by striking out “and” at the end thereof and inserting in lieu thereof “or”.

(2) Section 203(c)(3)(C)(ii) is amended by striking out “thirty days” and inserting in lieu thereof “90 days”.

(3) Section 203(c)(4)(E)(ii) is amended by striking out “of Alaskan Native village” and inserting in lieu thereof “or Alaskan Native village”.

(4) Section 204 is amended by striking out “grants” and inserting in lieu thereof “payments”.

(5) Section 210(c)(1) is amended by striking out “and” at the end thereof and inserting in lieu thereof “or”.

SEC. 202. No part of any appropriation contained in this Act shall remain available for obligation beyond September 30, 1977, unless expressly so provided herein.

This Act may be cited as the “Public Works Employment Appropriations Act”.

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1425 (Comm. on Appropriations) and No. 94-1537 (Comm. of Conference).

SENATE REPORT No. 94-1185 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 25, considered and passed House.

Sept. 10, considered and passed Senate, amended.

Sept. 17, House agreed to conference report.

Sept. 22, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 41:

Oct. 2, Presidential statement.

Public Law 94-448
94th Congress

An Act

To make the provisions of section 1331(e) of title 10, United States Code, retroactive to November 1, 1953.

Oct. 1, 1976
[S. 2090]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of survivor annuities under subchapter I of chapter 73 of title 10, United States Code, and under prior corresponding provisions of law, the provisions of section 1331(e) of such title 10, relating to the date of entitlement to retired pay under chapter 67 of such title 10, shall be effective as of November 1, 1953.

Armed Forces.
Retired pay.
10 USC 1331
note.
10 USC 1435.
10 USC 1331.

SEC. 2. No benefits shall be paid to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.

10 USC 1331
note.

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1436, Pt. I (Comm. on Armed Services) and No. 94-1436, Pt. II (Comm. on Appropriations).

SENATE REPORT No. 94-560 (Comm. on Armed Services).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 17, considered and passed Senate.

Vol. 122 (1976): Sept. 20, considered and passed House.

Public Law 94-449
94th Congress

An Act

Oct. 1, 1976
[S. 3052]

To authorize orientation and language training for families of certain officers and employees of the Department of Agriculture.

Department of
Agriculture.
Training for
families of
officers and
employees.
7 USC 1762.

7 USC 1701.

Appropriation
authorization.

Report to
congressional
committees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 602 of the Agricultural Act of 1954, as amended, is amended by adding at the end thereof a new subsection as follows:

“(f) Effective October 1, 1976, the Secretary of Agriculture is authorized to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this Act or other authority: *Provided*, That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable, and the Secretary may utilize foreign currencies generated under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, to carry out the purposes of this subsection in the foreign nations to which such officers, employees, and families are assigned. There are hereby authorized to be appropriated such sums, not to exceed \$50,000 annually, as may be necessary to carry out the purposes of this subsection: *Provided*, That for the fiscal year ending September 30, 1977, any appropriations available to the Secretary of Agriculture (not to exceed \$50,000) may be used to carry out the purposes of this subsection. The Secretary of Agriculture shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry not later than ninety days after the end of each fiscal year a detailed report showing activities carried out under the authority of this subsection during such fiscal year.”

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1158 and No. 94-1158, Pt. II both accompanying H.R. 11868 (Comm. on Agriculture) and No. 94-1424 (Comm. of Conference).

SENATE REPORT No. 94-691 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 16, considered and passed Senate.

June 7, considered and passed House, amended, in lieu of H.R. 11868.

Sept. 14, House agreed to conference report.

Sept. 22, Senate agreed to conference report.

Public Law 94-450
94th Congress

An Act

To increase the protection of consumers by reducing permissible deviations in the manufacture of articles made in whole or in part of gold.

Oct. 1, 1976

[S. 3095]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Gold Labeling Act of 1976".

SEC. 2. Section 2 of the Act of June 13, 1906 (34 Stat. 260; 15 U.S.C. 295), is amended—

(1) by striking out "one-half of one carat" and inserting in lieu thereof "three one-thousandth parts";

(2) by striking out "; except" and all that follows through "incased or inclosed" immediately before the first proviso;

(3) by striking out "in the case of any article mentioned in this section" in the second proviso;

(4) by striking out "in such article" in the second proviso and inserting in lieu thereof "in an article mentioned in this section"; and

(5) by striking out "than one carat" in the second proviso and inserting in lieu thereof "than three one-thousandth parts, in the case of a watchcase or flatware, or than seven one-thousandth parts, in the case of any other such article,".

SEC. 3. The amendments made by section 2 of this Act shall take effect five years after the date of enactment of this Act and shall not apply with respect to any article of merchandise which is sold by any manufacturer or importer before the effective date of such amendments.

Gold Labeling
Act of 1976.

15 USC 294 note.

Gold articles,
standard of
fineness,
deviation.

15 USC 295 note.

Approved October 1, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1617 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-812 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 13, considered and passed Senate.

Sept. 20, considered and passed House, amended.

Sept. 21, Senate concurred in House amendment.

Public Law 94-451
94th Congress

An Act

Oct. 2, 1976

[H.R. 11321]

To suspend until July 1, 1978, the duty on certain elbow prostheses if imported for charitable therapeutic use, or for free distribution, by certain public or private nonprofit institutions.

Elbow
prostheses.
Duty suspension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 912.05 the following new item:

“ 912.07	Externally-powered electric elbow prosthetic devices for juvenile amputees (provided for in item 709. 57, part 2B, schedule 7), and parts thereof, if imported solely for charitable therapeutic use, or distribution free of charge, by any public or private nonprofit institution established for educational, scientific, or therapeutic purposes.....	Free	No change	On or before 6/30/78.	”.
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19 USC 1202
note.

SEC. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

Approved October 2, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1065 (Comm. on Ways and Means).

SENATE REPORT No. 94-1174 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 17, considered and passed House.

Sept. 23, considered and passed Senate.

Public Law 94-452
94th Congress

An Act

To amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain divestitures of assets by bank holding companies.

Oct. 2, 1976

[H.R. 11997]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Bank Holding Company Tax Act of 1976”.

Bank Holding
Company Tax Act
of 1976.
26 USC 1101
note.

SEC. 2. DISTRIBUTIONS PURSUANT TO BANK HOLDING COMPANY ACT
AMENDMENTS OF 1970.

(a) TAX-FREE DISTRIBUTIONS.—Part VIII of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to distributions pursuant to Bank Holding Company Act of 1936) is amended to read as follows:

12 USC 1841
note.

“PART VIII—DISTRIBUTIONS PURSUANT TO BANK
HOLDING COMPANY ACT

“Sec. 1101. Distributions pursuant to Bank Holding Company Act.

“Sec. 1102. Special rules.

“Sec. 1103. Definitions.

“SEC. 1101. DISTRIBUTIONS PURSUANT TO BANK HOLDING COMPANY ACT. 26 USC 1101.

“(a) DISTRIBUTIONS OF CERTAIN NON-BANKING PROPERTY.—

“(1) DISTRIBUTIONS OF PROHIBITED PROPERTY.—If—

“(A) a qualified bank holding corporation distributes prohibited property (other than stock received in an exchange to which subsection (c) (2) applies)—

“(i) to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation, or

“(ii) to a shareholder, in exchange for its preferred stock, or

“(iii) to a security holder, in exchange for its securities, and

“(B) the Board has, before the distribution, certified that the distribution of such prohibited property is necessary or appropriate to effectuate section 4 of the Bank Holding Company Act,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

“(2) DISTRIBUTIONS OF STOCK AND SECURITIES RECEIVED IN AN EXCHANGE TO WHICH SUBSECTION (c) (2) APPLIES.—If—

“(A) a qualified bank holding corporation distributes—

“(i) common stock received in an exchange to which subsection (c) (2) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation, or

“(ii) common stock received in an exchange to which subsection (c) (2) applies to a shareholder, in exchange for its common stock, or

“(iii) preferred stock or common stock received in an exchange to which subsection (c) (2) applies to a shareholder, in exchange for its preferred stock, or

“(iv) securities or preferred or common stock received in an exchange to which subsection (c) (2) applies to a security holder in exchange for its securities, and

“(B) any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchanged,

then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

“(3) PRO RATA AND OTHER REQUIREMENTS.—

“(A) IN GENERAL.—Paragraphs (1) and (2) of this subsection, or paragraphs (1) and (2) of subsection (b), as the case may be, shall apply to any distribution to the shareholders of a qualified bank holding corporation only if each distribution—

“(i) which is made by such corporation to its shareholders after July 7, 1970, and on or before the date on which the Board makes its final certification under subsection (e), and

“(ii) to which such paragraph (1) or (2) applies (determined without regard to this paragraph),

meets the requirements of subparagraph (B), (C), or (D).

“(B) PRO RATA REQUIREMENTS.—A distribution meets the requirements of this subparagraph if the distribution is pro rata with respect to all shareholders of the distributing qualified bank holding corporation or with respect to all shareholders of common stock of such corporation.

“(C) REDEMPTIONS WHEN UNIFORM OFFER IS MADE.—A distribution meets the requirements of this subparagraph if the distribution is in exchange for stock of the distributing qualified bank holding corporation and such distribution is pursuant to a good faith offer made on a uniform basis to all shareholders of the distributing qualified bank holding corporation or to all shareholders of common stock of such corporation.

“(D) NON-PRO RATA DISTRIBUTIONS FROM CERTAIN CLOSELY-HELD CORPORATIONS.—A distribution meets the requirements of this subparagraph if such distribution is made by a qualified bank holding corporation which does not have more than 10 shareholders (within the meaning of section 1371 (a) (1)) and does not have as a shareholder a person (other than an estate) which is not an individual, and if the Board (after consultation with the Secretary or his delegate) certifies that—

“(i) a distribution which meets the requirements of subparagraph (B) or (C) is not appropriate to effectuate section 4 or the policies of the Bank Holding Company Act, and

“(ii) the distribution being made is necessary or appropriate to effectuate section 4 of the policies of such Act.

26 USC 1371.

12 USC 1843.

“(4) EXCEPTION.—This subsection shall not apply to any distribution by a corporation if such corporation, a corporation having control of such corporation, or a subsidiary of such corporation has made any distribution pursuant to subsection (b) or has made an election under section 6158 with respect to bank property (as defined in section 6158(f)(3)).

Post, p. 1512.

“(5) DISTRIBUTIONS INVOLVING GIFT OR COMPENSATION.—In the case of a distribution to which paragraph (1) or (2) applies but which—

“(A) results in a gift, see section 2501 and following, or

26 USC 2501.

“(B) has the effect of the payment of compensation, see section 61.

26 USC 61.

“(b) CORPORATION CEASING TO BE A BANK HOLDING COMPANY.—

“(1) DISTRIBUTIONS OF PROPERTY WHICH CAUSE A CORPORATION TO BE A BANK HOLDING COMPANY.—If—

“(A) a qualified bank holding corporation distributes property (other than stock received in an exchange to which subsection (c)(3) applies)—

“(i) to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation, or

“(ii) to a shareholder, in exchange for its preferred stock, or

“(iii) to a security holder, in exchange for its securities, and

“(B) the Board has, before the distribution, certified that—

“(i) such property is all or part of the property by reason of which such corporation controls (within the meaning of section 2(a) of the Bank Holding Company Act) a bank or bank holding company, or such property is part of the property by reason of which such corporation did control a bank or a bank holding company before any property of the same kind was distributed under this subsection or exchanged under subsection (c)(3), and

12 USC 1841.

“(ii) the distribution is necessary or appropriate to effectuate the policies of such Act,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

“(2) DISTRIBUTIONS OF STOCK AND SECURITIES RECEIVED IN AN EXCHANGE TO WHICH SUBSECTION (c)(3) APPLIES.—If—

“(A) a qualified bank holding corporation distributes—

“(i) common stock received in an exchange to which subsection (c)(3) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation, or

“(ii) common stock received in an exchange to which subsection (c)(3) applies to a shareholder in exchange for its common stock, or

“(iii) preferred stock or common stock received in an exchange to which subsection (c)(3) applies to a shareholder, in exchange for its preferred stock, or

“(iv) securities or preferred or common stock received in an exchange to which subsection (c)(3) applies to a security holder, in exchange for its securities, and

“(B) any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchanged,

then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

“(3) PRO RATA AND OTHER REQUIREMENTS.—For pro rata and other requirements, see subsection (a) (3).

“(4) EXCEPTION.—This subsection shall not apply to any distribution by a corporation if such corporation, a corporation having control of such corporation, or a subsidiary of such corporation has made any distribution pursuant to subsection (a) or has made an election under section 6158 with respect to prohibited property.

“(5) DISTRIBUTIONS INVOLVING GIFT OR COMPENSATION.—In the case of a distribution to which paragraph (1) or (2) applies but which—

“(A) results in a gift, see section 2501 and following, or

“(B) has the effect of the payment of compensation, see section 61.

“(c) PROPERTY ACQUIRED AFTER JULY 7, 1970.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), subsection (a) or (b) shall not apply to—

“(A) any property acquired by the distributing corporation after July 7, 1970, unless (i) gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b), or (ii) such property was received by it in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies, or (iii) such property was acquired by the distributing corporation in a transaction in which gain was not recognized under section 305(a) or section 332, or under section 354 or 356 (but only with respect to property permitted by section 354 or 356 to be received without the recognition of gain or loss) with respect to a reorganization described in section 368(a) (1) (A), (B), (E), or (F), or

“(B) any property which was acquired by the distributing corporation in a distribution with respect to stock acquired by such corporation after July 7, 1970, unless such stock was acquired by such corporation (i) in a distribution (with respect to stock held by it on July 7, 1970, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b), or (ii) in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies, or (iii) in a transaction in which gain was not recognized under section 305(a) or section 332, or under section 354 or 356 (but only with respect to property permitted by section 354 or 356 to be received without the recognition of gain or loss) with respect to a reorganization described in section 368(a) (1) (A), (B), (E), or (F), or

“(C) any property acquired by the distributing corporation in a transaction in which gain was not recognized under section 332, unless such property was acquired from a corporation which, if it had been a qualified bank holding corporation, could have distributed such property under subsection (a) (1) or (b) (1), or

Post, p. 1512.

26 USC 2501.

26 USC 61.

26 USC 305,
332, 354, 356.

26 USC 368.

26 USC 332.

“(D) any property acquired by the distributing corporation in a transaction in which gain was not recognized under section 354 or 356 with respect to a reorganization described in section 368(a)(1) (A) or (B), unless such property was acquired by the distributing corporation in exchange for property which the distributing corporation could have distributed under subsection (a)(1) or (b)(1).”

26 USC 354,
356.
26 USC 368.

“(2) EXCHANGES INVOLVING PROHIBITED PROPERTY.—If—

“(A) any qualified bank holding corporation exchanges (i) property, which, under subsection (a)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders, and other property (except property described in subsection (b)(1)(B)(i)), for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property,

“(B) immediately after the exchange, the qualified bank holding corporation distributes all of such stock in a manner prescribed in subsection (a)(2)(A), and

“(C) before such distribution, the Board has certified (with respect to the property exchanged which consists of property which, under subsection (a)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain) that the exchange and distribution are necessary or appropriate to effectuate section 4 of the Bank Holding Company Act,

12 USC 1843.

then paragraph (1) shall not apply with respect to such distribution.

“(3) EXCHANGES INVOLVING INTERESTS IN BANKS.—If—

“(A) any qualified bank holding corporation exchanges (i) property which, under subsection (b)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders, and other property (except prohibited property), for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property.

“(B) immediately after the exchange, the qualified bank holding corporation distributes all of such stock in a manner prescribed in subsection (b)(2)(A), and

“(C) before such distribution, the Board has certified (with respect to the property exchanged which consists of property which, under subsection (b)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain) that—

“(i) such property is all or part of the property by reason of which such corporation controls (within the meaning of section 2(a) of the Bank Holding Company Act) a bank or bank holding company, or such property is part of the property by reason of which such corporation did control a bank or a bank holding company before any property of the same kind was distributed under subsection (b)(1) or exchanged under this paragraph, and

12 USC 1841.

“(ii) the exchange and distribution are necessary or appropriate to effectuate the policies of such Act,

then paragraph (1) shall not apply with respect to such distribution.

“(d) DISTRIBUTIONS TO AVOID FEDERAL INCOME TAX.—

“(1) PROHIBITED PROPERTY.—Subsection (a) shall not apply to a distribution if, in connection with such distribution, the distributing corporation retains, or transfers after July 7, 1970, to any corporation, property (other than prohibited property) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

“(2) BANKING PROPERTY.—Subsection (b) shall not apply to a distribution if, in connection with such distribution, the distributing corporation retains, or transfers after July 7, 1970 to any corporation, property (other than property described in subsection (b) (1) (B) (i)) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

“(e) FINAL CERTIFICATION.—

“(1) FOR SUBSECTION (a).—Subsection (a) shall not apply with respect to any distribution by a corporation unless the Board certifies, before the close of the calendar year following the calendar year in which the last distribution occurred, that the corporation has (before the expiration of the period prohibited property is permitted under the Bank Holding Company Act to be held by a bank holding company) disposed of all of the property the disposition of which is necessary or appropriate to effectuate section 4 of the Bank Holding Company Act.

“(2) FOR SUBSECTION (b).—Subsection (b) shall not apply with respect to any distribution by a corporation unless the Board certifies, before the close of the calendar year following the calendar year in which the last distribution occurred, that the corporation has (before the expiration of the period prohibited property is permitted under the Bank Holding Company Act to be held by a bank holding company) ceased to be a bank holding company.

“(f) CERTAIN EXCHANGES OF SECURITIES.—In the case of an exchange described in subsection (a) (2) (A) (iv) or subsection (b) (2) (A) (iv), subsection (a) or subsection (b) (as the case may be) shall apply only to the extent that the principal amount of the securities received does not exceed the principal amount of the securities exchanged.

“SEC. 1102. SPECIAL RULES.

“(a) BASIS OF PROPERTY ACQUIRED IN DISTRIBUTIONS.—If, by reason of section 1101, gain is not recognized with respect to the receipt of any property, then, under regulations prescribed by the Secretary or his delegate—

“(1) if the property is received by a shareholder with respect to stock without the surrender by such shareholder of stock, the basis of the property received and of the stock with respect to which it is distributed shall, in the distributee's hands, be determined by allocating between such property and such stock the adjusted basis of such stock, or

“(2) if the property is received by a shareholder in exchange for stock or by a security holder in exchange for securities, the basis of the property received shall, in the distributee's hands, be the same as the adjusted basis of the stock or securities exchanged, increased by the amount of gain to the taxpayer recognized on the property received.

“(b) PERIODS OF LIMITATION.—The periods of limitation provided in section 6501 (relating to limitations on assessment and collection) shall not expire, with respect to any deficiency (including interest and additions to the tax) resulting solely from the receipt of property by

12 USC 1841
note.

12 USC 1843.

26 USC 1102.
Regulations.

26 USC 6501.

shareholders in a distribution which is certified by the Board under subsection (a), (b), or (c) of section 1101, until 5 years after the distributing corporation notifies the Secretary or his delegate (in such manner and with such accompanying information as the Secretary or his delegate may by regulations prescribe)—

“(1) that the final certification required by subsection (e) of section 1101 has been made, or

“(2) that such final certification will not be made;

and such assessment may be made notwithstanding any provision of law or rule of law which would otherwise prevent such assessment.

“(c) ALLOCATION OF EARNINGS AND PROFITS.—

“(1) DISTRIBUTION OF STOCK IN A CONTROLLED CORPORATION.—In the case of a distribution by a qualified bank holding corporation under section 1101 (a)(1) or (b)(1) of stock in a controlled corporation, proper allocation with respect to the earning and profits of the distributing corporation and the controlled corporation shall be made under regulations prescribed by the Secretary or his delegate.

Regulations.

“(2) EXCHANGES DESCRIBED IN SECTION 1101(c) (2) OR (3).—In the case of any exchange described in section 1101(c) (2) or (3), proper allocation with respect to the earnings and profits of the corporation transferring the property and the corporation receiving such property shall be made under regulations prescribed by the Secretary or his delegate.

Regulations.

“(3) DEFINITION OF CONTROLLED CORPORATION.—For purposes of paragraph (1), the term ‘controlled corporation’ means a corporation with respect to which at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock is owned by the distributing qualified bank holding corporation.

“(d) ITEMIZATION OF PROPERTY.—In any certification under this part, the Board shall make such specification and itemization of property as may be necessary to carry out the provisions of this part.

“SEC. 1103. DEFINITIONS.

26 USC 1103.

“(a) BANK HOLDING COMPANY; BANK HOLDING COMPANY ACT.—For purposes of this part—

12 USC 1841
note.

“(1) BANK HOLDING COMPANY.—The term ‘bank holding company’ means—

“(A) a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act, or

12 USC 1841.

“(B) a bank holding company subsidiary within the meaning of section 2(d) of such Act.

“(2) BANK HOLDING COMPANY ACT.—The term ‘Bank Holding Company Act’ means the Bank Holding Company Act of 1956, as amended through December 31, 1970 (12 U.S.C. 1841 et seq.).

“(b) QUALIFIED BANK HOLDING CORPORATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this part the term ‘qualified bank holding corporation’ means any corporation (as defined in section 7701(a)(3)) which is a bank holding company and which holds prohibited property acquired by it—

26 USC 7701.

“(A) on or before July 7, 1970,

“(B) in a distribution in which gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b) of section 1101, or

“(C) in exchange for all of its stock in an exchange described in section 1101 (c) (2) or (c) (3).

“(2) LIMITATIONS.—

“(A) A bank holding company shall not be a qualified bank holding corporation, unless it would have been a bank holding company on July 7, 1970, if the Bank Holding Company Act Amendments of 1970 had been in effect on such date, or unless it is a bank holding company determined solely by reference to—

“(i) property acquired by it on or before July 7, 1970,

“(ii) property acquired by it in a distribution in which gain to such corporation with respect to the receipt of such property was not recognized by reason of subsection (a) or (b) of section 1101, or

“(iii) property acquired by it in exchange for all of its stock in an exchange described in section 1101(c) (2) or (3).

For purposes of this subparagraph, property held by a corporation having control of the corporation or by a subsidiary of the corporation shall be treated as held by the corporation.

“(B) A bank holding company shall not be a qualified bank holding corporation by reason of property described in subparagraph (B) of paragraph (1) or clause (ii) of subparagraph (A) of this paragraph, unless such property was acquired in a distribution with respect to stock, which stock was acquired by such bank holding company—

“(i) on or before July 7, 1970,

“(ii) in a distribution (with respect to stock held by it on July 7, 1970, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b) of section 1101, or

“(iii) in exchange for all of its stock in an exchange described in section 1101(c) (2) or (3).

“(C) A corporation shall be treated as a qualified bank holding corporation only if the Board certifies that it satisfies the foregoing requirements of this subsection.

“(3) CERTAIN SUCCESSOR CORPORATIONS.—For purposes of this subsection, a successor corporation in a reorganization described in section 368(a) (1) (F) shall succeed to the status of its predecessor corporation as a qualified bank holding corporation.

“(c) PROHIBITED PROPERTY.—For purposes of this part, the term ‘prohibited property’ means, in the case of any bank holding company, property (other than nonexempt property) the disposition of which would be necessary or appropriate to effectuate section 4 of the Bank Holding Company Act if such company continued to be a bank holding company beyond the period (including any extensions thereof) specified in subsection (a) of such section. The term ‘prohibited property’ also includes shares of any company not in excess of 5 percent of the outstanding voting shares of such company if the prohibitions of section 4 of such Act apply to the shares of such company in excess of such 5 percent.

“(d) NONEXEMPT PROPERTY.—For purposes of this part, the term ‘nonexempt property’ means—

“(1) obligations (including notes, drafts, bills of exchange, and bankers’ acceptances) having a maturity at the time of issuance of not exceeding 24 months, exclusive of days of grace,

12 USC 1841
note.

26 USC 368.

12 USC 1843.

“(2) securities issued by or guaranteed as to principal or interest by a government or subdivision thereof or by any instrumentality of a government or subdivision, or

“(3) money, and the right to receive money not evidenced by a security or obligation (other than a security or obligation described in paragraph (1) or (2)).

“(e) BOARD.—For purposes of this part, the term ‘Board’ means the Board of Governors of the Federal Reserve System.

“(f) CONTROL; SUBSIDIARY.—For purposes of this part—

“(1) CONTROL.—Except as provided in section 1102(c)(3), a corporation shall be treated as having control of another corporation if such corporation has control (within the meaning of section 2(a)(2) of the Bank Holding Company Act) of such other corporation.

12 USC 1841.

“(2) SUBSIDIARY.—The term ‘subsidiary’ has the meaning given to such term by section 2(d) of the Bank Holding Company Act.

“(g) ELECTION TO FOREGO GRANDFATHER PROVISION FOR ALL PROPERTY REPRESENTING PRE-JUNE 30, 1968, ACTIVITIES.—Any bank holding company may elect, for purposes of this part and section 6158, to have the determination of whether property is property described in subsection (c) or is property eligible to be distributed without recognition of gain under section 1101(b)(1) made under the Bank Holding Company Act as if such Act did not contain the proviso of section 4(a)(2) thereof. Any election under this subsection shall apply to all property described in such proviso and shall be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe. Any such election, once made, shall be irrevocable. An election under this subsection or subsection (h) shall not apply unless the final certification referred to in section 1101(e) or section 6158(c)(2), as the case may be, includes a certification by the Board that the bank holding company has disposed of either all banking property or all nonbanking property.

Post, p. 1512.

Regulations.

“(h) ELECTION TO DIVEST ALL BANKING OR NONBANKING PROPERTY IN CASE OF CERTAIN CLOSELY HELD BANK HOLDING COMPANIES.—Any bank holding company may elect, for purposes of this part and section 6158, to have the determination of whether property is property described in subsection (c) or is property eligible to be distributed without recognition of gain under section 1101(b)(1) made under the Bank Holding Company Act as if such Act did not contain clause (ii) of section 4(c) of such Act. Any election under this subsection shall apply to all property described in subsection (c), or to all property eligible to be distributed without recognition of gain under section 1101(b)(1), as the case may be, and shall be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe. Any such election, once made, shall be irrevocable.”

12 USC 1843.

“(b) AMENDMENT OF SECTION 311(d).—Paragraph (2) of section 311(d) of such Code (relating to exceptions and limitations to the recognition of gain where appreciated property is used to redeem stock) is amended by striking out “and” at the end of subparagraph (F), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof “; and”, and by adding at the end thereof the following new subparagraph:

26 USC 311.

“(H) a distribution of stock to a distributee which is not an organization exempt from tax under section 501(a), if with respect to such distributee, subsection (a)(1) or (b)(1) of section 1101 (relating to distributions pursuant to Bank Holding Company Act) applies to such distribution.”

26 USC 501.

(c) **CLERICAL AMENDMENT.**—The table of parts for subchapter O of chapter 1 of such Code is amended by striking out “of 1956”.

26 USC 1101
note.

(d) **EFFECTIVE DATE.**—

(1) **FOR SUBSECTION (a).**—The amendments made by subsections (a) and (c) shall take effect on October 1, 1977, with respect to distributions after July 7, 1970, in taxable years ending after July 7, 1970, but only in the case of qualified bank holding corporations (within the meaning of section 1103(b) of the Internal Revenue Code of 1954, as amended by subsection (a) of this section).

(2) **SPECIAL RULE FOR CERTIFYING DISTRIBUTIONS WHICH HAVE ALREADY TAKEN PLACE.**—For purposes of sections 1101(a)(1)(B), 1101(a)(3)(D), 1101(b)(1)(B), 1101(c)(2)(C), 1101(c)(3)(C), and 1101(e) of the Internal Revenue Code of 1954 (as amended by subsection (a) of this section), in the case of any distribution which takes place on or before the 90th day after the date of the enactment of this Act, a certification by the Federal Reserve Board described in any such section shall be treated as made before the distribution (or, in the case of section 1101(e), before the close of the calendar year following the calendar year in which the last distribution occurred) if application for such certification is made before the close of the 90th day after the date of the enactment of this Act.

(3) **PERIOD OF LIMITATIONS.**—If refund or credit of any overpayment of income tax attributable to the amendment made by subsection (a) is prevented at any time before October 1, 1978, by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before October 1, 1978.

26 USC 311 note.

(4) **FOR SUBSECTION (b).**—The amendment made by subsection (b) shall take effect on October 1, 1977, with respect to distributions after December 31, 1975, in taxable years ending after December 31, 1975.

SEC. 3. INSTALLMENT PAYMENT OF TAX.

(a) **INSTALLMENT PAYMENT.**—Subchapter A of chapter 62 of the Internal Revenue Code of 1954 (relating to place and due date for payment of tax) is amended by adding at the end thereof the following new section:

26 USC 6158.

“SEC. 6158. INSTALLMENT PAYMENT OF TAX ATTRIBUTABLE TO DIVESTITURES PURSUANT TO BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.

12 USC 1843.

“(a) **ELECTION OF EXTENSION.**—If, after July 7, 1970, a qualified bank holding corporation sells bank property or prohibited property, the divestiture of either of which the Board certifies, before such sale, is necessary or appropriate to effectuate section 4 or the policies of the Bank Holding Company Act, the tax under chapter 1 attributable to such sale shall, at the election of the taxpayer, be payable in equal annual installments beginning with the due date (determined without extension) for the taxpayer’s return of tax under chapter 1 for the taxable year in which the sale occurred and ending with the corresponding date in 1985. If the number of installments determined under the preceding sentence is less than 10, such number shall be increased to 10 equal annual installments which begin as provided in the preceding sentence and which end on the corresponding date 10 years later. An election under this subsection shall be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe.

Regulations.

“(b) LIMITATIONS.—

“(1) TREATMENT NOT AVAILABLE TO TAXPAYER FOR BOTH BANK PROPERTY AND PROHIBITED PROPERTY.—This section shall not apply to any sale of prohibited property if the taxpayer (or a corporation having control of the taxpayer or a subsidiary of the taxpayer) has made an election under subsection (a) with respect to bank property or has made any distribution pursuant to section 1101(b). This section shall not apply to bank property if the taxpayer (or a corporation having control of the taxpayer or a subsidiary of the taxpayer) has made an election under subsection (a) with respect to prohibited property or has made any distribution pursuant to section 1101(a).

26 USC 1101.

“(2) TREATMENT NOT AVAILABLE FOR CERTAIN INSTALLMENT SALES.—No election may be made under subsection (a) with respect to a sale if the income from such sale is being returned at the time and in the manner provided in section 453 (relating to installment method).

26 USC 453.

“(c) ACCELERATION OF PAYMENTS.—If an election is made under subsection (a) and before the tax attributable to such sale is paid in full—

“(1) any installment under this section is not paid on or before the date fixed by this section for its payment, or

“(2) the Board fails to make a certification similar to the applicable certification provided in section 1101(e) within the time prescribed therein (for this purpose treating the last such sale as constituting the last distribution),

then the extension of time for payment of tax provided in this section shall cease to apply, and any portion of the tax payable in installments shall be paid on notice and demand from the Secretary or his delegate.

“(d) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under subsection (a) and a deficiency attributable to the sale has been assessed, the deficiency shall be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid on notice and demand from the Secretary or his delegate. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

“(e) BOND MAY BE REQUIRED.—If an election is made under this section, section 6165 shall apply as though the Secretary were extending the time for payment of the tax.

26 USC 6165.

“(f) DEFINITIONS.—For purposes of this section—

“(1) TERMS HAVE MEANINGS GIVEN TO THEM BY SECTION 1103.—The terms ‘qualified bank holding corporation’, ‘Bank Holding Company Act’, ‘Board’, ‘control’, and ‘subsidiary’ have the respective meanings given to such terms by section 1103.

“(2) PROHIBITED PROPERTY.—The term ‘prohibited property’ means property held by a qualified bank holding corporation which could be distributed without recognition of gain under section 1101(a)(1).

“(3) BANK PROPERTY.—The term ‘bank property’ means property held by a qualified bank holding corporation which could be distributed without recognition of gain under section 1101(b)(1).

“(g) CROSS REFERENCES.—

“(1) Security.—For authority of the Secretary or his delegate to require security in the case of an extension under this section, see section 6165.

“(2) Period of limitation.—For extension of the period of limitation in the case of an extension under this section, see section 6503(i).”

26 USC 6503. (b) **EXTENSION OF TIME FOR COLLECTION OF TAX.—**Section 6503 of such Code (relating to suspension of running of period of limitation) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

12 USC 1841 note. “(i) **EXTENSION OF TIME FOR COLLECTING TAX ATTRIBUTABLE TO DIVESTITURES PURSUANT TO BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—**The running of the period of limitations for collection of the tax attributable to a sale with respect to which the taxpayer makes an election under section 6158(a) shall be suspended for the period during which there are any unpaid installments of such tax.”

(c) **TECHNICAL AMENDMENTS.—**

(1) The table of sections for subchapter A of chapter 62 of such Code is amended by adding at the end thereof the following new item:

“Sec. 6158. Installment payment of tax attributable to divestitures pursuant to Bank Holding Company Act Amendments of 1970.”

26 USC 6151 (2) Subsection (a) of section 6151 of such Code (relating to time and place for paying tax shown on returns) is amended by striking out “section,” and inserting in lieu thereof “subchapter,”.

26 USC 6601. (3) Paragraph (2) of section 6601(b) of such Code (relating to interest) is amended—

(A) by striking out “or 6156(a)” and inserting in lieu thereof “, 6156(a), or 6158(a)”,

(B) by striking out “or 6156(b)” and inserting in lieu thereof “, 6156(b), or 6158(a)”; and

(C) by inserting at the end thereof the following new sentence:

“For purposes of subparagraph (A), section 6158(a) shall be treated as providing that the date prescribed for payment of each installment shall not be later than the date prescribed for payment of the 1985 installment.”

26 USC 1101 note. (d) **APPLICABILITY TO CERTAIN SUCCESSOR CORPORATIONS.—**If, after July 7, 1970, and before August 1, 1974—

(1) a corporation acquires substantially all of the properties of a qualified bank holding corporation (as defined in section 1103(b) of the Internal Revenue Code of 1954) in a transaction described in sections 368(a)(1)(A) and 368(a)(2)(D), and

26 USC 368. (2) the acquiring corporation (or a corporation in control of the acquiring corporation) acquires beneficial interests in shares described in section 2(g)(2) of the Bank Holding Company Act (as defined in section 1103(a)(2) of the Internal Revenue Code of 1954) in a transaction to which section 351 applies,

12 USC 1841. then, the acquiring corporation (or a corporation which is in control (within the meaning of section 2(a)(2) of such Act) of the acquiring corporation or a subsidiary (within the meaning of section 2(d) of such Act) of the corporation so in control) shall be treated

12 USC 351. as a qualified bank holding corporation for purposes of section 1103(b) and 6158 of the Internal Revenue Code of 1954 and the shares described in such section 2(g)(2) shall be considered property which is acquired by such corporation, for purposes of section 1101(c)(1)(A)(iii) of the Internal Revenue Code of 1954, after July 7, 1970.

(e) **EFFECTIVE DATES.—**

26 USC 6158 note.

(1) **IN GENERAL.**—The amendments made by this section shall take effect on October 1, 1977, with respect to sales after July 7, 1970, in taxable years ending after July 7, 1970, but only in the case of qualified bank holding corporations (within the meaning of section 1103(b) of the Internal Revenue Code of 1954, as amended by section 2(a) of this Act).

(2) **SPECIAL RULE FOR CERTIFYING SALES WHICH HAVE ALREADY TAKEN PLACE.**—For purposes of section 6158(a) of the Internal Revenue Code of 1954 (as added by subsection (a) of this section) in the case of any sale which takes place on or before the 90th day after the date of the enactment of this Act, a certification by the Federal Reserve Board described in section 6158(a) shall be treated as made before the sale if application for such certification is made before the close of the 90th day after the date of the enactment of this Act.

Ante, p. 1512.

(3) **REFUND OF TAX.**—

(A) **IN GENERAL.**—If any tax attributable to a sale which occurred before October 1, 1977, is payable in annual installments by reason of an election under section 6158(a) of the Internal Revenue Code of 1954, any portion of such tax for which the due date of the installment does not occur before October 1, 1977, shall, on application of the taxpayer, be treated as an overpayment of tax.

(B) **INTEREST ON OVERPAYMENTS.**—For purposes of section 6611(b), in the case of any overpayment attributable to subparagraph (A), the date of the overpayment shall be the day which is 6 months after the latest of the following:

- (i) the date on which application for refund or credit of such overpayment is filed,
- (ii) the due date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 of the Internal Revenue Code of 1954 for the taxable year the tax of which is being refunded or credited, or
- (iii) the date of the enactment of this Act.

(C) **EXTENSION OF PERIOD OF LIMITATIONS.**—If any refund or credit of tax attributable to the application of subparagraph (A) is prevented at any time before October 1, 1978, by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before October 1, 1978.

Approved October 2, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-879 (Comm. on Ways and Means).

SENATE REPORT No. 94-1192 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 15, considered and passed House.

Sept. 21, considered and passed Senate.

Public Law 94-453
94th Congress

An Act

Oct. 2, 1976

[H.R. 11722]

To amend title 18 of the United States Code to prohibit deprivation of employment or other benefit for political contribution, and for other purposes.

Political
contributions.
Employment
deprivation,
prohibition.
Penalty,
violation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 601 of title 18 of the United States Code is amended to read as follows:

“§ 601. Deprivation of employment or other benefit for political contribution

“(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

“(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

“(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;
if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined not more than \$10,000, or imprisoned not more than one year, or both.

Definitions.

“(b) As used in this section—

“(1) the term ‘candidate’ means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has (A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

“(2) the term ‘election’ means (A) a general, special primary, or runoff election, (B) a convention or caucus of a political party held to nominate a candidate, (C) a primary election held for the selection of delegates to a nominating convention of a political party, (D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and

“(3) the term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.”.

SEC. 2. The item relating to section 601 in the table of sections for chapter 29 of title 18 of the United States Code is amended to read as follows:

“601. Deprivation of employment or other benefit for political contribution.”.

SEC. 3. Section 600 of title 18 of the United States Code is amended by striking out “\$1,000” and inserting “\$10,000” in lieu thereof.

SEC. 4. (a) Chapter 13 of title 18 of the United States Code is amended by adding at the end the following new section:

“§ 246. Deprivation of relief benefits

18 USC 246.

“Whoever directly or indirectly deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin, shall be fined not more than \$10,000, or imprisoned not more than one year, or both.”.

(b) The table of sections for chapter 13 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

“246. Deprivation of relief benefits.”.

Approved October 2, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-986 (Comm. on the Judiciary).
SENATE REPORT No. 94-1245 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 5, considered and passed House.

Sept. 21, considered and passed Senate, amended.

Sept. 22, House concurred in Senate amendments.

Public Law 94-454
94th Congress

An Act

Oct. 2, 1976
[H.R. 13549]

To provide for additional income for the United States Soldiers' and Airmen's Home by requiring the Board of Commissioners of such home to collect a fee from the members of such home and by increasing deductions for the support of such home from the pay of enlisted men and warrant officers, and for other purposes.

United States
Soldiers' and
Airmen's Home.
Additional
income.
24 USC 44b.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Board of Commissioners of the United States Soldiers' and Airmen's Home shall collect from members of the home a fee which may be used solely for the operation of the home. The amount of the fee shall be determined by the Board of Commissioners on the basis of financial needs of the home and the ability of the members to pay, but in no case may the fee collected in any month in the case of any member exceed an amount equal to 25 per centum of the monthly—

- (1) military retired pay paid to such member;
- (2) civil service annuity paid to such member where such annuity is based in part on years of military service;
- (3) disability compensation or pension paid to such member by the Veterans' Administration; or
- (4) military retired pay and disability compensation or pension where such member is receiving both retired pay and disability compensation or pension.

Enlisted men and
warrant officers,
pay deductions.
24 USC 44c.

SEC. 2. (a) There shall be deducted each month from the pay of each enlisted man and warrant officer on the active list of the Regular Army and Regular Air Force a sum not to exceed 50 cents which shall be deposited to the credit of the permanent fund, United States Soldiers' and Airmen's Home (trust fund) in the Treasury of the United States. The sums to be deducted shall be fixed from time to time, within the limit prescribed above, by the Secretary of the Army and the Secretary of the Air Force in consultation with the Board of Commissioners of such home so as to meet the annual operating requirements of such home. Such sums may be fixed at different amounts for such enlisted men and warrant officers on the basis of grade or time in service, or both, except that the sums fixed shall be the same for both the Army and Air Force.

Repeal.

(b) The Act entitled "An Act to provide further for the maintenance of United States Soldiers' Home", approved February 13, 1936 (49 Stat. 1137; 24 U.S.C. 44a), is repealed.

Study.
24 USC 41 note.

SEC. 3. (a) The Comptroller General of the United States shall conduct a study of the operations of the United States Soldiers' and Airmen's Home with a view to determining the short- and long-term financial needs of such home, the appropriate functions of such home, and the operating efficiency of such home.

(b) The Comptroller General shall transmit the results of such study to the Committees on Armed Services of the Senate and the House of Representatives on or before August 1, 1977, together with such comments and recommendations as he deems appropriate. Report to congressional committees.

Sec. 4. The Act of August 29, 1974 (Public Law 93-397; 10 U.S.C. 8202 note), is amended by striking out "through September 30, 1976" and inserting in place thereof "through September 30, 1978".

Approved October 2, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1136 (Comm. on Armed Services).

SENATE REPORT No. 94-1238 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 18, considered and passed House.

Sept. 20, considered and passed Senate, amended.

Sept. 23, House agreed to Senate amendments.

PUBLIC LAWS

(CONTINUED)

Public Law 94-455
94th Congress

An Act

Oct. 4, 1976

[H.R. 10612]

Tax Reform
Act of 1976.

To reform the tax laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SEC. 101. SHORT TITLE.

26 USC 1 note.

This Act may be cited as the “Tax Reform Act of 1976”.

SEC. 102. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1.

TITLE II—AMENDMENTS RELATED TO TAX SHELTERS

SEC. 201. CAPITALIZATION AND AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

“SEC. 189. AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.

26 USC 189.

“(a) CAPITALIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.—Except as otherwise provided in this section or in section 266 (relating to carrying charges), in the case of an individual, an electing small business corporation (within the meaning of section 1371(b)), or a personal holding company (within the meaning of section 542), no deduction shall be allowed for real property construction period interest and taxes.

“(b) AMORTIZATION OF AMOUNTS CHARGED TO CAPITAL ACCOUNT.—Any amount paid or accrued which would (but for subsection (a)) be allowable as a deduction for the taxable year shall be allowable for such taxable year and each subsequent amortization year in accordance with the following table:

If the amount is paid or accrued in a taxable year beginning in—			The percentage of such amount allowable for each amortization year shall be the following percentage of such amount
Nonresidential real property	Residential real property (other than low-income housing)	Low-income housing	
1976	1978	1982	see subsection (f)
1977	1979	1983	25
1978	1980	1984	20
1979	1981	1985	16⅓
1980	1982	1986	14⅔
1981	1983	1987	12½
after 1981	after 1983	after 1987	11⅓
			10

“(c) AMORTIZATION YEAR.—

“(1) IN GENERAL.—For purposes of this section, the term ‘amortization year’ means the taxable year in which the amount is paid or accrued, and each taxable year thereafter (beginning with the taxable year after the taxable year in which paid or accrued or, if later, the taxable year in which the real property is ready to be placed in service or is ready to be held for sale) until the full amount has been allowable as a deduction (or until the property is sold or exchanged).

“(2) RULES FOR SALES AND EXCHANGES.—For purposes of paragraph (1)—

“(A) PROPORTION OF PERCENTAGE ALLOWED.—For the amortization year in which the property is sold or exchanged, a proportionate part of the percentage allowable for such year (determined without regard to the sale or exchange) shall be allowable. If the real property is subject to an allowance for depreciation, the proportion shall be determined in accordance with the convention used for depreciation purposes with respect to such property. In the case of all other real property, under regulations prescribed by the Secretary, the proportion shall be based on that proportion of the amortization year which elapsed before the sale or exchange.

“(B) UNAMORTIZED BALANCE.—In the case of a sale or exchange of the property, the portion of the amount not allowable shall be treated as an adjustment to basis under section 1016 for purposes of determining gain or loss.

“(C) CERTAIN EXCHANGES.—An exchange or transfer after which the property received has a basis determined in whole or in part by reference to the basis of the property to which the amortizable construction period interest and taxes relate, shall not be treated as an exchange.

“(d) CERTAIN RESIDENTIAL PROPERTY EXCLUDED.—This section shall not apply to any real property acquired, constructed, or carried if such property is not, and cannot reasonably be expected to be, held in a trade or business or in an activity conducted for profit.

“(e) DEFINITIONS.—For purposes of this section—

“(1) CONSTRUCTION PERIOD INTEREST AND TAXES.—The term ‘construction period interest and taxes’ means all—

“(A) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, and

“(B) real property taxes,

to the extent such interest and taxes are attributable to the construction period for such property and would be allowable as a deduction under this chapter for the taxable year in which paid or accrued (determined without regard to this section).

“(2) CONSTRUCTION PERIOD.—The term ‘construction period’, when used with respect to any real property, means the period—

“(A) beginning on the date on which construction of the building or other improvement begins, and

“(B) ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale.

“(3) NONRESIDENTIAL REAL PROPERTY.—The term ‘nonresidential real property’ means real property which is neither residential real property nor low-income housing.

“(4) RESIDENTIAL REAL PROPERTY.—The term ‘residential real property’ means property which is or can reasonably be expected to be—

“(A) residential rental property as defined in section 167(j)(2)(B), or

“(B) real property described in section 1221(1) held for sale as dwelling units (within the meaning of section 167(k)(3)(C)).

“(5) LOW-INCOME HOUSING.—The term ‘low-income housing’ means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).

26 USC 1016.

“(f) **TRANSITIONAL RULE FOR 1976.**—In the case of amounts paid or accrued by the taxpayer in a taxable year beginning in 1976, the percentage of such amount allowable under this section for—

“(1) the taxable year beginning in 1976 shall be 50 percent, and
“(2) each amortization year thereafter shall be 16 $\frac{2}{3}$ percent.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such part VI is amended by adding at the end thereof the following new item:

“Sec. 189. Amortization of real property construction period interest and taxes.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply— 26 USC 189
note.

(1) in the case of nonresidential real property, if the construction period begins after December 31, 1975,

(2) in the case of residential real property (other than low-income housing), to taxable years beginning after December 31, 1977, and

(3) in the case of low-income housing, to taxable years beginning after December 31, 1981.

For purposes of this subsection, the terms “nonresidential real property”, “residential real property (other than low-income housing)”, “low-income housing”, and “construction period” have the same meaning as when used in section 189 of the Internal Revenue Code of 1954 (as added by subsection (a) of this section).

Definitions.

SEC. 202. RECAPTURE OF DEPRECIATION ON REAL PROPERTY.

(a) **IN GENERAL.**—Subsection (a) of section 1250 (relating to gain from dispositions of certain depreciable realty) is amended to read as follows: 26 USC 1250.

“(a) **GENERAL RULE.**—Except as otherwise provided in this section—

“(1) **ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1975.**—

“(A) **IN GENERAL.**—If section 1250 property is disposed of after December 31, 1975, then the applicable percentage of the lower of—

“(i) that portion of the additional depreciation (as defined in subsection (b) (1) or (4)) attributable to periods after December 31, 1975, in respect of the property, or

“(ii) the excess of the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such property (in the case of any other disposition), over the adjusted basis of such property, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(B) **APPLICABLE PERCENTAGE.**—For purposes of subparagraph (A), the term ‘applicable percentage’ means—

“(i) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of State or local laws and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

“Applicable
percentage.”

26 USC 1715f,
1715z-1.

42 USC 1408.

26 USC 1250.

“(ii) in the case of dwelling units which, on the average, were held for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under the provisions of State or local law authorizing similar levels of subsidy for lower-income families, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

“(iii) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property was placed in service;

“(iv) in the case of section 1250 property with respect to which a loan is made or insured under title V of the Housing Act of 1949, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months; and

“(v) in the case of all other section 1250 property, 100 percent.

In the case of a building (or a portion of a building devoted to dwelling units), if, on the average, 85 percent or more of the dwelling units contained in such building (or portion thereof) are units described in clause (ii), such building (or portion thereof) shall be treated as property described in clause (ii). Clauses (i), (ii), and (iv) shall not apply with respect to the additional depreciation described in subsection (b) (4).

“(2) ADDITIONAL DEPRECIATION AFTER DECEMBER 31, 1969, AND BEFORE JANUARY 1, 1976.—

“(A) IN GENERAL.—If section 1250 property is disposed of after December 31, 1969, and the amount determined under paragraph (1) (A) (ii) exceeds the amount determined under paragraph (1) (A) (i), then the applicable percentage of the lower of—

“(i) that portion of the additional depreciation attributable to periods after December 31, 1969, and before January 1, 1976, in respect of the property, or

“(ii) the excess of the amount determined under paragraph (1) (A) (ii) over the amount determined under paragraph (1) (A) (i),

shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term ‘applicable percentage’ means—

“(i) in the case of section 1250 property disposed of pursuant to a written contract which was, on July 24, 1969, and at all times thereafter, binding on the owner of the property, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months;

“(ii) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d) (3) or 236 of the National Housing Act, or housing financed

or assisted by direct loan or tax abatement under similar provisions of State or local laws, and with respect to which the owner is subject to the restrictions described in section 1039(b)(1)(B), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months;

“(iii) in the case of residential rental property (as defined in section 167(j)(2)(B)) other than that covered by clauses (i) and (ii), 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

“(iv) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property was placed in service; and

“(v) in the case of all other section 1250 property, 100 percent.

Clauses (i), (ii), and (iii) shall not apply with respect to the additional depreciation described in subsection (b)(4).

“(3) ADDITIONAL DEPRECIATION BEFORE JANUARY 1, 1970.—

“(A) IN GENERAL.—If section 1250 property is disposed of after December 31, 1963, and the amount determined under paragraph (1)(A)(ii) exceeds the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i), then the applicable percentage of the lower of—

“(i) that portion of the additional depreciation attributable to periods before January 1, 1970, in respect of the property, or

“(ii) the excess of the amount determined under paragraph (1)(A)(ii) over the sum of the amounts determined under paragraphs (1)(A)(i) and (2)(A)(i), shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term ‘applicable percentage’ means 100 percent minus 1 percentage point for each full month the property was held after the date on which the property was held for 20 full months.”

“Applicable percentage.”

(b) PROPERTY DISPOSED OF PURSUANT TO FORECLOSURE PROCEEDINGS.—Subsection (d) of section 1250 (relating to exceptions and limitations) is amended by adding at the end thereof the following new paragraph:

26 USC 1250.

“(10) FORECLOSURE DISPOSITIONS.—If any section 1250 property is disposed of by the taxpayer pursuant to a bid for such property at foreclosure or by operation of an agreement or of process of law after there was a default on indebtedness which such property secured, the applicable percentage referred to in paragraph (1)(B), (2)(B), or (3)(B) of subsection (a), as the case may be, shall be determined as if the taxpayer ceased to hold such property on the date of the beginning of the proceedings pursuant to which the disposition occurred, or, in the event there are no proceedings, such percentage shall be determined as if the taxpayer ceased to hold such property on the date, determined under regulations prescribed by the Secretary, on which

such operation of an agreement or process of law, pursuant to which the disposition occurred, began.”

(c) CONFORMING AMENDMENTS.—

26 USC 1250.

(1) AMENDMENT OF SECTION 1250(f)(2).—Paragraph (2) of section 1250(f) (relating to special rule for property which is substantially improved) is amended to read as follows:

“(2) ORDINARY INCOME ATTRIBUTABLE TO AN ELEMENT.—For purposes of paragraph (1), the amount taken into account for any element shall be the sum of a series of amounts determined for the periods set forth in subsection (a), with the amount for any such period being determined by multiplying—

“(A) the amount which bears the same ratio to the lower of the amounts specified in clause (i) or (ii) of subsection (a)(1)(A), in clause (i) or (ii) of subsection (a)(2)(A), or in clause (i) or (ii) of subsection (a)(3)(A), as the case may be, for the section 1250 property as the additional depreciation for such element attributable to such period bears to the sum of the additional depreciation for all elements attributable to such period, by

“(B) the applicable percentage for such element for such period.

For purposes of this paragraph, determinations with respect to any element shall be made as if it were a separate property.”

(2) AMENDMENT OF SECTION 1250(g)(2).—Paragraph (2) of section 1250(g) (relating to special rules for qualified low-income housing) is amended to read as follows:

“(2) ORDINARY INCOME ATTRIBUTABLE TO AN ELEMENT.—For purposes of paragraph (1), the amount taken into account for any element shall be determined in a manner similar to that provided by subsection (f)(2).”

26 USC 167.

(3) AMENDMENT OF SECTION 167(e)(3).—Paragraph (3) of section 167(e) (relating to change in depreciation method with respect to section 1250 property) is amended by striking out “beginning after July 24, 1969,” and inserting in lieu thereof “beginning after December 31, 1975.”

26 USC 1250
note.

(d) EFFECTIVE DATE.—The amendments made by this section (other than subsection (b)) shall apply for taxable years ending after December 31, 1975. The amendment made by subsection (b) shall apply with respect to proceedings (and to operations of law) referred to in section 1250(d)(10) of the Internal Revenue Code of 1954 which begin after December 31, 1975.

SEC. 203. AMENDMENT OF SECTION 167(k).

26 USC 167.

(a) GENERAL RULE.—Section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended—

(1) by striking out “January 1, 1976,” in paragraph (1) and inserting in lieu thereof “January 1, 1978”;

(2) by striking out “\$15,000” in paragraph (2)(A) and inserting in lieu thereof “\$20,000”;

(3) by striking out “the policies of the Housing and Urban Development Act of 1968” in paragraph (3)(B) and inserting in lieu thereof “the Leased Housing Program under section 8 of the United States Housing Act of 1937”; and

(4) by adding the following new subparagraph at the end of paragraph (3):

“(D) REHABILITATION EXPENDITURES INCURRED.—Rehabilitation expenditures incurred pursuant to a binding con-

tract entered into before January 1, 1978, and rehabilitation expenditures incurred with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1978, shall be deemed incurred before January 1, 1978."

(b) **EFFECTIVE DATE.**—The amendments made by paragraphs (1), (3), and (4) of subsection (a) shall apply to expenditures paid or incurred after December 31, 1975, and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978. The amendment made by paragraph (2) of subsection (a) shall apply to expenditures incurred after December 31, 1975.

26 USC 167
note.

SEC. 204. LIMITATIONS ON DEDUCTIONS FOR EXPENSES.

(a) **IN GENERAL.**—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction is taken) is amended by adding at the end thereof the following new section:

"SEC. 465. DEDUCTIONS LIMITED TO AMOUNT AT RISK IN CASE OF CERTAIN ACTIVITIES.

26 USC 465.

"(a) **GENERAL RULE.**—In the case of a taxpayer (other than a corporation which is neither an electing small business corporation (as defined in section 1371(b)) nor a personal holding company (as defined in section 542)) engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subsection (b)) for such activity at the close of the taxable year. Any loss from such activity not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year.

"(b) **AMOUNTS CONSIDERED AT RISK.**—

"(1) **IN GENERAL.**—For purposes of this section, a taxpayer shall be considered at risk for an activity with respect to amounts including—

"(A) the amount of money and the adjusted basis of other property contributed by the taxpayer to the activity, and

"(B) amounts borrowed with respect to such activity (as determined under paragraph (2)).

"(2) **BORROWED AMOUNTS.**—For purposes of this section, a taxpayer shall be considered at risk with respect to amounts borrowed for use in an activity to the extent that he—

"(A) is personally liable for the repayment of such amounts, or

"(B) has pledged property, other than property used in such activity, as security for such borrowed amount (to the extent of the net fair market value of the taxpayer's interest in such property).

No property shall be taken into account as security if such property is directly or indirectly financed by indebtedness which is secured by property described in paragraph (1).

"(3) **CERTAIN BORROWED AMOUNTS EXCLUDED.**—For purposes of paragraph (1)(B), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who—

"(A) has an interest (other than an interest as a creditor) in such activity, or

"(B) has a relationship to the taxpayer specified within any one of the paragraphs of section 267(b).

“(4) EXCEPTION.—Notwithstanding any other provision of this section, a taxpayer shall not be considered at risk with respect to amounts protected against loss through nonrecourse financing, guarantees, stop loss agreements, or other similar arrangements.

“(5) AMOUNTS AT RISK IN SUBSEQUENT YEARS.—If in any taxable year the taxpayer has a loss from an activity to which this section applies, the amount with respect to which a taxpayer is considered to be at risk (within the meaning of subsection (b)) in subsequent taxable years with respect to that activity shall be reduced by that portion of the loss which (after the application of subsection (a)) is allowable as a deduction.

“(c) ACTIVITIES TO WHICH SECTION APPLIES.—

“(1) TYPES OF ACTIVITIES.—This section applies to any taxpayer engaged in the activity of—

“(A) holding, producing, or distributing motion picture films or video tapes,

“(B) farming (as defined in section 464(e)),

“(C) leasing any section 1245 property (as defined in section 1245(a)(3)), or

“(D) exploring for, or exploiting, oil and gas resources as a trade or business or for the production of income.

“(2) SEPARATE ACTIVITIES.—For purposes of this section, a taxpayer's activity with respect to each—

“(A) film or video tape,

“(B) section 1245 property which is leased or held for leasing,

“(C) farm, or

“(D) oil and gas property (as defined under section 614), shall be treated as a separate activity. A partner's interest in a partnership or a shareholder's interest in an electing small business corporation shall be treated as a single activity to the extent that the partnership or an electing small business corporation is engaged in activities described in any subparagraph of this paragraph.

“(d) DEFINITION OF LOSS.—For purposes of this section, the term ‘loss’ means the excess of the deductions allowable under this chapter for the taxable year (determined without regard to this section) and allocable to an activity to which this section applies over the income received or accrued by the taxpayer during the taxable year from such activity.”

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 465. Deductions limited to amount at risk in case of certain activities.”

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1975. For purposes of this subsection, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred in such period.

(2) SPECIAL TRANSITIONAL RULES FOR MOVIES AND VIDEO TAPES.—

(A) IN GENERAL.—In the case of any activity described in section 465(c)(1)(A) of the Internal Revenue Code of

Post, p. 1536.
26 USC 1245.

26 USC 465
note.

1954, the amendments made by this section shall not apply *Ante*, p. 1531.
to—

(i) deductions for depreciation or amortization with respect to property the principal production of which began before September 11, 1975, and for the purchase of which there was on September 11, 1975, and at all times thereafter a binding contract, and

(ii) deductions attributable to producing or distributing property the principal production of which began before September 11, 1975.

(B) EXCEPTION FOR CERTAIN AGREEMENTS WHERE PRINCIPAL PHOTOGRAPHY BEGIN BEFORE 1976.—In the case of any activity described in section 465(c)(1)(A) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1975, if—

(i) on September 10, 1975, there was an agreement with the director or a principal motion picture star, or on or before September 10, 1975, there had been expended (or committed to the production) an amount not less than the lower of \$100,000 or 10 percent of the estimated costs of producing the film, and

(ii) the production takes place in the United States.
Subparagraph (A) shall apply only to taxpayers who held their interests on September 10, 1975. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1975.

(3) SPECIAL TRANSITIONAL RULES FOR LEASING ACTIVITIES.—

(A) RULE FOR LEASES OTHER THAN OPERATING LEASES.—In the case of any activity described in section 465(c)(1)(B) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply with respect to—

(i) leases entered into before January 1, 1976, and

(ii) leases where the property was ordered by the lessor or lessee before January 1, 1976.

(B) HOLDING OF INTERESTS FOR PURPOSES OF SUBPARAGRAPH (A).—Subparagraph (A) shall apply only to taxpayers who held their interests in the property on December 31, 1975.

(C) SPECIAL RULE FOR OPERATING LEASES.—In the case of a lease described in section 46(e)(3)(B) of the Internal Revenue Code of 1954—

(i) subparagraph (A) shall be applied by substituting “May 1, 1976” for “January 1, 1976” each place it appears therein, and

(ii) subparagraph (B) shall be applied by substituting “April 30, 1976” for “December 31, 1975”.

SEC. 205. GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY.

(a) RECAPTURE RULES.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

“SEC. 1254. GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY. 26 USC 1254.

“(a) GENERAL RULE.—

“(1) ORDINARY INCOME.—If oil or gas property is disposed of after December 31, 1975, the lower of—

26 USC 263.

“(A) the aggregate amount of expenditures after December 31, 1975, which are allocable to such property and which have been deducted as intangible drilling and development costs under section 263(c) by the taxpayer or any other person and which (but for being so deducted) would be reflected in the adjusted basis of such property, adjusted as provided in paragraph (4), or

“(B) the excess of—

“(i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of the interest (in the case of any other disposition), over

“(ii) the adjusted basis of such interest, shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

“(2) DISPOSITION OF PORTION OF PROPERTY.—For purposes of paragraph (1)—

“(A) In the case of the disposition of a portion of an oil or gas property (other than an undivided interest), the entire amount of the aggregate expenditures described in paragraph (1)(A) with respect to such property shall be treated as allocable to such portion to the extent of the amount of the gain to which paragraph (1) applies.

“(B) In the case of the disposition of an undivided interest in an oil or gas property (or a portion thereof), a proportionate part of the expenditures described in paragraph (1)(A) with respect to such property shall be treated as allocable to such undivided interest to the extent of the amount of the gain to which paragraph (1) applies.

This paragraph shall not apply to any expenditures to the extent the taxpayer establishes to the satisfaction of the Secretary that such expenditures do not relate to the portion (or interest therein) disposed of.

“Oil or gas property.”

“(3) OIL OR GAS PROPERTY.—The term ‘oil or gas property’ means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable.

“(4) SPECIAL RULE FOR PARAGRAPH (1)(A).—In applying paragraph (1)(A), the amount deducted for intangible drilling and development costs and allocable to the interest disposed of shall be reduced by the amount (if any) by which the deduction for depletion under section 611 with respect to such interest would have been increased if such costs incurred (after December 31, 1975) had been charged to capital account rather than deducted.

“(b) SPECIAL RULES UNDER REGULATIONS.—Under regulations prescribed by the Secretary—

“(1) rules similar to the rules of subsection (g) of section 617 and to the rules of subsections (b) and (c) of section 1245 shall be applied for purposes of this section; and

“(2) in the case of the sale or exchange of stock in an electing small business corporation (as defined in section 1371 (b)), rules similar to the rules of section 751 shall be applied to that portion of the excess of the amount realized over the adjusted basis of the stock which is attributable to expenditures referred to in subsection (a) (1)(A) of this section.”

(b) **PARTNERSHIPS.**—Section 751(c) (relating to definition of unrealized receivables) is amended by striking out “and farm land (as defined in section 1252(a))” and inserting in lieu thereof “farm land (as defined in section 1252(a)), and an oil or gas property (described in section 1254)”, and by striking out “or 1252(a)” and inserting in lieu thereof “1252(a), or 1254(a)”. 26 USC 751.

(c) **TECHNICAL AMENDMENTS.**—

(1) The following provisions are each amended by striking out “or 1252(a)” and inserting in lieu thereof “1252(a), or 1254(a)” —

- (A) the second sentence of section 170(e) (1); 26 USC 170.
- (B) section 301(b) (1) (B) (ii); 26 USC 301.
- (C) section 301(d) (2) (B);
- (D) section 312(c) (3); and 26 USC 312.
- (E) section 453(d) (4) (B). 26 USC 453.

(2) Section 341(e) (12) is amended by striking out “and 1252(a)” and inserting in lieu thereof “1252(a), and 1254(a)”. 26 USC 341.

(3) Section 163(d) (3) (A) (iii) is amended by striking out “and 1250” and inserting in lieu thereof “1250, and 1254”. 26 USC 163.

(d) **CLERICAL AMENDMENT.**—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 1254. Gain from disposition of interest in oil or gas property.”

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1975. 26 USC 1254 note.

SEC. 206. AMENDMENTS TO FARM LOSS RECAPTURE RULES.

(a) **TERMINATION OF ADDITIONS TO EXCESS DEDUCTIONS ACCOUNT.**—Paragraph (2) of section 1251(b) (relating to additions to excess deductions account) is amended by adding at the end thereof the following new subparagraph: 26 USC 1251.

“(E) **TERMINATION OF ADDITIONS.**—No amount shall be added to the excess deductions account for any taxable year beginning after December 31, 1975.”

(b) **CERTAIN REORGANIZATIONS.**—

(1) Subparagraph (A) of section 1251(b) (5) is amended to read as follows:

“(A) **CERTAIN CORPORATE TRANSACTIONS.**—

“(i) In the case of a transfer described in subsection (d) (3) to which section 371(a), 374(a), or 381 applies, the acquiring corporation shall succeed to and take into account as of the close of the day of distribution or transfer, the excess deductions account of the transferor.

“(ii) In the case of a transfer which is described in subsection (d) (3), which is in connection with a reorganization described in section 368(a) (1) (D), and which is not described in clause (i), the transferee corporation shall be deemed to have an excess deductions account in an amount equal to the amount in the excess deductions account of the transferor. The transferor’s excess deductions account shall not be reduced by reason of the preceding sentence.”

(2) Paragraph (3) of section 1251(b) is amended by adding at the end thereof the following:

“In the case of a corporation which has made or received a transfer described in clause (ii) of paragraph (5) (A), subtractions from the excess deductions account shall be determined, in such

manner as the Secretary shall prescribe, applying this paragraph to the farm net income, and the amounts described in subparagraph (B), of the transferor corporation and the transferee corporation on an aggregate basis.”

26 USC 1251
note.

(3) The amendments made by this subsection shall apply to transfers occurring after December 31, 1975.

SEC. 207. LIMITATIONS ON DEDUCTIONS IN CASE OF FARMING SYNDICATES; CAPITALIZATION OF CERTAIN ORCHARD AND VINEYARD EXPENSES; AND METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING.

(a) PREPAID EXPENSES.—

(1) **IN GENERAL.**—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken) is amended by inserting after section 463 the following new section:

26 USC 464.

“SEC. 464. LIMITATIONS ON DEDUCTIONS IN CASE OF FARMING SYNDICATES.

“(a) **GENERAL RULE.**—In the case of any farming syndicate (as defined in subsection (c)), a deduction (otherwise allowable under this chapter) for amounts paid for feed, seed, fertilizer, or other similar farm supplies shall only be allowed for the taxable year in which such feed, seed, fertilizer, or other supplies are actually used or consumed, or, if later, for the taxable year for which allowable as a deduction (determined without regard to this section).

“(b) **CERTAIN POULTRY EXPENSES.**—In the case of any farming syndicate (as defined in subsection (c))—

“(1) the cost of poultry (including egg-laying hens and baby chicks) purchased for use in a trade or business (or both for use in a trade or business and for sale) shall be capitalized and deducted ratably over the lesser of 12 months or their useful life in the trade or business, and

“(2) the cost of poultry purchased for sale shall be deducted for the taxable year in which the poultry is sold or otherwise disposed of.

“(c) FARMING SYNDICATE DEFINED.—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘farming syndicate’ means—

“(A) a partnership or any other enterprise other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) engaged in the trade or business of farming, if at any time interests in such partnership or enterprise have been offered for sale in any offering required to be registered with any Federal or State agency having authority to regulate the offering of securities for sale, or

“(B) a partnership or any other enterprise other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) engaged in the trade or business of farming, if more than 35 percent of the losses during any period are allocable to limited partners or limited entrepreneurs.

“(2) **HOLDINGS ATTRIBUTABLE TO ACTIVE MANAGEMENT.**—For purposes of paragraph (1) (B), the following shall be treated as an interest which is not held by a limited partner or a limited entrepreneur:

“(A) in the case of any individual who has actively participated (for a period of not less than 5 years) in the man-

agement of any trade or business of farming, any interest in a partnership or other enterprise which is attributable to such active participation,

“(B) in the case of any individual whose principal residence is on a farm, any partnership or other enterprise engaged in the trade or business of farming such farm,

“(C) in the case of any individual who is actively participating in the management of any trade or business of farming or who is an individual who is described in subparagraph (A) or (B), any participation in the further processing of livestock which was raised in such trade or business (or in the trade or business referred to in subparagraph (A) or (B)),

“(D) in the case of an individual whose principal business activity involves active participation in the management of a trade or business of farming, any interest in any other trade or business of farming, and”;

“(E) any interest held by a member of the family (within the meaning of section 267(c)(4)) of a grandparent of an individual described in subparagraph (A), (B), (C), or (D) if the interest in the partnership or the enterprise is attributable to the active participation of the individual described in subparagraph (A), (B), (C), or (D).

26 USC 267.

For purposes of subparagraph (A), where one farm is substituted for or added to another farm, both farms shall be treated as one farm.

“(d) EXCEPTIONS.—Subsection (a) shall not apply to—

“(1) any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought, or

“(2) any amount required to be charged to capital account under section 278.

“(e) DEFINITIONS.—For purposes of this section—

“(1) FARMING.—The term ‘farming’ means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees (other than trees bearing fruit or nuts) shall not be treated as an agricultural or horticultural commodity.

“(2) LIMITED ENTREPRENEUR.—The term ‘limited entrepreneur’ means a person who—

“(A) has an interest in an enterprise other than as a limited partner, and

“(B) does not actively participate in the management of such enterprise.”

(2) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by inserting after the item relating to section 463 the following new item:

“Sec. 464. Limitations on deductions in case of farming syndicates.”

(3) EFFECTIVE DATES.—

26 USC 464
note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—In the case of a farming syndicate in existence on December 31, 1975, and for which there

was no change of membership throughout its taxable year beginning in 1976, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(b) ORCHARD AND VINEYARD EXPENSES.—

26 USC 278.

(1) IN GENERAL.—Section 278 (relating to capital expenditures incurred in planting and developing citrus and almond groves) is amended by striking out subsection (b) and by inserting in lieu thereof the following:

“(b) FARMING SYNDICATES.—Except as provided in subsection (c), in the case of any farming syndicate (as defined in section 464(c)) engaged in planting, cultivating, maintaining, or developing a grove, orchard, or vineyard in which fruit or nuts are grown, any amount—

“(1) which would be allowable as a deduction but for the provisions of this subsection,

“(2) which is attributable to the planting, cultivation, maintenance, or development of such grove, orchard, or vineyard, and

“(3) which is incurred in a taxable year before the first taxable year in which such grove, orchard, or vineyard bears a crop or yield in commercial quantities,

shall be charged to capital account.

“(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply to amounts allowable as deductions (without regard to this section) attributable to a grove, orchard, or vineyard which was replanted after having been lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty.”

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 278 is amended to read as follows:

“SEC. 278. CAPITAL EXPENDITURES INCURRED IN PLANTING AND DEVELOPING CITRUS AND ALMOND GROVES; CERTAIN CAPITAL EXPENDITURES OF FARMING SYNDICATES.”

(B) Subsection (a) of section 278 (relating to general rule) is amended by striking out “subsection (b)” and inserting in lieu thereof “subsection (c)”.

26 USC 278
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1975. The amendments made by this subsection shall not apply in the case of a grove, orchard, or vineyard referred to in the amendment made by subsection (b)(1) which was planted or replanted on or before December 31, 1975. For purposes of the preceding sentence, a tree or vine which, on or before December 31, 1975, was planted at a place other than the grove, orchard, or vineyard of the taxpayer but which, on such date, was owned by the taxpayer (or with respect to which the taxpayer had a binding contract to purchase) shall be treated as planted on December 31, 1975, in the grove, orchard, or vineyard of the taxpayer.

(c) METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING.—

(1) GENERAL RULE.—

(A) Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

26 USC 447.

“SEC. 447. METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING.

“(a) GENERAL RULE.—Except as otherwise provided by law, the taxable income from farming of—

“(1) a corporation engaged in the trade or business of farming, or

“(2) a partnership engaged in the trade or business of farming, if a corporation is a partner in such partnership, shall be computed on an accrual method of accounting and with the capitalization of preproductive expenses described in subsection (b). This section shall not apply to the trade or business of operating a nursery or to the raising or harvesting of trees (other than fruit and nut trees).

“(b) PREPRODUCTIVE PERIOD EXPENSES.—

“(1) IN GENERAL.—For purposes of this section, the term ‘preproductive period expenses’ means any amount which is attributable to crops, animals, or any other property having a crop or yield during the preproductive period of such property.

“Preproductive period expenses.”

“(2) EXCEPTIONS.—Paragraph (1) shall not apply—

“(A) to taxes and interest, and

“(B) to any amount incurred on account of fire, storm, flood, or other casualty or on account of disease or drought.

“(3) PREPRODUCTIVE PERIOD DEFINED.—For purposes of this subsection, the term ‘preproductive period’ means—

“(A) in the case of property having a useful life of more than 1 year which will have more than 1 crop or yield, the period before the disposition of the first such marketable crop or yield, or

“(B) in the case of any other property, the period before such property is disposed of.

For purposes of this section, the use by the taxpayer in the trade or business of farming of any supply produced in such trade or business shall be treated as a disposition.

“(c) EXCEPTION FOR SMALL BUSINESS AND FAMILY CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

“(1) an electing small business corporation (within the meaning of section 1371(b)),

26 USC 1371.

“(2) a corporation of which at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of the corporation, are owned by members of the same family, or

“(3) a corporation the gross receipts of which meet the requirements of subsection (e).

“(d) MEMBERS OF THE SAME FAMILY.—For purposes of subsection (c) (2)—

“(1) the members of the same family are an individual, such individual’s brothers and sisters, the brothers and sisters of such individual’s parents and grandparents, the ancestors and lineal descendants or any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing,

“(2) stock owned, directly or indirectly, by or for a partnership or trust shall be treated as owned proportionately by its partners or beneficiaries, and

“(3) if 50 percent or more in value of the stock in a corporation (hereinafter in this paragraph referred to as ‘first corporation’) is owned, directly or through paragraph (2), by or for members of the same family, such members shall be considered as owning each class of stock in a second corporation (or a wholly owned

subsidiary of such second corporation) owned, directly or indirectly, by or for the first corporation, in that proportion which the value of the stock in the first corporation which such members so own bears to the value of all the stock in the first corporation. For purposes of paragraph (1), individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

26 USC 1563.

“(e) CORPORATIONS HAVING GROSS RECEIPTS OF \$1,000,000 OR LESS.—A corporation meets the requirements of this subsection if, for each prior taxable year beginning after December 31, 1975, such corporation (and any predecessor corporation) did not have gross receipts exceeding \$1,000,000. For purposes of the preceding sentence, all corporations which are members of a controlled group of corporations (within the meaning of section 1563(a)) shall be treated as one corporation.

“(f) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

“(1) such change shall be treated as having been made with the consent of the Secretary,

“(2) for purposes of section 481(a)(2), such change shall be treated as a change not initiated by the taxpayer, and

“(3) under regulations prescribed by the Secretary, the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

“(g) CERTAIN ANNUAL ACCRUAL ACCOUNTING METHODS.—

“(1) IN GENERAL.—If—

“(A) for its 10 taxable years ending with its first taxable year beginning after December 31, 1975, a corporation used an annual accrual method of accounting with respect to its trade or business of farming,

“(B) such corporation raises crops which are harvested not less than 12 months after planting, and

“(C) such corporation has used such method of accounting for all taxable years intervening between its first taxable year beginning after December 31, 1975, and the taxable year, such corporation may continue to employ such method of accounting for the taxable year with respect to its trade or business of farming.

“(2) ANNUAL ACCRUAL METHOD OF ACCOUNTING DEFINED.—For purposes of paragraph (1), the term ‘annual accrual method of accounting’ means a method under which revenues, costs, and expenses are computed on an accrual method of accounting and the preproductive expenses incurred during the taxable year are charged to harvested crops or deducted in determining the taxable income for such years.

“(3) CERTAIN REORGANIZATIONS.—For purposes of this subsection, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its taxable income on an annual accrual method of accounting during the period for which the transferor corporation computed its taxable income from such trade or business on an annual accrual method.”

(B) The table of sections for such subpart A is amended by adding at the end thereof the following:

"Sec. 447. Method of accounting for corporations engaged in farming."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1976. 26 USC 447 note.

(3) ELECTION TO CHANGE FROM STATIC VALUE METHOD TO ACCRUAL METHOD OF ACCOUNTING.— 26 USC 447 note.

(A) IN GENERAL.—If—

(i) a corporation has computed its taxable income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops for the 10 taxable years ending with its first taxable year beginning after December 31, 1975,

(ii) such corporation raises crops which are harvested not less than 12 months after planting, and

(iii) such corporation elects, within one year after the date of the enactment of this Act and in such manner as the Secretary of the Treasury or his delegate prescribes, to change to the annual accrual method of accounting (within the meaning of section 447(g)(2) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1976,

Ante, p. 1538.

such change shall be treated as having been made with the consent of the Secretary of the Treasury, and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of the Internal Revenue Code of 1954 to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

(B) COORDINATION WITH SECTION 447 OF THE CODE.—A corporation which elects under subparagraph (A) to change to the annual accrual method of accounting shall, for purposes of section 447(g) of the Internal Revenue Code of 1954, be deemed to be a corporation which has computed its taxable income on an annual accrual method of accounting for its 10 taxable years ending with its first taxable year beginning after December 31, 1975.

(C) CERTAIN CORPORATE REORGANIZATIONS.—For purposes of this paragraph, if a corporation acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which no gain or loss was recognized to the transferor or transferee corporation, the transferee corporation shall be deemed to have computed its taxable income on an annual accrual method of accounting together with a static value method of accounting for deferred costs of growing crops during the period for which the transferor corporation computed its taxable income from such trade or business on such accrual and static value method.

SEC. 208. TREATMENT OF PREPAID INTEREST.

(a) GENERAL RULE.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsection: 26 USC 461.

“(g) **PREPAID INTEREST.**—

“(1) **IN GENERAL.**—If the taxable income of the taxpayer is computed under the cash receipts and disbursements method of accounting, interest paid by the taxpayer which, under regulations prescribed by the Secretary, is properly allocable to any period—

“(A) with respect to which the interest represents a charge for the use or forbearance of money, and

“(B) which is after the close of the taxable year in which paid,
shall be charged to capital account and shall be treated as paid in the period to which so allocable.

“(2) **EXCEPTION.**—This subsection shall not apply to points paid in respect of any indebtedness incurred in connection with the purchase or improvement of, and secured by, the principal residence of the taxpayer to the extent that, under regulations prescribed by the Secretary, such payment of points is an established business practice in the area in which such indebtedness is incurred, and the amount of such payment does not exceed the amount generally charged in such area.”

26 USC 461
note.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts paid after December 31, 1975, in taxable years ending after such date.

(2) **CERTAIN AMOUNTS PAID BEFORE 1977.**—The amendment made by subsection (a) shall not apply to amounts paid before January 1, 1977, pursuant to a binding contract or written loan commitment which existed on September 16, 1975 (and at all times thereafter), and which required prepayment of such amounts by the taxpayer.

SEC. 209. LIMITATION ON INTEREST DEDUCTION.

26 USC 163.

(a) **IN GENERAL.**—Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended—

(1) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

“(1) **IN GENERAL.**—In the case of a taxpayer other than a corporation, the amount of investment interest (as defined in paragraph (3)(D)) otherwise allowable as a deduction under this chapter shall be limited, in the following order, to—

“(A) \$10,000 (\$5,000, in the case of a separate return by a married individual), plus

“(B) the amount of the net investment income (as defined in paragraph (3)(A)), plus the amount (if any) by which the deductions allowable under this section (determined without regard to this subsection) and sections 162, 164(a) (1) or (2), or 212 attributable to property of the taxpayer subject to a net lease exceeds the rental income produced by such property for the taxable year.

In the case of a trust, the \$10,000 amount specified in subparagraph (A) shall be zero.

“(2) **CARRYOVER OF DISALLOWED INVESTMENT INTEREST.**—The amount of disallowed investment interest for any taxable year shall be treated as investment interest paid or accrued in the succeeding taxable year.”;

(2) by adding at the end of paragraph (3)(A) the following new sentence: “If the taxpayer has investment interest for the

taxable year to which this subsection (as in effect before the Tax Reform Act of 1976) applies, the amount of the net investment income taken into account under this subsection shall be the amount of such income (determined without regard to this sentence) multiplied by a fraction the numerator of which is the excess of the investment interest for the taxable year over the investment interest to which such prior provision applies, and the denominator of which is the investment interest for the taxable year.”;

Ante, p. 1520.

(3) by striking out “limitations in paragraphs (1) and (2) (A)” in paragraph (3) (E) and inserting in lieu thereof “limitation in paragraph (1)”;

(4) by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(5) by adding at the end of paragraph (5) (as so redesignated) the following:

“For taxable years beginning after December 31, 1975, this paragraph shall be applied on an allocation basis rather than a specific item basis.”; and

(6) by adding at the end thereof the following new paragraph:

“(7) SPECIAL RULE WHERE TAXPAYER OWNS 50 PERCENT OR MORE OF ENTERPRISE.—

“(A) GENERAL RULE.—In the case of any 50 percent owned corporation or partnership, the \$10,000 figure specified in paragraph (1) shall be increased by the lesser of—

“(i) \$15,000, or

“(ii) the interest paid or accrued during the taxable year on investment indebtedness incurred or continued in connection with the acquisition of the interest in such corporation or partnership.

In the case of a separate return by a married individual, \$7,500 shall be substituted for the \$15,000 figure in clause (1).

“(B) OWNERSHIP REQUIREMENTS.—This paragraph shall apply with respect to indebtedness only if the taxpayer, his spouse, and his children own 50 percent or more of the total value of all classes of stock of the corporation or 50 percent or more of all capital interests in the partnership, as the case may be.”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

(2) INDEBTEDNESS INCURRED BEFORE SEPTEMBER 11, 1975.—In the case of indebtedness attributable to a specific item of property which—

(A) is for a specified term, and

(B) was incurred before September 11, 1975, or is incurred after September 10, 1975, pursuant to a written contract or commitment which on September 11, 1975, and at all times thereafter before the incurring of such indebtedness, is binding on the taxpayer,

the amendments made by this section shall not apply, but section 163(d) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) shall apply. For purposes of the preceding sentence, so much of the net investment income (as defined in section 163(d) (3) (A) of such Code) for any taxable year as

26 USC 163
note.

Ante, p. 1542.

is not taken into account under section 163(d) of such Code, as amended by this Act, by reason of the last sentence of section 163(d)(3)(A) of such Code, shall be taken into account for purposes of applying such section as in effect before the date of enactment of this Act with respect to interest on indebtedness referred to in the preceding sentence.

SEC. 210. AMORTIZATION OF PRODUCTION COST OF MOTION PICTURES, BOOKS, RECORDS, AND OTHER SIMILAR PROPERTY.

(a) **IN GENERAL.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

26 USC 280.

“SEC. 280. CERTAIN EXPENDITURES INCURRED IN PRODUCTION OF FILMS, BOOKS, RECORDS, OR SIMILAR PROPERTY.

“(a) **GENERAL RULE.**—Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371 (b)) or a personal holding company (as defined in section 542)) and except in the case of production costs which are charged to capital account, amounts attributable to the production of a film, sound recording, book, or similar property which are otherwise deductible under this chapter shall be allowed as deductions only in accordance with the provisions of subsection (b).

“(b) **PRORATION OF PRODUCTION COST OVER INCOME PERIOD.**—Amounts referred to in subsection (a) are deductible only for those taxable years ending during the period during which the taxpayer reasonably may be expected to receive substantially all of the income he will receive from any such film, sound recording, book, or similar property. The amount deductible for any such taxable year is an amount which bears the same ratio to the sum of all such amounts (attributable to such film, sound recording, book, or similar property) as the income received from the property for that taxable year bears to the sum of the income the taxpayer may reasonably be expected to receive during such period.

“(c) **DEFINITIONS.**—For purposes of this section—

“(1) **FILM.**—The term ‘film’ means any motion picture film or video tape.

“(2) **SOUND RECORDING.**—The term ‘sound recording’ means works that result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material objects, such as discs, tapes, or other phonorecordings, in which such sounds are embodied.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such part is amended by adding at the end thereof the following new item:

“Sec. 280. Certain expenditures incurred in production of films, books, records, or similar property.”

26 USC 280
note.

(c) **EFFECTIVE DATE.**—The amendment made by this section applies to amounts paid or incurred after December 31, 1975, with respect to property the principal production of which begins after December 31, 1975.

SEC. 211. CLARIFICATION OF DEFINITION OF PRODUCED FILM RENTS.

26 USC 543.

(a) **IN GENERAL.**—Subparagraph (B) of paragraph (5) of section 543(a) (defining produced film rents for purposes of personal holding company income) is amended by adding at the end thereof the following new sentence: “In the case of a producer who actively participates in the production of the film, such term includes an interest in the

proceeds or profits from the film, but only to the extent such interest is attributable to such active participation.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years ending on or after December 31, 1975.

26 USC 543
note.

SEC. 212. BASIS LIMITATION FOR AND RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS.

(a) **BASIS LIMITATIONS.**—

(1) **IN GENERAL.**—Part IV of subchapter O of chapter 1 (relating to special rules applicable to gain or loss on disposition of property) is amended by redesignating section 1056 as section 1057, and by inserting after section 1055 the following new section:

26 USC 1051.

“SEC. 1056. BASIS LIMITATION FOR PLAYER CONTRACTS TRANSFERRED IN CONNECTION WITH THE SALE OF A FRANCHISE.

26 USC 1056.

“(a) **GENERAL RULE.**—If a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of a contract for the services of an athlete, the basis of such contract in the hands of the transferee shall not exceed the sum of—

“(1) the adjusted basis of such contract in the hands of the transferor immediately before the transfer, plus

“(2) the gain (if any) recognized by the transferor on the transfer of such contract.

For purposes of this section, gain realized by the transferor on the transfer of such contract, but not recognized by reason of section 337(a), shall be treated as recognized to the extent recognized by the transferor’s shareholders.

Post, p. 1772.

“(b) **EXCEPTIONS.**—Subsection (a) shall not apply—

“(1) to an exchange described in section 1031 (relating to exchange of property held for productive use or investment), and

“(2) to property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent (within the meaning of section 1014(a)).

“(c) **TRANSFEROR REQUIRED TO FURNISH CERTAIN INFORMATION.**—

Under regulations prescribed by the Secretary, the transfer shall, at the times and in the manner provided in such regulations, furnish to the Secretary and to the transferee the following information:

“(1) the amount which the transferor believes to be the adjusted basis referred to in paragraph (1) of subsection (a),

“(2) the amount which the transferor believes to be the gain referred to in paragraph (2) of subsection (a), and

“(3) any subsequent modification of either such amount.

To the extent provided in such regulations, the amounts furnished pursuant to the preceding sentence shall be binding on the transferor and on the transferee.

“(d) **PRESUMPTION AS TO AMOUNT ALLOCABLE TO PLAYER CONTRACTS.**—In the case of any sale or exchange described in subsection (a), it shall be presumed that not more than 50 percent of the consideration is allocable to contracts for the services of athletes unless it is established to the satisfaction of the Secretary that a specified amount in excess of 50 percent is properly allocable to such contracts. Nothing in the preceding sentence shall give rise to a presumption that an allocation of less than 50 percent of the consideration to contracts for the services of athletes is a proper allocation.”

(2) CLERICAL AMENDMENT.—The tables of sections for such part VI is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 1056. Basis limitation for player contracts transferred in connection with the sale of a franchise.

“Sec. 1057. Cross references.”

26 USC 1056
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection apply to sales or exchanges of franchises after December 31, 1975, in taxable years ending after such date.

(b) RECAPTURE.—

26 USC 1245.

(1) IN GENERAL.—Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by adding at the end thereof the following new paragraph:

“(4) SPECIAL RULE FOR PLAYER CONTRACTS.—

“(A) IN GENERAL.—For purposes of this section, if a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of any player contracts, the recomputed basis of such player contracts in the hands of the transferor shall be the adjusted basis of such contracts increased by the greater of—

“(i) the previously unrecaptured depreciation with respect to player contracts acquired by the transferor at the time of acquisition of such franchise, or

“(ii) the previously unrecaptured depreciation with respect to the player contracts involved in such transfer.

“(B) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO INITIAL CONTRACTS.—For purposes of subparagraph (A) (i), the term ‘previously unrecaptured depreciation’ means the excess (if any) of—

“(i) the sum of the deduction allowed or allowable to the taxpayer transferor for the depreciation of any player contracts acquired by him at the time of acquisition of such franchise, plus the deduction allowed or allowable for losses with respect to such player contracts acquired at the time of such acquisition, over

“(ii) the aggregate of the amounts treated as ordinary income by reason of this section with respect to prior dispositions of such player contracts acquired upon acquisition of the franchise.

“(C) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO CONTRACTS TRANSFERRED.—For purposes of subparagraph (A) (ii), the term ‘previously unrecaptured depreciation’ means—

“(i) the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer, over

“(ii) the aggregate of the amounts treated as ordinary income by reason of this section with respect to prior dispositions of such player contracts acquired upon acquisition of the franchise.

“(D) PLAYER CONTRACT.—For purposes of this paragraph, the term ‘player contract’ means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in section 167.”

“Previously
unrecaptured
depreciation.”

“Previously
unrecaptured
depreciation.”

“Player
contract.”

(2) **EFFECTIVE DATE.**—The amendment made by this subsection applies to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975. 26 USC 1245 note.

SEC. 213. CERTAIN PARTNERSHIP PROVISIONS.

(a) **DOLLAR LIMITATION WITH RESPECT TO ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE.**—Subsection (d) of section 179 (relating to additional first-year depreciation allowance for small business) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph: 26 USC 179.

“(8) **DOLLAR LIMITATION IN CASE OF PARTNERSHIPS.**—In the case of a partnership, the dollar limitation contained in the first sentence of subsection (b) shall apply with respect to the partnership and with respect to each partner.”

(b) **CLARIFICATION OF TREATMENT OF PARTNERSHIP SYNDICATION FEES, ETC.**—

(1) **IN GENERAL.**—Part I of subchapter K of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new section:

“SEC. 709. TREATMENT OF ORGANIZATION AND SYNDICATION FEES. 26 USC 709.

“(a) **GENERAL RULE.**—Except as provided in subsection (b), no deduction shall be allowed under this chapter to the partnership or to any partner for any amounts paid or incurred to organize a partnership or to promote the sale of (or to sell) an interest in such partnership.

“(b) **AMORTIZATION OF ORGANIZATION FEES.**—

“(1) **DEDUCTION.**—Amounts paid or incurred to organize a partnership may, at the election of the partnership (made in accordance with regulations prescribed by the Secretary), be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the partnership (beginning with the month in which the partnership begins business), or if the partnership is liquidated before the end of such 60-month period, such deferred expenses (to the extent not deducted under this section) may be deducted to the extent provided in section 165.

“(2) **ORGANIZATIONAL EXPENSES DEFINED.**—The organizational expenses to which paragraph (1) applies, are expenditures which—

“(A) are incident to the creation of the partnership;

“(B) are chargeable to capital account; and

“(C) are of a character which, if expended incident to the creation of a partnership having an ascertainable life, would be amortized over such life.”

(2) **CLERICAL AMENDMENT.**—The table of sections for such part is amended by adding at the end thereof the following:

“Sec. 709. Treatment of organization and syndication fees.”

(3) **DETERMINATION OF AMOUNTS CHARGEABLE TO CAPITAL ACCOUNT.**—Section 707(c) (relating to guaranteed payments) is amended by striking out “and section 162(a)” and inserting in lieu thereof “and, subject to section 263, for purposes of section 162(a)”. 26 USC 707.

(c) **ITEMS MUST BE ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST.**—

(1) **IN GENERAL.**—Subparagraph (B) of section 706(c) (2) (relating to disposition of less than entire interest) is amended 26 USC 706.

by striking out “or with respect to a partner whose interest is reduced” and inserting in lieu thereof “or with respect to a partner whose interest is reduced (whether by entry of a new partner, partial liquidation of a partner’s interest, gift, or otherwise)”.

26 USC 704. (2) CERTAIN PROVISIONS OF SUBCHAPTER K MAY NOT BE OVERRIDDEN BY PARTNERSHIP AGREEMENT.—Subsection (a) of section 704 (relating to effect of partnership agreement) is amended by striking out “except as otherwise provided in this section” and inserting in lieu thereof “except as otherwise provided in this chapter”.

(3) CROSS REFERENCES.—

(A) Section 704 is amended by adding at the end thereof the following:

“(f) CROSS REFERENCE.—

“For rules in the case of the sale, exchange, liquidation, or reduction of a partner’s interest, see section 706(c)(2).”

26 USC 761. (B) Section 761 (relating to terms defined) is amended by adding at the end thereof the following:

“(e) CROSS REFERENCE.—

“For rules in the case of the sale, exchange, liquidation, or reduction of a partner’s interest, see sections 704(b) and 706(c)(2).”

26 USC 704. (d) DETERMINATION OF PARTNER’S DISTRIBUTIVE SHARE.—Subsection (b) of section 704 (relating to distributive share determined by income or loss ratio) is amended to read as follows:

“(b) DETERMINATION OF DISTRIBUTIVE SHARE.—A partner’s distributive share of income, gain, loss, deduction, or credit (or item thereof) shall be determined in accordance with the partner’s interest in the partnership (determined by taking into account all facts and circumstances), if—

“(1) the partnership agreement does not provide as to the partner’s distributive share of income, gain, loss, deduction, or credit (or item thereof), or

“(2) the allocation to a partner under the agreement of income, gain, loss, deduction, or credit (or item thereof) does not have substantial economic effect.”

(e) TREATMENT OF PARTNERSHIP LIABILITIES WITH RESPECT TO WHICH THE PARTNER IS NOT PERSONALLY LIABLE.—Section 704(d) (relating to limitation on allowance of losses) is amended by adding at the end thereof the following new sentences:

“For purposes of this subsection, the adjusted basis of any partner’s interest in the partnership shall not include any portion of any partnership liability with respect to which the partner has no personal liability. The preceding sentence shall not apply with respect to any activity to the extent that section 465 (relating to limiting deductions to amounts at risk in case of certain activities) applies, nor shall it apply to any partnership the principal activity of which is investing in real property (other than mineral property).”

Ante, p. 1531.

26 USC 709
note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply in the case of partnership taxable years beginning after December 31, 1975.

(2) SUBSECTION (e).—The amendment made by subsection (e) shall apply to liabilities incurred after December 31, 1976.

(3) **SECTION 709(b) OF THE CODE.**—Section 709(b) of the Internal Revenue Code of 1954 (as added by the amendment made by subsection (b)(1) of this section) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1976.

SEC. 214. SCOPE OF WAIVER OF STATUTE OF LIMITATIONS IN CASE OF ACTIVITIES NOT ENGAGED IN FOR PROFIT.

(a) **IN GENERAL.**—Subsection (e) of section 183 (relating to special rule for activities not engaged in for profit) is amended by adding at the end thereof the following new paragraph: 26 USC 183.

“(4) **TIME FOR ASSESSING DEFICIENCY ATTRIBUTABLE TO ACTIVITY.**—If a taxpayer makes an election under paragraph (1) with respect to an activity, the statutory period for the assessment of any deficiency attributable to such activity shall not expire before the expiration of 2 years after the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the last taxable year in the period of 5 taxable years (or 7 taxable years) to which the election relates. Such deficiency may be assessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such an assessment.”.

(b) **CROSS REFERENCE.**—Paragraph (2) of section 6212(c) (relating to restriction of further deficiency letters) is amended by adding at the end thereof the following new subparagraph: 26 USC 6212.

“(E) **Deficiency attributable to activities not engaged in for profit, see section 183(e)(4).**”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1969; except that such amendments shall not apply to any taxable year ending before the date of the enactment of this Act with respect to which the period for assessing a deficiency has expired before such date of enactment. *Supra.*
26 USC 183
note.

TITLE III—MINIMUM TAX AND MAXIMUM TAX

SEC. 301. MINIMUM TAX.

(a) **IN GENERAL.**—Subsection (a) of section 56 (relating to minimum tax for tax preferences) is amended to read as follows: 26 USC 56.

“(a) **GENERAL RULE.**—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 15 percent of the amount by which the sum of the items of tax preference exceeds the greater of—

“(1) \$10,000, or

“(2) the regular tax deduction for the taxable year (as determined under subsection (c)).”

(b) **CONFORMING CHANGES.**—

(1) Section 56(b) (relating to deferral of tax liability in case of certain net operating losses) is amended—

(A) by striking out “\$30,000” in paragraph (1)(B) and inserting in lieu thereof “\$10,000”, and

(B) by striking out “10 percent” in paragraphs (1) and (2) and inserting in lieu thereof “15 percent”.

Post, p. 1550.

26 USC 56.

(2) Section 56(c) (relating to tax carryovers) is amended to read as follows:

“(c) **REGULAR TAX DEDUCTION DEFINED.**—For purposes of this section, the term ‘regular tax deduction’ means an amount equal to one-half of (or in the case of a corporation, an amount equal to) the taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 72(m) (5) (B), 402(e), 408(f), 531, and 541), reduced by the sum of the credits allowable under—

Post, p. 1643.*Post*, p. 1559.

“(1) section 33 (relating to foreign tax credit),

“(2) section 37 (relating to credit for the elderly),

“(3) section 38 (relating to investment credit),

“(4) section 40 (relating to expenses of work incentive program),

“(5) section 41 (relating to contributions to candidates for public office),

“(6) section 42 (relating to general tax credit),

“(7) section 44 (relating to purchase of new principal residence), and

Post, p. 1563.

“(8) section 44A (relating to expenses for household and dependent care services necessary for gainful employment).”

(c) **ADDITIONAL TAX PREFERENCE ITEMS.**—

26 USC 57.

(1) **ADDITIONAL PREFERENCE ITEMS.**—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

“(1) **EXCESS ITEMIZED DEDUCTIONS.**—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (b)).”

(B) Section 57(a) (relating to items of tax preference) is amended by striking out the matter following paragraph (10) and inserting in lieu thereof the following:

“(11) **INTANGIBLE DRILLING COSTS.**—The excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (d)) had been used with respect to such costs.

Paragraphs (1), (3), and (11) shall not apply to a corporation.”

(C) Section 57(a) (3) (relating to accelerated depreciation on personal property subject to a net lease) is amended to read as follows:

“(3) **ACCELERATED DEPRECIATION ON LEASED PERSONAL PROPERTY.**—With respect to each item of section 1245 property (as defined in section 1245(a) (3)) which is subject to a lease, the amount by which—

“(A) the deduction allowable for the taxable year for depreciation or amortization, exceeds

“(B) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight-line method for each taxable year of its useful life for which the taxpayer has held the property.

For purposes of subparagraph (B), useful life shall be determined as if section 167(m) (1) (relating to asset depreciation range) did not include the last sentence thereof.”

(2) **EXCESS ITEMIZED DEDUCTIONS DEFINED.**—Section 57(b) is amended to read as follows:

“(b) **EXCESS ITEMIZED DEDUCTIONS.**—

“(1) **IN GENERAL.**—For purposes of paragraph (1) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

“(A) deductions allowable in arriving at adjusted gross income,

“(B) the standard deduction provided by section 141,

“(C) the deduction for personal exemptions provided by section 151,

“(D) the deduction for medical, dental, etc., expenses provided by section 213, and

“(E) the deduction for casualty losses described in section 165(c)(3),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year.

“(2) **SPECIAL RULE FOR TRUSTS AND ESTATES.**—In the case of a trust or estate, any deduction allowed or allowable for the taxable year—

“(A) under section 642(c) (but only to the extent that the amount of the deduction allowable under such section is included in the income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends);

“(B) under section 642(d), 642(e), 642(f), 651(a), 661(a), or 691; or

“(C) for costs paid or incurred in connection with the administration of the trust or estate;

shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at an adjusted gross income.”

(3) **STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.**—Section 57 is amended by adding at the end thereof the following new subsection:

“(d) **STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.**—For purposes of paragraph (11) of subsection (a)—

“(1) **IN GENERAL.**—The term ‘straight line recovery of intangibles’, when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

“(2) **ELECTION.**—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term ‘straight line recovery of intangibles’ means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(11).”

(4) **SPECIAL RULES FOR TIMBER.**—

(A) **PREFERENCE REDUCTION FOR TIMBER.**—Section 57(a)(9) is amended by adding at the end thereof the following new subparagraph:

“(C) **PREFERENCE REDUCTION FOR TIMBER.**—In the case of a corporation, the amount of the tax preference under sub-

Ante, p. 1550.

paragraph (B) shall be reduced (but not below zero) by the sum of—

“(i) one-third of the corporation’s timber preference income (as defined in subsection (e)), plus

“(ii) \$20,000,

but in no event shall this reduction exceed the amount of timber preference income.”

26 USC 56.

(B) REGULAR TAX DEDUCTION ADJUSTMENTS FOR TIMBER.—Section 56 is amended by adding at the end thereof the following new subsections:

Ante, p. 1550.

“(d) REGULAR TAX DEDUCTION ADJUSTMENT FOR TIMBER.—In the case of a corporation, the regular tax deduction (as determined under subsection (c)) shall be reduced by an amount equal to the lesser of—

“(1) one-third of the amount determined under subsection (c) without regard to this subsection, or

Ante, p. 1551.

“(2) the preference reduction for timber determined under section 57(a)(9)(C).

“(e) TAX CARRYOVER FOR TIMBER.—

“(1) IN GENERAL.—In the case of a corporation, if for any taxable year, including a taxable year beginning before January 1, 1976—

Post, p. 1643.

“(A) the taxes imposed by this chapter (computed without regard to this part and without regard to the tax imposed by section 531) which, under regulations prescribed by the Secretary, are attributable to income from timber, reduced by the sum of the credits allowable under—

“(i) section 33 (relating to foreign tax credit),

“(ii) section 38 (relating to investment credit), and

“(iii) section 40 (relating to expenses of work incentive programs), exceed

“(B) the items of tax preference (as determined under section 57),

then the excess of the taxes described in subparagraph (A) over the items of tax preference shall be a tax carryover to each of the 7 taxable years following such year. The entire amount of the excess shall be carried to the first of such 7 taxable years, and then to each of the other such taxable years to the extent that such excess is not used to reduce the amount subject to tax under subsection (a) for a prior taxable year to which such excess may be carried.

“(2) LIMITATION.—The amount of any carryover under paragraph (1) which may be deducted in a taxable year shall be limited to—

“(A) the excess of—

“(i) the amount of timber preference income for the taxable year (as defined in section 57(e)), over

“(ii) the amount determined under section 57(a)(9)(C) for the taxable year,

“(B) reduced by the excess of—

“(i) the regular tax deduction for the taxable year (as determined under subsection (c) without regard to this subsection), over

“(ii) the amount determined under subsection (d) for the taxable year.”

26 USC 57.

(C) TIMBER PREFERENCE INCOME DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

“(e) **TIMBER PREFERENCE INCOME DEFINED.**—For purposes of this part, the term ‘timber preference income’ means the sum of—

“(1) the gains referred to in section 631(a) and section 631(b), 26 USC 631.

“(2) long-term capital gains on timber, and

“(3) gains on the sale of timber included in paragraph 1231

(b)(1),

multiplied by the fraction determined in paragraph 57(a)(9)(B).”

(d) **AMENDMENTS OF SECTION 58.**—Section 58 (relating to rules for application of part) is amended— 26 USC 58.

(1) by striking out subsection (a) and inserting in lieu thereof the following:

“(a) **MARRIED INDIVIDUALS FILING SEPARATE RETURNS.**—In the case of a married individual who files a separate return for the taxable year, section 56 shall be applied by substituting \$5,000 for \$10,000 each place it appears.”

(2) by striking out “\$30,000” each place it appears in subsections

(b) and (c)(2) and inserting in lieu thereof “\$10,000”, and

(3) by adding at the end thereof the following new subsections:

“(h) **REGULATIONS TO INCLUDE TAX BENEFIT RULE.**—The Secretary shall prescribe regulations under which items of tax preference shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer’s tax under this subtitle for any taxable years.

“(i) **CORPORATION DEFINED.**—Except as provided in subsection (d)(2), for purposes of this part, the term ‘corporation’ does not include an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542).”

(e) **CONFORMING AMENDMENT.**—Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out “\$30,000” and inserting in lieu thereof “\$10,000”. 26 USC 443.

(f) **SECTION 21 NOT TO APPLY.**—For purposes of section 21 of the Internal Revenue Code of 1954, the amendments made by this section shall not be treated as a change in a rate of tax. 26 USC 56 note.

(g) **EFFECTIVE DATE.**— 26 USC 56 note.

(1) **IN GENERAL.**—Except as provided by paragraph (4), the amendments made by this section shall apply to items of tax preference for taxable years beginning after December 31, 1975.

(2) **TAX CARRYOVER.**—Except as provided in paragraph (4) and in section 56(e) of the Internal Revenue Code of 1954, the amount of any tax carryover under section 56(c) of such Code from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975.

Ante, p. 1552.
Ante, p. 1550.

(3) **SPECIAL RULE FOR TAXABLE YEAR 1976 IN THE CASE OF A CORPORATION.**—Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, in the case of a corporation which is not an electing small business corporation or a personal holding company the tax imposed by section 56 of such Code for taxable years beginning in 1976, is an amount equal to the sum of—

26 USC 1 *et seq.*

(A) the amount of the tax which would have been imposed for such taxable year under such section as such section was in effect on the day before the date of the enactment of the Tax Reform Act of 1976, and

Ante, p. 1520.

(B) one-half of the amount by which the amount of the tax which would be imposed for such taxable year under such

Ante, p. 1520.

section as amended by the Tax Reform Act of 1976 (but for this paragraph) exceeds the amount determined under subparagraph (A).

(4) CERTAIN FINANCIAL INSTITUTIONS.—In the case of a taxpayer which is a financial institution to which section 585 or 593 of the Internal Revenue Code of 1954 applies, the amendments made by this section shall apply only to taxable years beginning after December 31, 1977, and paragraph (2) shall be applied by substituting “January 1, 1978” for “January 1, 1976” and by substituting “December 31, 1977” for “December 31, 1975”.

SEC. 302. MAXIMUM TAX.

(a) IN GENERAL.—Section 1348 (relating to 50-percent maximum rate on earned income) is amended to read as follows:

26 USC 1348.

“SEC. 1348. 50-PERCENT MAXIMUM RATE ON PERSONAL SERVICE INCOME.

26 USC 1301.

“(a) GENERAL RULE.—If for any taxable year an individual has personal service taxable income which exceeds the amount of taxable income specified in paragraph (1), the tax imposed by section 1 for such year shall, unless the taxpayer chooses the benefits of part I (relating to income averaging), be the sum of—

“(1) the tax imposed by section 1 on the highest amount of taxable income on which the rate of tax does not exceed 50 percent,

“(2) 50 percent of the amount by which his personal service taxable income exceeds the amount of taxable income specified in paragraph (1) of this subsection, and

“(3) the excess of the tax computed under section 1 without regard to this section over the tax so computed with reference solely to his personal service taxable income.

“(b) DEFINITIONS.—For purposes of this section—

“(1) PERSONAL SERVICE INCOME.—

“(A) IN GENERAL.—The term ‘personal service income’ means any income which is earned income within the meaning of section 401(c)(2)(C) or section 911(b) or which is an amount received as a pension or annuity.

“(B) EXCEPTIONS.—The term ‘personal service income’ does not include any amount—

“(i) to which section 72(m)(5), 402(a)(2), 402(e), 403(a)(2), 408(e)(2), 408(e)(3), 408(e)(4), 408(e)(5), 408(f), or 409(c) applies; or

“(ii) which is includible in gross income under section 409(b) because of the redemption of a bond which was not tendered before the close of the taxable year in which the registered owner attained age 70½.

“(2) PERSONAL SERVICE TAXABLE INCOME.—The personal service taxable income of an individual is the excess of—

“(A) the amount which bears the same ratio (but not in excess of 100 percent) to his taxable income as his personal service net income bears to his adjusted gross income, over

“(B) the sum of the items of tax preference (as defined in section 57) for the taxable year.

For purposes of subparagraph (A), the term ‘personal service net income’ means personal service income reduced by any deductions allowable under section 62 which are properly allocable to or chargeable against such earned income.

“(c) MARRIED INDIVIDUALS.—This section shall apply to a married individual only if such individual and his spouse make a single return jointly for the taxable year.”

(b) **CLERICAL AMENDMENT.**—The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1348 and inserting in lieu thereof the following:

“Sec. 1348. 50-percent maximum rate on personal service income.”

(c) **CONFORMING AMENDMENTS.**—Section 1304(b) (5) is amended by striking out “earned” and inserting in lieu thereof “personal service”.

26 USC 1304.

(d) **EFFECTIVE DATE.**—The amendments made by this section apply to taxable years beginning after December 31, 1976.

26 USC 1348 note.

TITLE IV—EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS

SEC. 401. EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS.

(a) **GENERAL TAX CREDIT.**—

(1) **1-YEAR EXTENSION OF CREDIT.**—Section 3(b) of the Revenue Adjustment Act of 1975 is amended by striking out “December 31, 1976” and inserting in lieu thereof “December 31, 1977”.

26 USC 42 note.

(2) **TECHNICAL AMENDMENTS.**—

(A) The heading and subsection (a) of section 42 (relating to allowance of taxable income credit) are amended to read as follows:

“SEC. 42. GENERAL TAX CREDIT.

26 USC 42.

“(a) **ALLOWANCE OF CREDIT.**—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

“(1) 2 percent of so much of the taxpayer’s taxable income for the taxable year as does not exceed \$9,000; or

“(2) \$35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.”

(B) Paragraph (1) of section 42(c) (relating to special rule for married individuals filing separate returns) is amended to read as follows:

“(1) **IN GENERAL.**—Notwithstanding subsection (a), in the case of a married individual who files a separate return for the taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be equal to either—

“(A) the amount determined under paragraph (1) of subsection (a); or

“(B) if this subparagraph applies to the individual for the taxable year, the amount determined under paragraph (2) of subsection (a).

For purposes of the preceding sentence, paragraph (1) of subsection (a) shall be applied by substituting “\$4,500” for “\$9,000.”

26 USC 6096.

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out “and 41” and inserting in lieu thereof “41. and 42”.

Ante, p. 1520.

(D) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

“Sec. 42. General tax credit.”

26 USC 141.

(b) STANDARD DEDUCTION.—

(1) LOW INCOME ALLOWANCE.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows:

“(c) LOW INCOME ALLOWANCE.—The low income allowance is—

“(1) \$2,100 in the case of—

“(A) a joint return under section 6013, or

“(B) a surviving spouse (as defined in section 2(a)),

“(2) \$1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

“(3) \$1,050 in the case of a married individual filing a separate return.”

(2) PERCENTAGE STANDARD DEDUCTION.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

“(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income, but not more than—

“(1) \$2,800 in the case of—

“(A) a joint return under section 6013, or

“(B) a surviving spouse (as defined in section 2(a)),

“(2) \$2,400 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

“(3) \$1,400 in the case of a married individual filing a separate return.”

26 USC 6012.

(3) FILING REQUIREMENTS.—So much of paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

“(1) (A) Every individual having for the taxable year a gross income of \$750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

“(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than \$2,450,

“(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than \$2,850, or

“(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than \$3,600 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

“(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by \$750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by \$750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);”.

(c) EARNED INCOME CREDIT.—

(1) EXTENSION OF CREDIT.—

(A) Section 209(b) of the Tax Reduction Act of 1975 is amended by striking out "January 1, 1977" and inserting in lieu thereof "January 1, 1978". 26 USC 43 note.

(B) Subsections (a) and (b) of section 43 (relating to earned income credit) are amended to read as follows: 26 USC 43.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed \$4,000.

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds \$4,000."

(2) DEFINITION OF ELIGIBLE INDIVIDUAL.—Subparagraph (A) of section 43(c)(1) (relating to definition of eligible individual) is amended to read as follows:

"(A) maintains a household (within the meaning of section 44A(f)(1)) in the United States which is the principal place of abode of that individual and— 26 USC 43 note.

"(i) a child of that individual if such child meets the requirements of section 151(e)(1)(B) (relating to additional exemptions for dependents), or

"(ii) a child of that individual who is disabled (within the meaning of section 72(m)(7)) and with respect to whom that individual is entitled to claim a deduction under section 151; and"

(d) WITHHOLDING AMENDMENTS.—

(1) Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows: 26 USC 3402.

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary. With respect to wages paid prior to January 1, 1978, the tables so prescribed shall be the same as the tables prescribed under this section which were in effect on January 1, 1976. With respect to wages paid after December 31, 1977, the Secretary shall prescribe new tables which shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made to subsections (b) and (c) of section 141 by the Tax Reform Act of 1976. For purposes of applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1)."

Ante, p. 1556.
"The amount of wages."

(2) Paragraph (6) of section 3402(c) (relating to wage bracket withholding), as such paragraph was in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".

26 USC 1 note.

(3) Subparagraph (B) of section 3402(m)(1) (relating to withholding allowance based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) \$2,800 (\$2,400 in the case of an individual

who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a)).”

26 USC 42 note.

(e) **EFFECTIVE DATES.**—The amendments made by subsections (a) and (c) shall apply to taxable years ending after December 31, 1975, and shall cease to apply to taxable years ending after December 31, 1977. The amendments made by subsection (b) shall apply to taxable years ending after December 31, 1975. The amendments made by subsection (d) shall apply to wages paid after September 14, 1976.

SEC. 402. REFUNDS OF EARNED INCOME CREDIT DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

26 USC 43 note.

(a) Subsection (d) of section 2 of the Revenue Adjustment Act of 1975 is amended by striking out “which begins prior to July 1, 1976.”

26 USC 43 note.

(b) Subsection (g) of section 2 of such Act is amended to read as follows:

“(g) **EFFECTIVE DATES.**—The amendments made by this section (other than by subsection (d)) apply to taxable years ending after December 31, 1975, and before January 1, 1978. Subsection (d) applies to taxable years ending after December 31, 1975.”

TITLE V—TAX SIMPLIFICATION IN THE INDIVIDUAL INCOME TAX

SEC. 501. REVISION OF TAX TABLES FOR INDIVIDUALS.

26 USC 3.

(a) **IN GENERAL.**—Section 3 (relating to optional tax tables for individuals) is amended to read as follows:

“SEC. 3. TAX TABLES FOR INDIVIDUALS HAVING TAXABLE INCOME OF LESS THAN \$20,000.

“(a) **GENERAL RULE.**—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual whose taxable income for such year does not exceed \$20,000, a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary. In the tables so prescribed, the amounts of tax shall be computed on the basis of the rates prescribed by section 1.

“(b) **TAX TREATED AS IMPOSED BY SECTION 1.**—For purposes of this title, the tax imposed by this section shall be treated as tax imposed by section 1.”

(b) **CONFORMING AMENDMENTS.**—

26 USC 4.

(1) Section 4 (relating to rules for optional tax) is hereby repealed.

26 USC 36.

(2) Section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended—

(A) by striking out “**PAYING OPTIONAL TAX OR**” in the heading; and

(B) by striking out “elects to pay the optional tax imposed by section 3, or if he” in such section.

26 USC 144.

(3) Subsection (a) of section 144 (relating to election of standard deduction) is amended to read as follows:

“(a) **METHOD OF ELECTION.**—The standard deduction shall be allowed if the taxpayer so elects in his return, and the Secretary shall prescribe the manner of signifying such election in the return.”

(4) Subsection (c) of section 144 is amended—

(A) by striking out paragraph (2);

(B) by inserting “or” at the end of paragraph (1); and

(C) by redesignating paragraph (3) as paragraph (2).

(5) Subsection (d) of section 144 is hereby repealed. 26 USC 144.

(6) Section 1211(b)(3) (relating to computation of taxable income for purposes of limitation on capital losses) is amended by striking out the last sentence thereof. 26 USC 1211.

(7) Section 1304(b) (relating to certain provisions inapplicable for income averaging) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively. 26 USC 1304.

(8) Section 6014(a) (relating to tax not computed by taxpayer) is amended— 26 USC 6014.

(A) by striking out in the first sentence “entitled to elect to pay the tax imposed by section 3” and inserting in lieu thereof “entitled to take the standard deduction provided by section 141 (other than an individual described in section 141(e))”; and *Ante*, p. 1558.

(B) by striking out in the second sentence “pay the tax imposed by section 3” and inserting in lieu thereof “take the standard deduction”.

(9) Paragraph (5) of section 6014(b) is amended to read as follows:

“(5) to cases where the taxpayer does not elect the standard deduction or where the taxpayer elects the standard deduction but is subject to the provisions of section 141(e) (relating to limitations in case of certain dependent taxpayers).”

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part I of subchapter A of chapter 1 is amended by striking out the items relating to sections 3 and 4 and inserting in lieu thereof:

“Sec. 3. Tax tables for individuals having taxable income of less than \$20,000.”

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out “paying optional tax or” in the item relating to section 36.

SEC. 502. DEDUCTION FOR ALIMONY ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.

(a) **IN GENERAL.**—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (12) the following new paragraph: 26 USC 62.

“(13) **ALIMONY.**—The deduction allowed by section 215.”

(b) **CONFORMING AMENDMENT.**—The first sentence of subparagraph (A) of section 3402(m)(2) (relating to withholding allowances based on itemized deductions) is amended by striking out “under section 62” and inserting in lieu thereof “under section 62 (other than paragraph (13) thereof)”. 26 USC 3402.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1976. 26 USC 62 note.

SEC. 503. REVISION OF RETIREMENT INCOME CREDIT.

(a) **IN GENERAL.**—Section 37 (relating to retirement income) is amended to read as follows: 26 USC 37.

“SEC. 37. CREDIT FOR THE ELDERLY.

“(a) **GENERAL RULE.**—In the case of an individual who has attained age 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual’s section 37 amount for such taxable year.

“(b) SECTION 37 AMOUNT.—For purposes of subsection (a)—

“(1) IN GENERAL.—An individual's section 37 amount for the taxable year is the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (c).

“(2) INITIAL AMOUNT.—The initial amount is—

“(A) \$2,500 in the case of a single individual,

“(B) \$2,500 in the case of a joint return where only one spouse is eligible for the credit under subsection (a),

“(C) \$3,750 in the case of a joint return where both spouses are eligible for the credit under subsection (a), or

“(D) \$1,875 in the case of a married individual filing a separate return.

“(3) REDUCTION.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity—

“(A) under title II of the Social Security Act,

“(B) under the Railroad Retirement Act of 1935 or 1937,

or

“(C) otherwise excluded from gross income.

No reduction shall be made under this paragraph for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 120 (relating to amounts received under qualified group legal services plans), 402 (relating to taxability of beneficiary of employees' trust), 403 (relating to taxation of employee annuities), or 405 (relating to qualified bond purchase plans).

“(c) LIMITATIONS.—

“(1) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

“(A) \$7,500 in the case of a single individual,

“(B) \$10,000 in the case of a joint return, or

“(C) \$5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over \$7,500, \$10,000, or \$5,000, as the case may be.

“(2) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

“(2) MARITAL STATUS.—Marital status shall be determined under section 143.

“(3) JOINT RETURN.—The term ‘joint return’ means the joint return of a husband and wife made under section 6013.

42 USC 401.

45 USC 215—

228 notes, 228a.

26 USC 72.

Post, p. 1926.

26 USC 1.

“Joint return.”

“(e) ELECTION OF PRIOR LAW WITH RESPECT TO PUBLIC RETIREMENT SYSTEM INCOME.—

“(1) **IN GENERAL.**—In the case of a taxpayer who has not attained age 65 before the close of the taxable year (other than a married individual whose spouse has attained age 65 before the close of the taxable year), his credit (if any) under this section shall be determined under this subsection.

“(2) **ONE SPOUSE AGE 65 OR OVER.**—In the case of a married individual who has not attained age 65 before the close of the taxable year but whose spouse has attained such age, this paragraph shall apply for the taxable year only if both spouses elect, at such time and in such manner as the Secretary shall by regulations prescribe, to have this paragraph apply. If this paragraph applies for the taxable year, the credit (if any) of each spouse under this section shall be determined under this subsection.

“(3) **COMPUTATION OF CREDIT.**—In the case of an individual whose credit under this section for the taxable year is determined under this subsection, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the amount received by such individual as retirement income (as defined in paragraph (4) and as limited by paragraph (5)).

“(4) **RETIREMENT INCOME.**—For purposes of this subsection, the term ‘retirement income’ means—

“Retirement income.”

“(A) in the case of an individual who has attained age 65 before the close of the taxable year, income from—

“(i) pensions and annuities (including, in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which is exempt from tax under section 501(a)),

26 USC 401.

“(ii) interest,

“(iii) rents,

“(iv) dividends,

“(v) bonds described in section 405(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or retirement bonds described in section 409, and

“(vi) an individual retirement account described in section 408(a) or an individual retirement annuity described in section 408(b), or

“(B) in the case of an individual who has not attained age 65 before the close of the taxable year, income from pensions and annuities under a public retirement system (as defined in paragraph (8)(A)),

to the extent included in gross income without reference to this subsection, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

“(5) **LIMITATION ON RETIREMENT INCOME.**—For purposes of this subsection, the amount of retirement income shall not exceed \$2,500 less—

“(A) the reduction provided by subsection (b)(3), and

“(B) in the case of any individual who has not attained age 72 before the close of the taxable year—

“(i) if such individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in paragraph (8)(B)) in excess of \$900 received by such individual in the taxable year, or

“(ii) if such individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by such individual in the taxable year in excess of \$1,200 but not in excess of \$1,700, and the amount of earned income so received in excess of \$1,700.

“(6) LIMITATION IN CASE OF MARRIED INDIVIDUALS.—In the case of a joint return, paragraph (5) shall be applied by substituting ‘\$3,750’ for ‘\$2,500’. The \$3,750 provided by the preceding sentence shall be divided between the spouses in such amounts as may be agreed on by them, except that not more than \$2,500 may be assigned to either spouse.

“(7) LIMITATION IN THE CASE OF SEPARATE RETURNS.—In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting ‘\$1,875’ for ‘\$2,500’.

“(8) DEFINITIONS.—For purposes of this subsection—

“(A) PUBLIC RETIREMENT SYSTEM DEFINED.—The term ‘public retirement system’ means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

“(B) EARNED INCOME.—The term ‘earned income’ has the meaning assigned to such term by section 911(b), except that such term does not include any amount received as a pension or annuity.

“(f) NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to any nonresident alien.”

(b) TECHNICAL AMENDMENTS.—

26 USC 904.

(1) Section 904 (relating to limitation on foreign tax credit), as amended by this Act, is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

“(g) COORDINATION WITH CREDIT FOR THE ELDERLY.—In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to credit for the elderly).”

Ante, p. 1559.

26 USC 6014.

(2) Section 6014(a) (relating to tax not computed by taxpayer) is amended by striking out the last sentence thereof.

(3) Section 6014(b) is amended—

(A) by striking out paragraph (4),

(B) by redesignating paragraph (5) (as amended by section 501(b)(9)) as paragraph (4), and

(C) by inserting “or” at the end of paragraph (3).

26 USC 41, 42,
46, 50A.

(4) Sections 41(b)(2), 42(b)(2), 46(a)(3)(C), and 50A(a)(3)(C) are each amended by striking out “retirement income” and inserting in lieu thereof “credit for the elderly”.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 37 and inserting in lieu thereof the following:

“Sec. 37. Credit for the elderly.”

SEC. 504. CREDIT FOR CHILD CARE EXPENSES.**(a) ALLOWANCES OF CREDIT FOR CHILD CARE EXPENSES.—**

(1) **IN GENERAL.**—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting before section 45 the following new section:

“SEC. 44A. EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES NECESSARY FOR GAINFUL EMPLOYMENT. 26 USC 44A.

“(a) **ALLOWANCE OF CREDIT.**—In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.

“(b) **APPLICATION WITH OTHER CREDITS.**—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

“(1) section 33 (relating to foreign tax credit),

“(2) section 37 (relating to credit for the elderly),

“(3) section 38 (relating to investment in certain depreciable property),

“(4) section 40 (relating to expenses of work incentive programs),

“(5) section 41 (relating to contributions to candidates for public office),

“(6) section 42 (relating to general tax credit), and

“(7) section 44 (relating to purchase of new principal residence).

Post, p. 1643.

Ante, p. 1559.

“(c) **DEFINITIONS OF QUALIFYING INDIVIDUAL AND EMPLOYMENT-RELATED EXPENSES.**—For purposes of this section—

“(1) **QUALIFYING INDIVIDUAL.**—The term ‘qualifying individual’ means—

“(A) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e).

“(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself, or

“(C) the spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

“(2) **EMPLOYMENT-RELATED EXPENSES.**—

“(A) **IN GENERAL.**—The term ‘employment-related expenses’ means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are 1 or more qualifying individuals with respect to the taxpayer:

“(i) expenses for household services, and

“(ii) expenses for the care of a qualifying individual.

“(B) **EXCEPTION.**—Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer’s household shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1)(A).

“(d) **DOLLAR LIMIT ON AMOUNT CREDITABLE.**—The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

“(1) \$2,000 if there is 1 qualifying individual with respect to the taxpayer for such taxable year, or

“(2) \$4,000 if there are 2 or more qualifying individuals with respect to the taxpayer for such taxable year.

“(e) EARNED INCOME LIMITATION.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subsection (a) shall not exceed—

“(A) in the case of an individual who is not married at the close of such year, such individual's earned income for such year, or

“(B) in the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year.

“(2) SPECIAL RULE FOR SPOUSE WHO IS A STUDENT OR INCAPABLE OF CARING FOR HIMSELF.—In the case of a spouse who is a student or a qualifying individual described in subsection (c) (1) (C), for purposes of paragraph (1), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned income of not less than—

“(A) \$166 if subsection (d) (1) applies for the taxable year, or

“(B) \$333 if subsection (d) (2) applies for the taxable year.

In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

“(f) SPECIAL RULES.—For purposes of this section—

“(1) MAINTAINING HOUSEHOLD.—An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

“(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and his spouse file a joint return for the taxable year.

“(3) MARITAL STATUS.—An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

“(4) CERTAIN MARRIED INDIVIDUALS LIVING APART.—If—

“(A) an individual who is married and who files a separate return—

“(i) maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

“(ii) furnishes over half of the cost of maintaining such household during the taxable year, and

“(B) during the last 6 months of such taxable year such individual's spouse is not a member of such household, such individual shall not be considered as married.

“(5) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If—

“(A) a child (as defined in section 151(e)(3)) who is under the age of 15 or who is physically or mentally incapable

of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

“(B) such child is in the custody of one or both of his parents for more than one-half of the calendar year, in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph (A) or (B) of subsection (c) (1), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

“(6) PAYMENTS TO RELATED INDIVIDUALS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152(a) (relating to definition of dependent) or to a dependent described in paragraph (9) of such section.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to any amount paid by the taxpayer to an individual with respect to whom, for the taxable year of the taxpayer in which the service is performed, neither the taxpayer nor his spouse is entitled to a deduction under section 151(e) (relating to deduction for personal exemptions for dependents), but only if the service with respect to which such amount is paid constitutes employment within the meaning of section 3121(b).

“(7) STUDENT.—The term ‘student’ means an individual who during each of 5 calendar months during the taxable year is a full-time student at an educational organization.

“(8) EDUCATIONAL ORGANIZATION.—The term ‘educational organization’ means an educational organization described in section 170(b) (1) (A) (ii).

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”

(2) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 45 the following new item:

“Sec. 44A. Expenses for household and dependent care services necessary for gainful employment.”

(b) REPEAL OF DEDUCTION FOR CHILD CARE EXPENSES.—

(1) IN GENERAL.—Section 214 (relating to expenses for household and dependent care services necessary for gainful employment) is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 214.

(c) TECHNICAL AMENDMENTS.—

(1) Section 213(f) (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out “a deduction under section 214” and inserting in lieu thereof “a credit under section 44A”.

(2) Section 6096(b) (defining income tax liability) is amended by striking out “and 44” and inserting in lieu thereof “, 44, and 44A”.

“Student.”

“Educational organization.”

26 USC 214.

26 USC 213.

Ante, p. 1563.
26 USC 6096.

26 USC 3402.

(3) Paragraph (4) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out “and” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “, and”, and by adding at the end thereof the following new subparagraph:

“(C) may take into account tax credits to which employees are entitled.”

SEC. 505. CHANGES IN EXCLUSIONS FOR SICK PAY AND CERTAIN MILITARY, ETC., DISABILITY PENSIONS; CERTAIN DISABILITY INCOME.

26 USC 105.

(a) **SICK PAY.**—Subsection (d) of section 105 (relating to amounts excluded from gross income under wage continuation plans) is amended to read as follows:

“(d) **CERTAIN DISABILITY PAYMENTS.**—

“(1) **IN GENERAL.**—In the case of a taxpayer who—

“(A) has not attained age 65 before the close of the taxable year, and

“(B) retired on disability and, when he retired, was permanently and totally disabled,

gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of permanent and total disability.

“(2) **LIMITATION.**—This subsection shall not apply to the extent that the amounts referred to in paragraph (1) exceed a weekly rate of \$100.

“(3) **PHASEOUT OVER \$15,000.**—If the adjusted gross income of the taxpayer for the taxable year (determined without regard to this subsection) exceeds \$15,000, the amount which but for this paragraph would be excluded under this subsection for the taxable year shall be reduced by an amount equal to the excess of the adjusted gross income (as so determined) over \$15,000.

“(4) **MARRIED COUPLE MUST FILE JOINT RETURN.**—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year. For purposes of this subsection, marital status shall be determined under section 143.

“(5) **PERMANENT AND TOTAL DISABILITY DEFINED.**—For purposes of this subsection, an individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

“(6) **JOINT RETURN.**—For purposes of this subsection, the term ‘joint return’ means the joint return of a husband and wife made under section 6013.

“(7) **COORDINATION WITH SECTION 72.**—In the case of an individual described in subparagraphs (A) and (B) of paragraph (1), for purposes of section 72 the annuity starting date shall not

be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years."

(b) **CERTAIN MILITARY, ETC., DISABILITY PENSIONS.**—Section 104 (relating to compensation for injuries or sickness) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

26 USC 104.

"(b) **TERMINATION OF APPLICATION OF SUBSECTION (a) (4) IN CERTAIN CASES.**—

"(1) **IN GENERAL.**—Subsection (a) (4) shall not apply in the case of any individual who is not described in paragraph (2).

"(2) **INDIVIDUALS TO WHOM SUBSECTION (a) (4) CONTINUES TO APPLY.**—An individual is described in this paragraph if—

"(A) on or before September 24, 1975, he was entitled to receive any amount described in subsection (a) (4),

"(B) on September 24, 1975, he was a member of any organization (or reserve component thereof) referred to in subsection (a) (4) or under a binding written commitment to become such a member,

"(C) he receives an amount described in subsection (a) (4) by reason of a combat-related injury, or

"(D) on application therefor, he would be entitled to receive disability compensation from the Veterans' Administration.

"(3) **SPECIAL RULES FOR COMBAT-RELATED INJURIES.**—For purposes of this subsection, the term 'combat-related injury' means personal injury or sickness—

"Combat-related injury."

"(A) which is incurred—

"(i) as a direct result of armed conflict.

"(ii) while engaged in extrahazardous service, or

"(iii) under conditions simulating war; or

"(B) which is caused by an instrumentality of war.

In the case of an individual who is not described in subparagraph (A) or (B) of paragraph (2), except as provided in paragraph (4), the only amounts taken into account under subsection (a) (4) shall be the amounts which he receives by reason of a combat-related injury.

"(4) **AMOUNT EXCLUDED TO BE NOT LESS THAN VETERANS' DISABILITY COMPENSATION.**—In the case of any individual described in paragraph (2), the amounts excludable under subsection (a) (4) for any period with respect to any individual shall not be less than the maximum amount which such individual, on application therefor, would be entitled to receive as disability compensation from the Veterans' Administration."

(c) **SPECIAL RULE FOR EXISTING PERMANENT AND TOTAL DISABILITY CASES.**—In the case of any individual who—

26 USC 105
note.

(1) retired before January 1, 1976,

(2) either retired on disability or was entitled to retire on disability, and

(3) on January 1, 1976, was permanently and totally disabled (within the meaning of section 105(d) (5) of the Internal Revenue Code of 1954),

Ante, p. 1566.

Ante, p. 1566. such individual shall be deemed to have met the requirements of section 105(d)(1)(B) of such Code (as amended by subsection (a) of this section).

26 USC 105 note. (d) SPECIAL RULE FOR COORDINATION WITH SECTION 72.—In the case of an individual who—

(1) retired on disability before January 1, 1976, and

(2) on December 31, 1975, was entitled to exclude any amount with respect to such retirement disability from gross income under section 105(d) of the Internal Revenue Code of 1954, for purposes of section 72 the annuity starting date shall not be deemed to occur before the beginning of the taxable year in which the taxpayer attains age 65, or before the beginning of an earlier taxable year for which the taxpayer makes an irrevocable election not to seek the benefits of this subsection for such year and all subsequent years.

(e) CERTAIN DISABILITY INCOME.—

26 USC 104 (1) IN GENERAL.—Section 104(a) (relating to compensation for injuries or sickness) is amended—

(A) by striking out “and” at the end of paragraph (3);

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word “and”; and

(C) by adding at the end thereof the following new paragraph:

“(5) amounts received by an individual as disability income attributable to injuries incurred as a direct result of a violent attack which the Secretary of State determines to be a terrorist attack and which occurred while such individual was an employee of the United States engaged in the performance of his official duties outside the United States.”

26 USC 104 note. (2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

SEC. 506. MOVING EXPENSES.

26 USC 217. (a) DECREASE IN MILEAGE TEST FROM 50 MILES TO 35 MILES.—Paragraph (1) of section 217(c) (relating to conditions for allowance of deduction for moving expenses) is amended by striking out “50 miles” each place it appears and inserting in lieu thereof “35 miles”.

(b) INCREASE IN DOLLAR AMOUNTS.—

(1) CERTAIN EXPENSES OF TRAVELING, MEALS, AND LODGING AFTER OBTAINING EMPLOYMENT.—The first sentence of subparagraph (A) of section 217(b)(3) (relating to dollar limits) is amended by striking out “\$1,000” and inserting in lieu thereof “\$1,500”.

(2) AGGREGATE DOLLAR LIMIT.—The second sentence of subparagraph (A) of section 217(b)(3) is amended by striking out “\$2,500” and inserting in lieu thereof “\$3,000”.

(3) SEPARATE RETURNS.—The second sentence of subparagraph (B) of section 217(b)(3) (relating to dollar limits in the case of husband and wife) is amended to read as follows: “In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting ‘\$750’ for ‘\$1,500’, and by substituting ‘\$1,500’ for ‘\$3,000’.”

(c) RULES FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Section 217 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) RULES FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—In the case of a member of the Armed Forces of the United

States on active duty who moves pursuant to a military order and incident to a permanent change of station—

“(1) the limitations under subsection (c) shall not apply;

“(2) any moving and storage expenses which are furnished in kind (or for which reimbursement or an allowance is provided, but only to the extent of the expenses paid or incurred) to such member, his spouse, or his dependents, shall not be includible in gross income, and no reporting with respect to such expenses shall be required by the Secretary of Defense or the Secretary of Transportation, as the case may be; and

“(3) if moving and storage expenses are furnished in kind (or if reimbursement or an allowance for such expenses is provided) to such member's spouse and his dependents with regard to moving to a location other than the one to which such member moves (or from a location other than the one from which such member moves), this section shall apply with respect to the moving expenses of his spouse and dependents—

“(A) as if his spouse commenced work as an employee at a new principal place of work at such location;

“(B) for purposes of subsection (b) (3), as if such place of work was within the same general location as the member's new principal place of work, and

“(C) without regard to the limitations under subsection (c).”

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1976.

26 USC 217
note.

SEC. 507. TAX REVISION STUDY.

(a) **STUDY.**—The Joint Committee on Taxation shall make a full and complete study and investigation with respect to simplifying and indexing the tax laws of the United States. Such study and investigation shall include a consideration of whether the rates of tax can be reduced by repealing any or all tax deductions, exemptions, or credits.

26 USC 8022
note.

(b) **REPORT.**—Before July 1, 1977, the Joint Committee on Taxation shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a report of its study and investigation together with its recommendations, including recommendations for legislation.

Report to
congressional
committees.

SEC. 508. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this title shall apply to taxable years beginning after December 31, 1975.

26 USC 3 note.

TITLE VI—BUSINESS RELATED INDIVIDUAL INCOME TAX PROVISIONS

SEC. 601. DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES, ETC.

(a) **NONDEDUCTIBILITY OF CERTAIN EXPENSES.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

“**SEC. 280A. DISALLOWANCE OF CERTAIN EXPENSES IN CONNECTION
WITH BUSINESS USE OF HOME, RENTAL OF VACATION
HOMES, ETC.**

26 USC 280A.

“(a) **GENERAL RULE.**—Except as otherwise provided in this section, in the case of a taxpayer who is an individual or an electing small

business corporation, no deduction otherwise allowable under this chapter shall be allowed with respect to the use of a dwelling unit which is used by the taxpayer during the taxable year as a residence.

“(b) EXCEPTION FOR INTEREST, TAXES, CASUALTY LOSSES, ETC.—Subsection (a) shall not apply to any deduction allowable to the taxpayer without regard to its connection with his trade or business (or with his income-producing activity).

“(c) EXCEPTIONS FOR CERTAIN BUSINESS OR RENTAL USE; LIMITATION ON DEDUCTIONS FOR SUCH USE.—

“(1) CERTAIN BUSINESS USE.—Subsection (a) shall not apply to any item to the extent such item is allocable to a portion of the dwelling unit which is exclusively used on a regular basis—

“(A) as the taxpayer’s principal place of business,

“(B) as a place of business which is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business, or

“(C) in the case of a separate structure which is not attached to the dwelling unit, in connection with the taxpayer’s trade or business.

In the case of an employee, the preceding sentence shall apply only if the exclusive use referred to in the preceding sentence is for the convenience of his employer.

“(2) CERTAIN STORAGE USE.—Subsection (a) shall not apply to any item to the extent such item is allocable to space within the dwelling unit which is used on a regular basis as a storage unit for the inventory of the taxpayer held for use in the taxpayer’s trade or business of selling products at retail or wholesale, but only if the dwelling unit is the sole fixed location of such trade or business.

“(3) RENTAL USE.—Subsection (a) shall not apply to any item which is attributable to the rental of the dwelling unit or portion thereof (determined after the application of subsection (e)).

“(4) LIMITATION ON DEDUCTIONS.—In the case of a use described in paragraph (1) or (2), and in the case of a use described in paragraph (3) where the dwelling unit is used by the taxpayer during the taxable year as a residence, the deductions allowed under this chapter for the taxable year by reason of being attributed to such use shall not exceed the excess of—

“(A) the gross income derived from such use for the taxable year, over

“(B) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used.

“(d) USE AS RESIDENCE.—

“(1) IN GENERAL.—For purposes of this section, a taxpayer uses a dwelling unit during the taxable year as a residence if he uses such unit (or portion thereof) for personal purposes for a number of days which exceeds the greater of—

“(A) 14 days, or

“(B) 10 percent of the number of days during such year for which such unit is rented at a fair rental.

For purposes of subparagraph (B), a unit shall not be treated as rented at a fair rental for any day for which it is used for personal purposes.

“(2) PERSONAL USE OF UNIT.—For purposes of this section, the taxpayer shall be deemed to have used a dwelling unit for per-

sonal purposes for a day if, for any part of such day, the unit is used—

“(A) for personal purposes by the taxpayer or any other person who has an interest in such unit, or by any member of the family (as defined in section 267(c)(4)) of the taxpayer or such other person;

26 USC 267.

“(B) by any individual who uses the unit under an arrangement which enables the taxpayer to use some other dwelling unit (whether or not a rental is charged for the use of such other unit); or

“(C) by any individual (other than an employee with respect to whose use section 119 applies), unless for such day the dwelling unit is rented for a rental which, under the facts and circumstances, is fair rental.

The Secretary shall prescribe regulations with respect to the circumstances under which use of the unit for repairs and annual maintenance will not constitute personal use under this paragraph.

Regulations.

“(e) EXPENSES ATTRIBUTABLE TO RENTAL.—

“(1) IN GENERAL.—In any case where a taxpayer who is an individual or an electing small business corporation uses a dwelling unit for personal purposes on any day during the taxable year (whether or not he is treated under this section as using such unit as a residence), the amount deductible under this chapter with respect to expenses attributable to the rental of the unit (or portion thereof) for the taxable year shall not exceed an amount which bears the same relationship to such expenses as the number of days during each year that the unit (or portion thereof) is rented at a fair rental bears to the total number of days during such year that the unit (or portion thereof) is used.

“(2) EXCEPTION FOR DEDUCTIONS OTHERWISE ALLOWABLE.—This subsection shall not apply with respect to deductions which would be allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was rented.

“(f) DEFINITIONS AND SPECIAL RULES.—

“(1) DWELLING UNIT DEFINED.—For purposes of this section—

“(A) IN GENERAL.—The term ‘dwelling unit’ includes a house, apartment, condominium, mobile home, boat, or similar property, and all structures or other property appurtenant to such dwelling unit.

“(B) EXCEPTION.—The term ‘dwelling unit’ does not include that portion of a unit which is used exclusively as a hotel, motel, inn, or similar establishment.

“(2) PERSONAL USE BY ELECTING SMALL BUSINESS CORPORATION.—

In the case of an electing small business corporation, subparagraphs (A) and (B) of subsection (d)(2) shall be applied by substituting ‘any shareholder of the electing small business corporation’ for ‘the taxpayer’ each place it appears.

“(3) COORDINATION WITH SECTION 183.—If subsection (a) applies with respect to any dwelling unit (or portion thereof) for the taxable year—

“(A) section 183 (relating to activities not engaged in for profit) shall not apply to such unit (or portion thereof) for such year, but

“(B) such year shall be taken into account as a taxable year for purposes of applying subsection (d) of section 183 (relating to 5-year presumption).

“(g) **SPECIAL RULE FOR CERTAIN RENTAL USE.**—Notwithstanding any other provision of this section or section 183, if a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, then—

“(1) no deduction otherwise allowable under this chapter because of the rental use of such dwelling unit shall be allowed, and

“(2) the income derived from such use for the taxable year shall not be included in the gross income of such taxpayer under section 61.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such part IX is amended by adding at the end thereof the following new item:

“SEC. 280A. Disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.”

26 USC 280A
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 602. DEDUCTIONS FOR ATTENDING FOREIGN CONVENTIONS.

26 USC 274.

(a) **NONDEDUCTIBILITY OF CERTAIN EXPENSES.**—Section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **FOREIGN CONVENTIONS.**—

“(1) **DEDUCTIONS WITH RESPECT TO NOT MORE THAN 2 FOREIGN CONVENTIONS PER YEAR ALLOWED.**—If any individual attends more than 2 foreign conventions during his taxable year—

“(A) he shall select not more than 2 of such conventions to be taken into account for purposes of this subsection, and

“(B) no deduction allocable to his attendance at any foreign convention during such taxable year (other than a foreign convention selected under subparagraph (A)) shall be allowed under section 162 or 212.

“(2) **DEDUCTIBLE TRANSPORTATION COST CANNOT EXCEED COST OF COACH OR ECONOMY AIR FARE.**—In the case of any foreign convention, no deduction for the expenses of transportation outside the United States to and from the site of such convention shall be allowed under section 162 or 212 in an amount which exceeds the lowest coach or economy rate at the time of travel charged by a commercial airline for transportation to and from such site during the calendar month in which such convention begins. If there is no such coach or economy rate, the preceding sentence shall be applied by substituting ‘first class’ for ‘coach or economy’.

“(3) **TRANSPORTATION COSTS DEDUCTIBLE IN FULL ONLY IF AT LEAST ONE-HALF OF THE DAYS ARE DEVOTED TO BUSINESS RELATED ACTIVITIES.**—In the case of any foreign convention, a deduction for the full expenses of transportation (determined after the application of paragraph (2)) to and from the site of such convention shall be allowed only if more than one-half of the total days of the trip, excluding the days of transportation to and from the site of such convention, are devoted to business related activities. If less than one-half of the total days of the trip, excluding the days of transportation to and from the site of the convention, are devoted to business related activities, no deduction for the expenses of transportation shall be allowed which exceeds the percentage of the days of the trip devoted to business related activities.

“(4) DEDUCTIONS FOR SUBSISTENCE EXPENSES NOT ALLOWED UNLESS THE INDIVIDUAL ATTENDS TWO-THIRDS OF BUSINESS ACTIVITIES.—In the case of any foreign convention, no deduction for subsistence expenses shall be allowed except as follows:

“(A) a deduction for a full day of subsistence expenses while at the convention shall be allowed if there are at least 6 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities, and

“(B) a deduction for one-half day of subsistence expenses while at the convention shall be allowed if there are at least 3 hours of scheduled business activities during such day and the individual attending the convention has attended at least two-thirds of these activities.

Notwithstanding subparagraphs (A) and (B), a deduction for subsistence expenses for all of the days or half days, as the case may be, of the convention shall be allowed if the individual attending the convention has attended at least two-thirds of the scheduled business activities, and each such full day consists of at least 6 hours of scheduled business activities and each such half day consists of at least 3 hours of scheduled business activities.

“(5) DEDUCTIBLE SUBSISTENCE COSTS CANNOT EXCEED PER DIEM RATE FOR UNITED STATES CIVIL SERVANTS.—In the case of any foreign convention, no deduction for subsistence expenses while at the convention or traveling to or from such convention shall be allowed at a rate in excess of the dollar per diem rate for the site of the convention which has been established under section 5702(a) of title 5 of the United States Code and which is in effect for the calendar month in which the convention begins.

“(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) FOREIGN CONVENTION DEFINED.—The term ‘foreign convention’ means any convention, seminar, or similar meeting held outside the United States, its possessions, and the Trust Territory of the Pacific.

“(B) SUBSISTENCE EXPENSES DEFINED.—The term ‘subsistence expenses’ means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler. Such term includes tips and taxi and other local transportation expenses.

“(C) ALLOCATION OF EXPENSES IN CERTAIN CASES.—In any case where the transportation expenses or the subsistence expenses are not separately stated, or where there is reason to believe that the stated charge for transportation expenses or subsistence expenses or both does not properly reflect the amounts properly allocable to such purposes, all amounts paid for transportation expenses and subsistence expenses shall be treated as having been paid solely for subsistence expenses.

“(D) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—This subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the foreign convention. For purposes of the preceding sentence such person shall be treated, with respect to each individual, as having selected the same 2 foreign conventions as were selected by such individual.

26 USC 162,
212.

“(7) **REPORTING REQUIREMENTS.**—No deduction shall be allowed under section 162 or 212 for transportation or subsistence expenses allocable to attendance at a foreign convention unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

“(A) a written statement signed by the individual attending the convention which includes—

“(i) information with respect to the total days of the trip, excluding the days of transportation to and from the site of such convention, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,

“(ii) a program of the scheduled business activities of the convention, and

“(iii) such other information as may be required in regulations prescribed by the Secretary; and

“(B) a written statement signed by an officer of the organization or group sponsoring the convention which includes—

“(i) a schedule of the business activities of each day of the convention,

“(ii) the number of hours which the individual attending the convention attended such scheduled business activities, and

“(iii) such other information as may be required in regulations prescribed by the Secretary.

26 USC 274
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to conventions beginning after December 31, 1976.

SEC. 603. CHANGE IN TAX TREATMENT OF QUALIFIED STOCK OPTIONS.

26 USC 422.

(a) **IN GENERAL.**—Section 422(b) (defining qualified stock option) is amended by inserting “and before May 21, 1976 (or, if it meets the requirements of subsection (c)(7), granted to an individual after May 20, 1976),” after “section 424(c)(3)(A),”.

(b) **CERTAIN OPTIONS GRANTED AFTER MAY 20, 1976.**—Section 422(c) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

“(7) **CERTAIN OPTIONS GRANTED AFTER MAY 20, 1976.**—For purposes of subsection (b), an option granted after May 20, 1976, meets the requirements of this paragraph—

“(A) if such option is granted to an individual pursuant to a written plan adopted before May 21, 1976, or

“(B) if such option is a new option substituted, in a transaction to which section 425(a) applies, for an old option which was granted before May 21, 1976, or which met the requirements of subparagraph (A).

An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981.”

26 USC 424.

(c) **RESTRICTED STOCK OPTIONS MUST BE EXERCISED BEFORE MAY 21, 1981.**—Section 424(c)(3) (relating to special rules for restricted stock options) is amended by adding at the end thereof the following new sentence: “An option described in the preceding sentence shall be treated as ceasing to meet the requirements of this paragraph if it is not exercised before May 21, 1981.”

26 USC 422
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years ending after December 31, 1975.

SEC. 604. STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.

(a) **IN GENERAL.**—For purposes of section 162(a) of the Internal Revenue Code of 1954, in the case of any individual who was a State legislator at any time during any taxable year beginning before January 1, 1976, and who elects the application of this section, for any period during such a taxable year in which he was a State legislator—

26 USC 162
note.

(1) the place of residence of such individual within the legislative district which he represented shall be considered his home, and

(2) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

(b) **LEGISLATIVE DAYS.**—For purposes of subsection (a), a legislative day during any taxable year for any individual shall be any day during such year on which (1) the legislature was in session (including any day in which the legislature was not in session for a period of 4 consecutive days or less), or (2) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

(c) **LIMITATION.**—The amount taken into account as living expenses attributable to a trade or business as a State legislator for any taxable year under an election made under this section shall not exceed the amount claimed for such purpose under a return (or amended return) filed before May 21, 1976.

(d) **MAKING AND EFFECT OF ELECTION.**—An election under this section shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Any such election shall apply to all taxable years beginning before January 1, 1976, for which the period for assessing or collecting a deficiency has not expired before the date of the enactment of this Act.

Regulations.

SEC. 605. DEDUCTION FOR GUARANTEES OF BUSINESS BAD DEBTS TO GUARANTORS NOT INVOLVED IN BUSINESS.

(a) **REPEAL OF SECTION 166(f).**—Section 166 (relating to bad debts) is amended by striking out subsection (f) and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

26 USC 166.

(b) **CONFORMING AMENDMENT.**—Paragraph (1) of section 81 (relating to certain increases in suspense accounts) is amended by striking out "section 166(g)" in the text and inserting in lieu thereof "section 166(f)".

26 USC 81.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to guarantees made after December 31, 1975, in taxable years beginning after such date.

26 USC 166
note.

TITLE VII—ACCUMULATION TRUSTS**SEC. 701. ACCUMULATION TRUSTS.**

(a) **REVISION OF METHOD OF TAXING ACCUMULATION DISTRIBUTION FROM TRUSTS.**—

(1) Section 667 (relating to denial of refund to trusts; authorization of credit to beneficiaries) is amended to read as follows:

26 USC 667.

26 USC 667.

"SEC. 667. TREATMENT OF AMOUNTS DEEMED DISTRIBUTED BY TRUST IN PRECEDING YEARS.

"(a) **GENERAL RULE.**—The total of the amounts which are treated under section 666 as having been distributed by a trust in a preceding taxable year shall be included in the income of a beneficiary of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary under section 662(a)(2) (and, with respect to any tax-exempt interest to which section 103 applies, under section 662(b)) if such total had been paid to such beneficiary on the last day of such preceding taxable year. The tax imposed by this subtitle on a beneficiary for a taxable year in which any such amount is included in his income shall be determined only as provided in this section and shall consist of the sum of—

"(1) a partial tax computed on the taxable income reduced by an amount equal to the total of such amounts, at the rate and in the manner as if this section had not been enacted, and

"(2) a partial tax determined as provided in subsection (b) of this section.

"(b) TAX ON DISTRIBUTION.—

"(1) **IN GENERAL.**—The partial tax imposed by subsection (a) (2) shall be determined—

"(A) by determining the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 666(a) to have been distributed,

"(B) by taking from the 5 taxable years immediately preceding the year of the accumulation distribution the 1 taxable year for which the beneficiary's taxable income was the highest and the 1 taxable year for which his taxable income was the lowest,

"(C) by adding to the beneficiary's taxable income for each of the 3 taxable years remaining after the application of subparagraph (B) an amount determined by dividing the amount deemed distributed under section 666 and required to be included in income under subsection (a) by the number of preceding taxable years determined under subparagraph (A), and

"(D) by determining the average increase in tax for the 3 taxable years referred to in subparagraph (C) resulting from the application of such subparagraph.

The partial tax imposed by subsection (a)(2) shall be the excess (if any) of the average increase in tax determined under subparagraph (D), multiplied by the number of preceding taxable years determined under subparagraph (A), over the amount of taxes deemed distributed to the beneficiary under sections 666(b) and (c).

"(2) **TREATMENT OF LOSS YEARS.**—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed not to be less than zero.

"(3) **CERTAIN PRECEDING TAXABLE YEARS NOT TAKEN INTO ACCOUNT.**—For purposes of paragraph (1), if the amount of the undistributed net income deemed distributed in any preceding taxable year of the trust is less than 25 percent of the amount of the accumulation distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under section 666(a), the number of preceding taxable years of

the trust with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall be determined without regard to such year.

“(4) **EFFECT OF OTHER ACCUMULATION DISTRIBUTIONS.**—In computing the partial tax under paragraph (1) for any beneficiary, the income of such beneficiary for each of his prior taxable years shall include amounts previously deemed distributed to such beneficiary in such year under section 666 as a result of prior accumulation distributions (whether from the same or another trust).

“(5) **MULTIPLE DISTRIBUTIONS IN THE SAME TAXABLE YEAR.**—In the case of accumulation distributions made from more than one trust which are includible in the income of a beneficiary in the same taxable year, the distributions shall be deemed to have been made consecutively in whichever order the beneficiary shall determine.

“(c) **SPECIAL RULE FOR MULTIPLE TRUSTS.**—

“(1) **IN GENERAL.**—If, in the same prior taxable year of the beneficiary in which any part of the accumulation distribution from a trust (hereinafter in this paragraph referred to as ‘third trust’) is deemed under section 666(a) to have been distributed to such beneficiary, some part of prior distributions by each of 2 or more other trusts is deemed under section 666(a) to have been distributed to such beneficiary, then subsections (b) and (c) of section 666 shall not apply with respect to such part of the accumulation distribution from such third trust.

“(2) **ACCUMULATION DISTRIBUTIONS FROM TRUST NOT TAKEN INTO ACCOUNT UNLESS THEY EQUAL OR EXCEED \$1,000.**—For purposes of paragraph (1), an accumulation distribution from a trust to a beneficiary shall be taken into account only if such distribution, when added to any prior accumulation distributions from such trust which are deemed under section 666(a) to have been distributed to such beneficiary for the same prior taxable year of the beneficiary, equals or exceeds \$1,000.”

(2) Section 666 (relating to accumulation distribution allocated to preceding years) is amended by adding at the end thereof the following new subsection:

26 USC 666.

“(e) **DENIAL OF REFUND TO TRUSTS AND BENEFICIARIES.**—No refund or credit shall be allowed to a trust or a beneficiary of such trust for any preceding taxable year by reason of a distribution deemed to have been made by such trust in such year under this section.”

(3) Section 668 (relating to treatment of amounts deemed distributed in preceding years) is hereby repealed.

26 USC 668.

(b) **INCOME ACCUMULATED BEFORE CHILD ATTAINS AGE OF 21 YEARS NOT TO BE SUBJECT TO THE THROWBACK RULE.**—Subsection (b) of section 665 (defining accumulation distribution) is amended by adding at the end thereof the following new sentence: “For purposes of section 667 (other than subsection (c) thereof, relating to multiple trusts), the amounts specified in paragraph (2) of section 661(a) shall not include amounts properly paid, credited, or required to be distributed to a beneficiary from a trust (other than a foreign trust) as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 21.”

26 USC 665.

Ante, p. 1575.

(c) **NO ACCUMULATION DISTRIBUTION WHERE DISTRIBUTIONS DO NOT EXCEED ACCOUNTING INCOME.**—Section 665(b) (defining accumulation distribution), as amended by subsection (b), is amended by adding at the end thereof the following new sentence: “If the amounts properly paid, credited, or required to be distributed by the trust for the taxable

year do not exceed the income of the trust for such year, there shall be no accumulation distribution for such year."

(d) **REPEAL OF SPECIAL CAPITAL GAIN THROWBACK.**—

26 USC 669. (1) Section 669 (relating to treatment of capital gain deemed distributed in preceding years) is hereby repealed.

26 USC 665. (2) Paragraph (1) of section 665(e) (defining preceding taxable year) is amended—

(A) by striking out subparagraph (C),

(B) by inserting "or" at the end of subparagraph (A),

and

(C) by striking out "or" at the end of subparagraph (B) and inserting in lieu thereof "; and".

(3) Section 665 (definitions applicable to subpart D) is amended by striking out subsections (f) and (g).

(e) **SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.**—

(1) **IN GENERAL.**—Subpart A of part I of subchapter J of chapter 1 (relating to general rules for taxation of estates and trusts) is amended by adding at the end thereof the following new section:

26 USC 644. **"SEC. 644. SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.**

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—If—

"(A) a trust (or another trust to which the property is distributed) sells or exchanges property at a gain not more than 2 years after the date of the initial transfer of the property in trust by the transferor, and

"(B) the fair market value of such property at the time of the initial transfer in trust by the transferor exceeds the adjusted basis of such property immediately after such transfer,

there is hereby imposed a tax determined in accordance with paragraph (2) on the includible gain realized on such sale or exchange.

"(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on any includible gain realized on the sale or exchange of any property shall be equal to the sum of—

"(A) the excess of—

"(i) the tax which would have been imposed under this chapter for the taxable year of the transferor in which the sale or exchange of such property occurs had the amount of the includible gain realized on such sale or exchange, reduced by any deductions properly allocable to such gain, been included in the gross income of the transferor for such taxable year, over

"(ii) the tax actually imposed under this chapter for such taxable year on the transferor, plus

"(B) if such sale or exchange occurs in a taxable year of the transferor which begins after the beginning of the taxable year of the trust in which such sale or exchange occurs, an amount equal to the amount determined under subparagraph (A) multiplied by the annual rate established under section 6621.

"(3) TAXABLE YEAR FOR WHICH TAX IMPOSED.—The tax imposed by paragraph (1) shall be imposed for the taxable year of the trust which begins with or within the taxable year of the transferor in which the sale or exchange occurs.

“(4) **TAX TO BE IN ADDITION TO OTHER TAXES.**—The tax imposed by this subsection for any taxable year of the trust shall be in addition to any other tax imposed by this chapter for such taxable year.

“(b) **DEFINITION OF INCLUDIBLE GAIN.**—For purposes of this section, the term ‘includible gain’ means the lesser of—

“(1) the gain realized by the trust on the sale or exchange of any property, or

“(2) the excess of the fair market value of such property at the time of the initial transfer in trust by the transferor over the adjusted basis of such property immediately after such transfer.

“(c) **CHARACTER OF INCLUDIBLE GAIN.**—For purposes of subsection (a)—

“(1) the character of the includible gain shall be determined as if the property had actually been sold or exchanged by the transferor, and any activities of the trust with respect to the sale or exchange of the property shall be deemed to be activities of the transferor, and

“(2) the portion of the includible gain subject to the provisions of section 1245 and section 1250 shall be determined in accordance with regulations prescribed by the Secretary.

“(d) **SPECIAL RULE FOR SHORT SALES.**—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, such 2-year period shall be extended to the date of the closing of such short sale.

“(e) **EXCEPTIONS.**—Subsection (a) shall not apply to property—

“(1) acquired by the trust from a decedent or which passed to a trust from a decedent (within the meaning of section 1014), or

“(2) acquired by a pooled income fund (as defined in section 642(c)(5)), or

“(3) acquired by a charitable remainder annuity trust (as defined in section 664(d)(1)) or a charitable remainder unitrust (as defined in sections 664(d)(2) and (3)), or

“(4) if the sale or exchange of the property occurred after the death of the transferor.

“(f) **SPECIAL RULE FOR INSTALLMENT SALES.**—If the trust elects to report income under section 453 on any sale or exchange to which subsection (a) applies, under regulations prescribed by the Secretary—

“(1) subsection (a) shall be applied as if each installment were a separate sale or exchange of property to which such subsection applies, and

“(2) the term ‘includible gain’ shall not include any portion of an installment received by the trust after the death of the transferor.” “Includible gain.”

(2) **EXCLUSION OF INCLUDIBLE GAIN FROM TAXABLE INCOME.**—Section 641 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection: 26 USC 641.

“(c) **EXCLUSION OF INCLUDIBLE GAIN FROM TAXABLE INCOME.**—

“(1) **GENERAL RULE.**—For purposes of this part, the taxable income of a trust does not include the amount of any includible gain as defined in section 644(b) reduced by any deductions properly allocable thereto.

“(2) **CROSS REFERENCE.**—

“For the taxation of any includible gain, see section 644.”.

(f) CONFORMING AMENDMENTS.—

26 USC 1302. (1) Subparagraph (B) of subsection (a)(2), and subparagraph (B) of subsection (b)(2), of section 1302 (definition of averageable income; related definitions) are each amended by striking out “668(a)” and inserting in lieu thereof “667(a)”.

26 USC 6401. (2) Section 6401(b) (relating to excessive credits), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out “wages),” and inserting in lieu thereof “wages) and”, and by striking out “and 667(b) (relating to taxes paid by certain trusts)”.

26 USC 1 note.

(3) Section 6401(b) (relating to excessive credits), as amended by the Tax Reduction Act of 1975, is amended by striking out “lubricating oil),” and inserting in lieu thereof “lubricating oil), and”, and by striking out “and section 667(b) (relating to taxes paid by certain trusts)”.

(g) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by striking out the items relating to sections 667, 668, and 669 and inserting in lieu thereof the following:

“Sec. 667. Treatment of amounts deemed distributed by trust in preceding years.”

(2) The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 644. Special rule for gain on property transferred to trust at less than fair market value.”

26 USC 667
note.

(h) **EFFECTIVE DATES.**—The amendments made by subsections (a), (b), (c), (d), and (f) of this section shall apply to distributions made in taxable years beginning after December 31, 1975. The amendments made by subsection (e) of this section shall apply to transfers in trust made after May 21, 1976.

TITLE VIII—CAPITAL FORMATION**SEC. 801. EXTENSION OF \$100,000 LIMITATION ON USED PROPERTY FOR 4 YEARS.**

26 USC 48 note.

Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 is amended by striking out “January 1, 1977” and inserting in lieu thereof “January 1, 1981”.

SEC. 802. EXTENSION OF 10 PERCENT CREDIT FOR 4 YEARS AND FIRST-IN-FIRST-OUT TREATMENT OF INVESTMENT TAX CREDIT.

26 USC 46.

(a) **IN GENERAL.**—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended—

(1) by redesignating paragraphs (2) through (6) as (3) through (7), respectively, and

(2) by striking out so much of such subsection as precedes paragraph (3) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof the following:

“(a) **GENERAL RULE.**—

“(1) **FIRST-IN-FIRST-OUT RULE.**—The amount of the credit allowed by section 38 for the taxable year shall be an amount equal to the sum of—

“(A) the investment credit carryovers carried to such taxable year,

“(B) the amount of the credit determined under paragraph (2) for such taxable year, plus

“(C) the investment credit carrybacks carried to such taxable year.

“(2) AMOUNT OF CREDIT FOR CURRENT TAXABLE YEAR.—

“(A) 10 PERCENT CREDIT.—Except as otherwise provided in subparagraph (B), in the case of a property described in subparagraph (D), the amount of the credit determined under this paragraph for the taxable year shall be an amount equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).

“(B) ADDITIONAL CREDIT.—In the case of a corporation which elects (at such time, in such form, and in such manner as the Secretary prescribes) to have the provisions of this subparagraph apply, the amount of the credit determined under this paragraph shall be an amount equal to—

“(i) 11 percent of the qualified investment (as determined under subsections (c) and (d)), plus

“(ii) an additional percent (not in excess of one-half percent) of the qualified investment (as determined under such subsections) equal in amount to the amount determined under section 301(e) of the Tax Reduction Act of 1975.

An election may not be made to have the provisions of this subparagraph apply unless the corporation meets the requirements of section 301(d) of the Tax Reduction Act of 1975.

“(C) 7 PERCENT CREDIT.—In the case of property not described in subparagraph (D), the amount of credit determined under this paragraph for the taxable year shall be an amount equal to 7 percent of the qualified investment (as determined under subsections (c) and (d)).

“(D) TRANSITIONAL RULES.—The provisions of subparagraphs (A) and (B) shall apply only to—

“(i) property to which subsection (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after January 21, 1975, and before January 1, 1981,

“(ii) property to which subsection (d) does not apply, acquired by the taxpayer after January 21, 1975, and before January 1, 1981, and placed in service by the taxpayer before January 1, 1981, and

“(iii) property to which subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d)) with respect to qualified progress expenditures made after January 21, 1975, and before January 1, 1981.

For purposes of applying clause (ii) of subparagraph (B), the date ‘December 31, 1976,’ shall be substituted for the date ‘January 21, 1975,’ each place it appears in this subparagraph.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (6), and (7) of section 46(a) (as redesignated by subsection (a)) are each amended by striking out “paragraph (2)” and inserting in lieu thereof “paragraph (3)”. 26 USC 46.

Post, p. 1587.

26 USC 46 note.

26 USC 46.

(2) Subsection (b) of section 46 (relating to carryback and carryover of unused credits) is amended to read as follows:

“(b) **CARRYBACK AND CARRYOVER OF UNUSED CREDITS.**—

“(1) **IN GENERAL.**—If the sum of the amount of the investment credit carryovers to the taxable year under subsection (a)(1)(A) plus the amount determined under subsection (a)(1)(B) for the taxable year exceeds the amount of the limitation imposed by subsection (a)(3) for such taxable year (hereinafter in this subsection referred to as the ‘unused credit year’), such excess attributable to the amount determined under subsection (a)(1)(B) shall be—

“(A) an investment credit carryback to each of the 3 taxable years preceding the unused credit year, and

“(B) an investment credit carryover to each of the 7 taxable years following the unused credit year,

and, subject to the limitations imposed by paragraphs (2) and (3), shall be taken into account under the provisions of subsection (a)(1) in the manner provided in such subsection. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried and then to each of the other 9 taxable years to the extent, because of the limitations imposed by paragraphs (2) and (3), such unused credit may not be taken into account under subsection (a)(1) for a prior taxable year to which such unused credit may be carried. In the case of an unused credit for an unused credit year ending before January 1, 1971, which is an investment credit carryover to a taxable year beginning after December 31, 1970 (determined without regard to this sentence), this paragraph shall be applied—

“(C) by substituting ‘10 taxable years’ for ‘7 taxable years’ in subparagraph (B), and by substituting ‘13 taxable years’ for ‘10 taxable years’, and ‘12 taxable years’ for ‘9 taxable years’ in the preceding sentence, and

“(D) by carrying such an investment credit carryover to a later taxable year (than the taxable year to which it would, but for this subparagraph, be carried) to which it may be carried if, because of the amendments made by section 802 (b)(2) of the Tax Reform Act of 1976, carrying such carryover to the taxable year to which it would, but for this subparagraph, be carried would cause a portion of an unused credit from an unused credit year ending after December 31, 1970 to expire.

“(2) **LIMITATION ON CARRYBACKS.**—The amount of the unused credit which may be taken into account under subsection (a)(1) for any preceding taxable year shall not exceed the amount by which the limitation imposed by subsection (a)(3) for such taxable year exceeds the sum of—

“(A) the amounts determined under subparagraphs (A) and (B) of subsection (a)(1) for such taxable year, plus

“(B) the amounts which (by reason of this subsection) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

“(3) **LIMITATION ON CARRYOVERS.**—The amount of the unused credit which may be taken into account under subsection (a)(1)(A) for any succeeding taxable year shall not exceed the

amount by which the limitation imposed by subsection (a) (3) for such taxable year exceeds the sum of the amounts which, by reason of this subsection, are carried to such taxable year and are attributable to taxable years preceding the unused credit year."

(3) Subparagraph (A) of section 46(c) (3) (relating to public utility property) is amended by striking out "subsection (a) (1) (C)" and inserting in lieu thereof "subsection (a) (2) (C)". 26 USC 46.

(4) Paragraph (1) of section 46(e) (relating to limitations with respect to certain persons) is amended by striking out "subsection (a) (2)" and inserting in lieu thereof "subsection (a) (3)".

(5) The first sentence of section 46 (f) (8) (relating to prohibition of immediate flowthrough of investment credit) is amended by inserting after "the Tax Reduction Act of 1975" the following: "and the Tax Reform Act of 1976".

(6) Subsection (f) of section 48 (relating to estates and trusts) is amended by striking out "section 46(a) (2)" and inserting in lieu thereof "section 46(a) (3)". 26 USC 48.

(7) Section 301(d) of the Tax Reduction Act of 1975 is amended by striking out "section 46(a) (1) (B)" each place it appears and inserting in lieu thereof "section 46(a) (2) (B)". 26 USC 46 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975. 26 USC 46 note.

SEC. 803. EMPLOYEE STOCK OWNERSHIP PLANS; STUDY OF EXPANDED STOCK OWNERSHIP.

(a) AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.—Section 46(f) (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following new paragraph: 26 USC 46.

"(9) SPECIAL RULE FOR ADDITIONAL CREDIT.—If the taxpayer makes an election under subparagraph (B) of subsection (a) (2), for a taxable year beginning after December 31, 1975, then, notwithstanding the prior paragraphs of this subsection, no credit shall be allowed by section 38 in excess of the amount which would be allowed without regard to the provisions of subparagraph (B) of subsection (a) (2) if—

"(A) the taxpayer's cost of service for ratemaking purposes or in its regulated books of account is reduced by reason of any portion of such credit which results from the transfer of employer securities or cash to an employee stock ownership plan which meets the requirements of section 301(d) of the Tax Reduction Act of 1975;

"(B) the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of such credit which results from a transfer described in subparagraph (A) to such employee stock ownership plan; or

"(C) any portion of the amount of such credit which results from a transfer described in subparagraph (A) to such employee stock ownership plan is treated for ratemaking purposes in any way other than as though it had been contributed by the taxpayer's common shareholders."

(b) SPECIAL RULES.—

(1) Paragraph (4) of section 46(f) is amended—

(A) by striking out "paragraphs (1) and (2)" in subparagraph (A) and inserting in lieu thereof "paragraphs (1), (2), and (9)";

(B) by striking out “paragraph (1) or (2)” each place it appears in subparagraph (A) and inserting in lieu thereof “paragraph (1), (2), or (9)”; and

(C) by striking out “paragraph (2),” in subparagraph (B) (ii) and inserting in lieu thereof “paragraph (2) or the election described in paragraph (9).”

26 USC 401.

(2) Section 401(a) (relating to qualified pension, etc., plans) is amended by adding after paragraph (20) the following new paragraph:

“(21) A trust forming part of an employee stock ownership plan which satisfies the requirements of section 301(d) of the Tax Reduction Act of 1975 shall not fail to be considered a permanent program merely because employer contributions under the plan are determined solely by reference to the amount of credit which would be allowable under section 46(a) if the employer made the transfer described in subsection (d) (6) or (e) (3) of section 301 of the Tax Reduction Act of 1975.”

Infra.

Post, p. 1587

26 USC 1504.

(3) Section 1504(a) is amended by striking out “dividends.” at the end thereof and inserting in lieu thereof “dividends, employer securities within the meaning of section 301(d) (9) (A) of the Tax Reduction Act of 1975, or qualifying employer securities within the meaning of section 4975(e) (8) while such securities are held under an employee stock ownership plan which meets the requirements of section 301(d) of such Act or section 4975(e) (7), respectively.”

26 USC 415.

(4) Section 415(e) (5) is amended by striking out “For purposes of this subsection,” and inserting in lieu thereof “For purposes of this section.”

26 USC 46 note.

(c) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL CREDIT.—Section 301(d) of the Tax Reduction Act of 1975 is amended—

(1) by adding at the end of paragraph (3) the following sentence: “For purposes of this paragraph, the amount of compensation paid to a participant for a year is the amount of such participant’s compensation within the meaning of section 415(c) (3) of such Code for such year.”

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

“(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund—

“(A) in the case of a taxable year beginning before January 1, 1977, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the taxpayer for the taxable year, and

“(B) in the case of a taxable year beginning after December 31, 1976—

“(i) to transfer employer securities to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the employer for the taxable year,

“(ii) except as provided in clause (iii), to effect the transfer not later than 30 days after the time (including extensions) for filing its income tax return for a taxable year, and

“(iii) in the case of an employer whose credit (as determined under section 46(a)(2)(B) of such Code) for a taxable year beginning after December 31, 1976, exceeds the limitations of paragraph (3) of section 46(a) of such Code—

Ante, p. 1580.

“(I) to effect that portion of the transfer allocable to investment credit carrybacks of such excess credit at the time required under clause (ii) for the unused credit year (within the meaning of section 46(b) of such Code), and

“(II) to effect that portion of the transfer allocable to investment credit carryovers of such excess credit at the time required under clause (ii) for the taxable year to which such portion is carried over.

For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.”

(3) by deleting paragraph (8) and inserting in lieu thereof the following:

“(8)(A) Except as provided in subparagraph (B)(iii), if the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured or redetermined in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and subsection (e) and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the plan.

“(B) If the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured in accordance with the provisions of such Code—

“(i) the employer may reduce the amount required to be transferred to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the current taxable year or any succeeding taxable years by the portion of the amount so recaptured which is attributable to the contribution to such plan,

“(ii) notwithstanding the provisions of paragraph (12), the employer may deduct such portion, subject to the limitations of section 404 of such Code (relating to deductions for contributions to an employees’ trust or plan), or

26 USC 404.

“(iii) if the requirements of subsection (f)(1) are met, the employer may withdraw from the plan an amount not in excess of such portion.

“(C) If the amount of the credit claimed by an employer for a prior taxable year under section 38 of the Internal Revenue Code of 1954 is reduced because of a redetermination which becomes final during the taxable year, and the employer transferred amounts to a plan which were taken into account for purposes of this subsection for that prior taxable year, then—

“(i) the employer may reduce the amount it is required to transfer to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the taxable year or any succeeding taxable year by the portion of the amount of such reduction in the credit or increase in tax which is attributable to the contribution to such plan, or

“(ii) notwithstanding the provisions of paragraph (12), the employer may deduct such portion subject to the limitations of section 404 of such Code.”,

(4) by striking out “in control of the employer (within the meaning of section 368(c) of the Internal Revenue Code of 1954)” in paragraph (9) (A) and inserting in lieu thereof “a member of a controlled group of corporations which includes the employer (within the meaning of section 1563(a) of the Internal Revenue Code of 1954, determined without regard to section 1563(a) (4) and (e) (3) (C) of such Code)”, and

(5) by adding at the end thereof the following new paragraphs:

“(13) (A) As reimbursement for the expense of establishing the plan, the employer may withhold from amounts due the plan for the taxable year for which the plan is established, or the plan may pay, so much of the amounts paid or incurred in connection with the establishment of the plan as does not exceed the sum of 10 percent of the first \$100,000 that the employer is required to transfer to the plan for that taxable year under paragraph (6) (including any amounts transferred under subsection (e) (3)) and 5 percent of any amount in excess of the first \$100,000 of such amount.

“(B) As reimbursement for the expense of administering the plan, the employer may withhold from amounts due the plan, or the plan may pay, so much of the amounts paid or incurred during the taxable year as expenses of administering the plan as does not exceed the smaller of—

“(i) the sum of 10 percent of the first \$100,000 and 5 percent of any amount in excess of \$100,000 of the income from dividends paid to the plan with respect to stock of the employer during the plan year ending with or within the employer’s taxable year, or

“(ii) \$100,000.

“(14) The return of a contribution made by an employer to an employee stock ownership plan designed to satisfy the requirements of this subsection or subsection (e) (or a provision for such a return) does not fail to satisfy the requirements of this subsection, subsection (e), section 401(a) of the Internal Revenue Code of 1954, or section 403(c) (1) of the Employee Retirement Income Security Act of 1974 if—

“(A) the contribution is conditioned under the plan upon determination by the Secretary of the Treasury that such plan meets the applicable requirements of this subsection, subsection (e), or section 401(a) of such Code,

“(B) the application for such a determination is filed with the Secretary not later than 90 days after the date on which the credit under section 38 is allowed, and

“(C) the contribution is returned within one year after the date on which the Secretary issues notice to the employer that such plan does not satisfy the requirements of this subsection, subsection (e), or section 401(a) of such Code.”

(d) **PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL ONE-HALF PERCENT CREDIT.**—Section 301 of the Tax Reduction Act of 1975 (relating to increase in investment credit) is amended by adding at the end thereof the following new subsections:

26 USC 46 note.

“(e) **PLAN REQUIREMENTS FOR TAXPAYERS ELECTING ADDITIONAL ONE-HALF PERCENT CREDIT.**—

“(1) **GENERAL RULE.**—For purposes of clause (ii) of section 46 (a)(2)(B) of the Internal Revenue Code of 1954, the amount determined under this subsection for a taxable year is an amount equal to the sum of the matching employee contributions for the taxable year which meet the requirements of this subsection.

“(2) **ELECTION; BASIC PLAN REQUIREMENTS.**—No amount shall be determined under this subsection for the taxable year unless the corporation elects to have this subsection apply for that year. A corporation may not elect to have the provisions of this subsection apply for a taxable year unless the corporation meets the requirements of subsection (d) and the requirements of this subsection.

“(3) **EMPLOYER CONTRIBUTION.**—On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer shall state in such claim that the employer agrees, as a condition of receiving any such credit, adjustment, or refund attributable to the provisions of section 46 (a)(2)(B)(ii) of such Code, to transfer at the time described in subsection (d)(6)(B) employer securities (as defined in subsection (d)(9)(A)) to the plan having an aggregate value at the time of the transfer of not more than one-half of one percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) of the taxpayer for the taxable year. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

“(4) **REQUIREMENTS RELATING TO MATCHING EMPLOYEE CONTRIBUTIONS.**—

“(A) An amount contributed by an employee under a plan described in subsection (d) for the taxable year may not be treated as a matching employee contribution for that taxable year under this subsection unless—

“(i) each employee who participates in the plan described in subsection (d) is entitled to make such a contribution,

“(ii) the contribution is designated by the employee as a contribution intended to be used for matching employer amounts transferred under paragraph (3) to a plan which meets the requirements of this subsection, and

“(iii) the contribution is in the form of an amount paid in cash to the employer or plan administrator not later than 24 months after the close of the taxable year in which the portion of the credit allowed by section 38 of such Code (and determined under clause (ii) of section 46(a)(2)(B) of such Code which the contribution is to match) is allowed, and is invested forthwith in employer securities (as defined in subsection (d)(9)(A)).

“(B) The sum of the amounts of matching employee contributions taken into account for purposes of this subsection

for any taxable year may not exceed the value (at the time of transfer) of the employer securities transferred to the plan in accordance with the requirements of paragraph (3) for the year for which the employee contributions are designated as matching contributions.

“(C) The employer may not make participation in the plan a condition of employment and the plan may not require matching employee contributions as a condition of participation in the plan.

“(D) Employee contributions under the plan must meet the requirements of section 401(a) (4) of such Code (relating to contributions).

“(5) A plan must provide for allocation of all employer securities transferred to it or purchased by it under this subsection to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of the plan year in an amount equal to his matching employee contributions for the year. Matching employee contributions and amounts so allocated shall be deemed to be allocated under subsection (d) (3).

“(f) RECAPTURE.—

“(1) GENERAL RULE.—Amounts transferred to a plan under subsection (d) (6) or (e) (3) may be withdrawn from the plan by the employer if the plan provides that while subject to recapture—

“(A) amounts so transferred with respect to a taxable year are segregated from other plan assets, and

“(B) separate accounts are maintained for participants on whose behalf amounts so transferred have been allocated for a taxable year.

“(2) COORDINATION WITH OTHER LAW.—Notwithstanding any other law or rule of law, an amount withdrawn by the employer will neither fail to be considered to be nonforfeitable nor fail to be for the exclusive benefit of participants or their beneficiaries merely because of the withdrawal from the plan of—

“(A) amounts described in paragraph (1), or

“(B) employer amounts transferred under subsection (e) (3) to the plan which are not matched by matching employee contributions or which are in excess of the limitations of section 415 of such Code,

nor will the withdrawal of any such amount be considered to violate the provisions of section 403(c) (1) of the Employee Retirement Income Security Act of 1974.”

(e) CLERICAL AMENDMENT.—

(1) The heading of section 301(d) of the Tax Reduction Act of 1975 is amended by striking out “11-PERCENT” and inserting in lieu thereof “ADDITIONAL”.

(2) Section 301(d) of the Tax Reduction Act of 1975 is amended by—

(A) striking out “A corporation” in paragraph (1) and inserting in lieu thereof “Except as expressly provided in subsections (e) and (f), a corporation”;

(B) inserting “or subsection (e) (3)” in paragraph (7) (A) immediately after “(6)”,

(C) striking out “this subsection” in paragraph (10) and substituting in lieu thereof “this subsection and subsections (e) and (f)”, and

Ante, pp. 1584,
1587.

29 USC 1103.

26 USC 46 note.

(D) striking out “this subsection” each time it appears in paragraph (11) and substituting in lieu thereof “this subsection or subsection (e) or (f)”.

(f) LIMITATIONS ON CONTRIBUTIONS.—

(1) SPECIAL LIMITATION FOR EMPLOYEE STOCK OWNERSHIP PLANS.—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph: 26 USC 415.

“(6) SPECIAL LIMITATION FOR EMPLOYEE STOCK OWNERSHIP PLAN.—

“(A) In the case of an employee stock ownership plan (as defined in subparagraph (B)), under which no more than one-third of the employer contributions for a year are allocated to the group of employees consisting of officers, shareholders owning more than 10 percent of the employer’s stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii), the amount described in paragraph (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1)) for a year with respect to any participant shall be equal to the sum of (i) the amount described in paragraph (c)(1)(A) (as so adjusted) determined without regard to this paragraph and (ii) the lesser of the amount determined under clause (i) or the amount of employer securities contributed to the employee stock ownership plan.

“(B) For purposes of this paragraph—

Definitions.

“(i) the term ‘employee stock ownership plan’ means a plan which meets the requirements of section 4975(e)(7) or section 301(d) of the Tax Reduction Act of 1975,

26 USC 46 note.

“(ii) the term ‘employer securities’ means, in the case of an employee stock ownership plan within the meaning of section 4975(e)(7), qualifying employer securities within the meaning of section 4975(e)(8), but only if they are described in section 301(d)(9)(A) of the Tax Reduction Act of 1975, or, in the case of an employee stock ownership plan described in section 301(d)(2) of the Tax Reduction Act of 1975, employer securities within the meaning of section 301(d)(9)(A) of such Act,

“(iii) an employee described in this clause is any participant whose compensation for a year exceeds an amount equal to twice the amount described in paragraph (1)(A) for such year (as adjusted for such year pursuant to subsection (d)(1)), determined without regard to subparagraph (A) of this paragraph, and

“(iv) an individual shall be considered to own more than 10 percent of the employer’s stock if, without regard to stock held under the employee stock ownership plan, he owns (after application of section 1563(e)) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.”.

(2) CONFORMING AMENDMENT.—Paragraph (3)(B) of section 415(e) (relating to defined contribution plan fraction) is amended by inserting “determined without regard to paragraph (6) of such subsection)” after “employer”.

(g) WAIVER OF PENALTY FOR UNDERPAYMENT OF ESTIMATED TAX.— 26 USC 6655 note.

If—

(1) a corporation made underpayments of estimated tax for a taxable year of the corporation which includes August 1, 1975, because the corporation intended to elect to have the provisions of subparagraph (B) of section 46(a)(1) of the Internal Revenue Code of 1954 (as it existed before the date of enactment of this Act) apply for such taxable year, and

(2) the corporation does not elect to have the provisions of such subparagraph apply for such taxable year because this Act does not contain the amendments made by section 804(a)(2) (relating to flowthrough of investment credit), or the provisions of subsection (f) of such section (relating to grace period for certain plan transfers), of the bill H.R. 10612 (94th Congress, 2d Session), as amended by the Senate,

Ante, p. 1520.

then the provisions of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) shall not apply to so much of any such underpayment as the corporation can establish, to the satisfaction of the Secretary of the Treasury, is properly attributable to the inapplicability of such subparagraph (B) for such taxable year.

26 USC 4975

note.

45 USC 701

note.

29 USC 1001

note.

19 USC 2101.

26 USC 1 note.

(h) **INTENT OF CONGRESS CONCERNING EMPLOYEE STOCK OWNERSHIP PLANS.**—The Congress, in a series of laws (the Regional Rail Reorganization Act of 1973, the Employee Retirement Income Security Act of 1974, the Trade Act of 1974, and the Tax Reduction Act of 1975) and this Act has made clear its interest in encouraging employee stock ownership plans as a bold and innovative method of strengthening the free private enterprise system which will solve the dual problems of securing capital funds for necessary capital growth and of bringing about stock ownership by all corporate employers. The Congress is deeply concerned that the objectives sought by this series of laws will be made unattainable by regulations and rulings which treat employee stock ownership plans as conventional retirement plans, which reduce the freedom of the employee trusts and employers to take the necessary steps to implement the plans, and which otherwise block the establishment and success of these plans. Because of the special purposes for which employee stock ownership plans are established, it is consistent with the intent of Congress to permit these plans (whether structured as pension, stock bonus, or profit-sharing plans) to distribute income on employer securities currently.

(i) **STUDY OF EXPANDED STOCK OWNERSHIP.**—

29 USC 1222.

(1) **IN GENERAL.**—Section 3022(a) of the Employee Retirement Income Security Act of 1974 (relating to duties of Joint Pension Task Force) is amended—

(A) by redesignating paragraphs (4) and (5) as (5) and (6), and

(B) by inserting after paragraph (3) the following new paragraph:

26 USC 4975.

29 USC 1107.

“(4) the broadening of stock ownership, particularly with regard to employee stock ownership plans (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954 and section 407(d)(6) of this Act) and all other alternative methods for broadening stock ownership to the American labor force and others;”.

(2) **CHANGE OF TITLE.**—

(A) Subtitle B of title III of such Act is amended—

(i) by striking out “**Pension**” in the caption of such subtitle and inserting in lieu thereof “**Pension, Profit-sharing, and Employee Stock Ownership Plan**”,

(ii) by striking out "PENSION" in the caption of part 1 of such subtitle and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN", and

(iii) by striking out "Joint Pension" each place it appears in sections 3021 and 3022 and inserting in lieu thereof the following: "Joint Pension, Profit-sharing, and Employee Stock Ownership Plan".

29 USC 1221,
1222.

(B) The table of contents of such Act is amended—

(i) by striking out "PENSION" in the item relating to title III and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN",

(ii) by striking out "PENSION" in the item relating to subtitle B of title III and inserting in lieu thereof the following: "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN", and

(iii) by striking out "PENSION" in the item relating to part 1 of subtitle B of title III and inserting in lieu thereof "PENSION, PROFIT-SHARING, AND EMPLOYEE STOCK OWNERSHIP PLAN".

(j) EFFECTIVE DATES.—

26 USC 46 note.

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply for taxable years beginning after December 31, 1974.

(2) EXCEPTIONS.—

(A) Section 301(e) of the Tax Reduction Act of 1975, as added by subsection (d), shall apply for taxable years beginning after December 31, 1976.

Ante, p. 1587.

(B) The amendments made by subsections (a) and (b) (1) shall apply for taxable years beginning after December 31, 1975.

(C) The amendments made by subsections (b) (4) and (f) shall apply for years beginning after December 31, 1975.

SEC. 804. INVESTMENT CREDIT IN THE CASE OF MOVIE AND TELEVISION FILMS.

(a) SPECIAL RULES FOR MOVIE AND TELEVISION FILMS.—Section 48 (relating to definitions and special rules for purposes of the investment credit) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

26 USC 48.

"(k) MOVIE AND TELEVISION FILMS.—

"(1) ENTITLEMENT TO CREDIT.—

"(A) IN GENERAL.—A credit shall be allowable under section 38 to a taxpayer with respect to any motion picture film or video tape—

"(i) only if such film or tape is new section 38 property (determined without regard to useful life) which is a qualified film, and

"(ii) only to the extent that the taxpayer has an ownership interest in such film or tape.

"(B) QUALIFIED FILM DEFINED.—For purposes of this subsection, the term 'qualified film' means any motion picture film or video tape created primarily for use as public entertainment or for educational purposes. Such term does not include any film or tape the market for which is primarily topical or is otherwise essentially transitory in nature.

“(C) OWNERSHIP INTEREST.—For purposes of this subsection, a person’s ‘ownership interest’ in a qualified film shall be determined on the basis of his proportionate share of any loss which may be incurred with respect to the production costs of such film.

“(2) APPLICABLE PERCENTAGE TO BE 66%.—Except as provided in paragraph (3), the applicable percentage under section 46(c) (2) for any qualified film shall be 66⅔ percent.

“(3) ELECTION OF 90-PERCENT RULE.—

“(A) IN GENERAL.—If the taxpayer makes an election under this paragraph, the applicable percentage under section 46(c) (2) shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a deduction under section 167 would equal or exceed 90 percent of the basis of the film.

“(B) MAKING OF ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply for the taxable year for which it is made and for all subsequent taxable years and may be revoked only with the consent of the Secretary.

“(C) WHO MAY ELECT.—If for any prior taxable year paragraph (2) of this subsection applied to the taxpayer or any related business entity, or if for the taxable year paragraph (2) applies to any related business entity, an election under this paragraph may be made by the taxpayer only with the consent of the Secretary.

“(D) RELATED BUSINESS ENTITY.—Two or more corporations, partnerships, trusts, estates, proprietorships, or other entities shall be treated as related business entities if 50 percent or more of the beneficial interest in each of such entities is owned by the same or related persons (taking into account only persons who own at least 10 percent of such beneficial interest). For purposes of this subparagraph, a person is a related person to another person if—

“(i) such persons are component members of a controlled group of corporations (within the meaning of section 1563(a)), except that section 1563(b) (2) shall not apply and except that ‘more than 50 percent’ shall be substituted for ‘at least 80 percent’ each place it appears in section 1563(a)), or

“(ii) the relationship between such persons would result in a disallowance of losses under section 267 or 707 (b), except that for these purposes a family of an individual includes only his spouse and minor children.

“Beneficial interest.”

For purposes of this subparagraph, the term ‘beneficial interest’ means voting stock in the case of a corporation, profits interest or capital interest in the case of a partnership, or beneficial interest in the case of a trust or estate.

“(4) PREDOMINANT USE TEST; QUALIFIED INVESTMENT.—In the case of any qualified film—

“(A) section 48(a) (2) shall not apply, and

“(B) in determining qualified investment under section 46(c) (1), there shall be issued (in lieu of the basis of the property) an amount equal to the qualified United States production costs (as defined in paragraph (5)).

“(5) QUALIFIED UNITED STATES PRODUCTION COSTS.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified United States production costs’ means with respect to any film—

“(i) direct production costs allocable to the United States, plus

“(ii) if 80 percent or more of the direct production costs are allocable to the United States, all other production costs other than direct production costs allocable outside the United States.

“(B) PRODUCTION COSTS.—For purposes of this subsection, the term ‘production costs’ includes—

“(i) a reasonable allocation of general overhead costs,

“(ii) compensation (other than participations described in clause (vi)) for services performed by actors, production personnel, directors, and producers,

“(iii) costs of ‘first’ distribution of prints,

“(iv) the cost of the screen rights and other material being filmed,

“(v) ‘residuals’ payable under contracts with labor organizations, and

“(vi) participations payable as compensation to actors, production personnel, directors, and producers.

Participations in all qualified films placed in service by a taxpayer during a taxable year shall be taken into account under clause (vi) only to the extent of the lesser of 25 percent of each such participation or 12½ percent of the aggregate qualified United States production costs (other than costs described in clauses (v) and (vi) of this subparagraph) for such films, but taking into account for both the 25 percent limit and 12½ percent limit no more than \$1,000,000 in participations for any one individual with respect to any one film. For purposes of this subparagraph (other than clauses (v) and (vi) and the preceding sentence), costs shall be taken into account only if they are capitalized.

“(C) DIRECT PRODUCTION COSTS.—For purposes of this paragraph, the term ‘direct production costs’ does not include items referred to in clause (i), (iv), (v), or (vi) of subparagraph (B). The term also does not include advertising and promotional costs and such other costs as may be provided in regulations prescribed by the Secretary.

“(D) ALLOCATION OF DIRECT PRODUCTION COSTS.—For purposes of this paragraph—

“(i) Compensation for services performed shall be allocated to the country in which the services are performed, except that payments to United States persons for services performed outside the United States shall be allocated to the United States. For purposes of the preceding sentence, payments to an electing small business corporation (within the meaning of section 1371) or a partnership shall be considered payments to a United States person only to the extent that such payments are included in the gross income of a United States person other than an electing small business corporation or partnership.

“(ii) Amounts for equipment and supplies shall be allocated to the country in which, with respect to the production of the film, the predominant use occurs.

“(iii) All other items shall be allocated under regulations prescribed by the Secretary which are consistent with the allocation principle set forth in clause (ii).

“(6) UNITED STATES.—For purposes of this subsection, the term ‘United States’ includes the possessions of the United States.”

26 USC 47. (b) OVERESTIMATION OF USEFUL LIFE AND DISPOSITIONS WHERE 90 PERCENT RULE APPLIES.—Section 47(a) (relating to certain dispositions, etc., of section 38 property) is amended by adding after paragraph (6) the following new paragraph:

“(7) MOTION PICTURE FILMS AND VIDEO TAPES.—

Ante, p. 1591.

“(A) DISPOSITION WHERE DEPRECIATION EXCEEDS 90 PERCENT OF BASIS OR COST.—A qualified film (within the meaning of section 48(k) (1) (B)) which has an applicable percentage determined under section 48(k) (3) shall cease to be section 38 property with respect to the taxpayer at the close of the first day on which the aggregate amount allowable as a deduction under section 167 equals or exceeds 90 percent of the basis or cost of such film (adjusted for any partial dispositions).

“Affiliated group.”

“(B) OTHER DISPOSITIONS.—In the case of a disposition of the exclusive right to display a qualified film which has an applicable percentage determined under section 48(k) (3) in one or more mediums of publication or exhibition in one or more specifically defined geographical areas over the remaining initial period of commercial exploitation of the film or tape in such geographical areas, the taxpayer shall be considered to have disposed of all or part of such film or tape and shall recompute the credit earned on all of his basis or cost or on that part of the basis or cost properly allocable to that part of the film or tape disposed of. In the case of an affiliated group of corporations, a transfer within the affiliated group shall not be treated as a disposition until there is a transfer outside the group. For purposes of the preceding sentence, the term ‘affiliated group’ has the meaning given to such term by section 1504 (determined as if section 1504(b) did not include paragraph (3) thereof). For purposes of this paragraph, section 1504(a) shall be applied by substituting ‘50 percent’ for ‘80 percent’ each place it appears.”

26 USC 48 note.

(c) ALTERNATIVE METHODS OF COMPUTING CREDIT FOR PAST PERIODS.—

Ante, p. 1591.

(1) GENERAL RULE FOR DETERMINING USEFUL LIFE, PREDOMINANT FOREIGN USE, ETC.—In the case of a qualified film (within the meaning of section 48(k) (1) (B) of the Internal Revenue Code of 1954) placed in service in a taxable year beginning before January 1, 1975, with respect to which neither an election under paragraph (2) of this subsection nor an election under subsection (e) (2) applies—

(A) the applicable percentage under section 46(c) (2) of such Code shall be determined as if the useful life of the film would have expired at the close of the first taxable year by the close of which the aggregate amount allowable as a

deduction under section 167 of such Code would equal or exceed 90 percent of the basis of such property (adjusted for any partial dispositions),

(B) for purposes of section 46(c)(1) of such Code, the basis of the property shall be determined by taking into account the total production costs (within the meaning of section 48(k)(5)(B) of such Code), 26 USC 46.

(C) for purposes of section 48(a)(2) of such Code, such film shall be considered to be used predominantly outside the United States in the first taxable year for which 50 percent or more of the gross revenues received or accrued during the taxable year from showing the film were received or accrued from showing the film outside the United States, and

(D) Section 47(a)(7) of such Code shall apply.

(2) ELECTION OF 40-PERCENT METHOD.—

(A) IN GENERAL.—A taxpayer may elect to have this paragraph apply to all qualified films placed in service during taxable years beginning before January 1, 1975 (other than films to which an election under subsection (e)(2) of this section applies).

(B) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph, then section 48(k) of the Internal Revenue Code of 1954 shall apply to all qualified films described in subparagraph (A) with the following modifications:

(i) subparagraph (B) of paragraph (4) shall not apply, but in determining qualified investment under section 46(c)(1) of such Code, there shall be used (in lieu of the basis of such property) an amount equal to 40 percent of the aggregate production costs (within the meaning of paragraph (5)(B) of such section 48(k)),

(ii) paragraph (2) shall be applied by substituting “100 percent” for “66⅔ percent”, and

(iii) paragraph (3) and paragraph (5) (other than subparagraph (B)) shall not apply.

(C) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 6 months after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. Such an election may be revoked only with the consent of the Secretary of the Treasury or his delegate. Regulations.

(D) THE TAXPAYER MUST CONSENT TO JOIN IN CERTAIN PROCEEDINGS.—No election may be made under this paragraph or subsection (e)(2) by any taxpayer unless he consents, under regulations prescribed by the Secretary of the Treasury or his delegate, to treat the determination of the investment credit allowable on each film subject to an election as a separate cause of action, and to join in any judicial proceeding for determining the person entitled to, and the amount of, the credit allowable under section 38 of the Internal Revenue Code of 1954 with respect to any film covered by such election.

(3) ELECTION TO HAVE CREDIT DETERMINED IN ACCORDANCE WITH PREVIOUS LITIGATION.—

(A) IN GENERAL.—A taxpayer described in subparagraph (B) may elect to have this paragraph apply to all films (whether or not qualified) placed in service in taxable years

beginning before January 1, 1975, and with respect to which an election under subsection (e) (2) is not made.

(B) WHO MAY ELECT.—A taxpayer may make an election under this paragraph if he has filed an action in any court of competent jurisdiction, before January 1, 1976, for a determination of such taxpayer's rights to the allowance of a credit against tax under section 38 of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1975, with respect to any film.

(C) EFFECT OF ELECTION.—If the taxpayer makes an election under this paragraph—

(i) paragraphs (1) and (2) of this subsection, and subsection (d) shall not apply to any film placed in service by the taxpayer, and

Ante, p. 1591.

(ii) subsection 48(k) of the Internal Revenue Code of 1954 shall not apply to any film placed in service by the taxpayer in any taxable year beginning before January 1, 1975, and with respect to which an election under subsection (e) (2) is not made,

and the right of the taxpayer to the allowance of a credit against tax under section 38 of such Code with respect to any film placed in service in any taxable year beginning before January 1, 1975, and as to which an election under subsection (e) (2) is not made, shall be determined as though this section (other than this paragraph) has not been enacted.

(D) RULES RELATING TO ELECTIONS.—An election under this paragraph shall be made not later than the day which is 90 days after the date of the enactment of this Act, by filing a notification of such election with the national office of the Internal Revenue Service. Such an election, once made, shall be irrevocable.

26 USC 48 note.

(d) ENTITLEMENT TO CREDIT.—Paragraph (1) of section 48(k) of the Internal Revenue Code of 1954 (relating to entitlement to credit) shall apply to any motion picture film or video tape placed in service in any taxable year beginning before January 1, 1975.

26 USC 48 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1974.

(2) ELECTION MAY ALSO APPLY TO PROPERTY DESCRIBED IN SECTION 50(a).—At the election of the taxpayer, made within 1 year after the date of the enactment of this Act in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe, the amendments made by subsections (a) and (b) shall also apply to property which is property described in section 50(a) of the Internal Revenue Code of 1954 and which is placed in service in taxable years beginning before January 1, 1975.

SEC. 805. INVESTMENT CREDIT IN THE CASE OF CERTAIN SHIPS.

26 USC 46.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

“(g) 50 PERCENT CREDIT IN THE CASE OF CERTAIN VESSELS.—

“(1) IN GENERAL.—In the case of a qualified withdrawal out of the untaxed portion of a capital gain account or out of an ordinary income account in a capital construction fund established under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), for—

“(A) the acquisition, construction, or reconstruction of a qualified vessel, or

“(B) the acquisition, construction, or reconstruction of barges or containers which are part of the complement of a qualified vessel and to which subsection (f) (1) (B) of such section 607 applies,

46 USC 1177.

for purposes of section 38 there shall be deemed to have been made (at the time of such withdrawal) a qualified investment (within the meaning of subsection (c)) or qualified progress expenditures (within the meaning of subsection (d)), whichever is appropriate, with respect to property which is section 38 property.

“(2) AMOUNT OF CREDIT.—For purposes of paragraph (1), the amount of the qualified investment shall be 50 percent of the applicable percentage of the qualified withdrawal referred to in paragraph (1), or the amount of the qualified progress expenditures shall be 50 percent of such withdrawal, as the case may be. For purposes of determining the amount of the credit allowable by reason of this subsection for any taxable year, the limitation of subsection (a) (3) shall be determined without regard to subsection (d) (1) (A) of such section 607.

“(3) COORDINATION WITH SECTION 38.—The amount of the credit allowable by reason of this subsection with respect to any property shall be the minimum amount allowable under section 38 with respect to such property. If, without regard to this subsection, a greater amount is allowable under section 38 with respect to such property, then such greater amount shall apply and this subsection shall not apply.

“(4) COORDINATION WITH SECTION 47.—Section 47 shall be applied—

“(A) to any property to which this subsection applies, and

“(B) to the payment (out of the untaxed portion of a capital gain account or out of the ordinary income account of a capital construction fund established under section 607 of the Merchant Marine Act, 1936) of the principal of any indebtedness incurred in connection with property with respect to which a credit was allowed under section 38.

For purposes of section 47, any payment described in subparagraph (B) of the preceding sentence shall be treated as a disposition occurring less than 3 years after the property was placed in service; but, in the case of a credit allowable without regard to this subsection, the aggregate amount which may be recaptured by reason of this sentence shall not exceed 50 percent of such credit.

“(5) DEFINITIONS.—Any term used in section 607 of the Merchant Marine Act, 1970, shall have the same meaning when used in this subsection.

46 USC 1177.

“(6) NO INFERENCE.—Nothing in this subsection shall be construed to infer that any property described in this subsection is or is not section 38 property, and any determination of such issue shall be made as if this subsection had not been enacted.”

(b) EFFECTIVE DATES.—

26 USC 46 note.

(1) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975, in the case of property placed in service after such date.

Ante, p. 1596. (2) SECTION 46(g)(4).—Section 46(g)(4) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning after December 31, 1975.

SEC. 806. ADDITIONAL NET OPERATING LOSS CARRYOVER YEARS; LIMITATIONS ON NET OPERATING LOSS CARRYOVERS.

26 USC 172. (a) IN GENERAL.—Section 172(b)(1)(B), as amended by section
Post, p. 1755. 1606(b) of this Act, is amended by adding at the end thereof the following new sentence: “Except as provided in subparagraphs (C), (D), (E), and (F), a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 7 taxable years following the taxable year of such loss.”

(b) REGULATED TRANSPORTATION CORPORATIONS.—

Post, p. 1769. (1) IN GENERAL.—Section 172(b)(1)(C) is amended by adding at the end thereof the following new sentence: “For any taxable year ending after December 31, 1975, the preceding sentence shall be applied by substituting ‘9 taxable years’ for ‘7 taxable years’.”

Post, p. 1769. (2) CONFORMING AMENDMENT.—Paragraph (3) of section 172 (g), as amended by section 1901(a)(29) of this Act, is amended—

(A) by striking “and” at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting in lieu thereof “; and”; and

(C) by adding at the end thereof the following new subparagraph:

“(C) in the case of a net operating loss carryover from a loss year ending after December 31, 1975, subparagraphs (A) and (B) shall be applied by substituting ‘8th taxable year’ for the ‘6th taxable year’ and ‘9th taxable year’ for ‘7th taxable year.’”

Post, p. 1769. (c) ELECTION TO FOREGO CARRYBACK PERIOD.—Section 172 (b)(3), as amended by section 1901(a)(29) of this Act, is amended by adding at the end thereof the following new subparagraph:

“(E) Any taxpayer entitled to a carryback period under paragraph (1) may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year ending after December 31, 1975. Such election shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net operating loss for which the election is to be in effect. Such election, once made for any taxable year, shall be irrevocable for that taxable year.”

(d) INSURANCE COMPANIES.—

(1) LIFE INSURANCE COMPANIES.—

26 USC 812. (A) IN GENERAL.—Paragraph (1) of section 812(b) is amended by adding at the end thereof the following new sentence:

“In the case of an operations loss for any taxable year ending after December 31, 1975, this paragraph shall be applied by substituting ‘7 taxable years’ for ‘5 taxable years’.”

(B) ELECTION TO FOREGO CARRYBACK PERIODS.—Section 812(b) is amended by adding at the end thereof the following new paragraph:

(3) ELECTION FOR OPERATIONS LOSS CARRYBACKS.—In the case of a loss from operations for any taxable year ending after December 31, 1975, the taxpayer may elect to relinquish the entire carry-

back period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and once made for any taxable year, such election shall be irrevocable for that taxable year.”

(2) **MUTUAL INSURANCE COMPANIES.**—

(A) **IN GENERAL.**—Section 825(d) is amended to read as follows: 26 USC 825.

“(d) **YEARS TO WHICH CARRIED.**—

“(1) **IN GENERAL.**—The unused loss for any taxable year shall be—

“(A) an unused loss carryback to each of the 3 taxable years preceding the loss year, and

“(B) an unused loss carryover to each of the 5 taxable years following the loss year.

In the case of an unused loss for a taxable year ending after December 31, 1975, such unused loss shall be an unused loss carryover to each of the 7 taxable years following the loss year.

“(2) **ELECTION FOR UNUSED LOSS CARRYBACKS.**—In the case of an unused loss for any taxable year ending after December 31, 1975, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the unused loss for which the election is to be in effect, and once made for any taxable year, such election shall be irrevocable for that taxable year.”

(e) **AMENDMENT OF SECTION 382.**—Section 382 (relating to special limitations on net operating loss carryovers) is hereby amended to read as follows: 26 USC 382.

“**SEC. 382. SPECIAL LIMITATIONS ON NET OPERATING LOSS CARRYOVER.**

“(a) **CERTAIN ACQUISITIONS OF STOCK OF A CORPORATION.**—

“(1) **IN GENERAL.**—If—

“(A) on the last day of a taxable year of a corporation,

“(B) any one or more of the persons described in paragraph (4)(B) own, directly or indirectly, a percentage of the total fair market value of the participating stock or of all the stock of the corporation which exceeds by more than 60 percentage points the percentage of such stock owned by such person or persons at—

“(i) the beginning of such taxable year, or

“(ii) the beginning of the first or second preceding taxable year, and

“(C) such increase in percentage points is attributable to—

“(i) a purchase by such person or persons of such stock, or of the stock of another corporation owning stock in such corporation, or of an interest in a partnership or trust owning stock in such corporation,

“(ii) an acquisition (by contribution, merger, or consolidation) of an interest in a partnership owning stock in such corporation, or an acquisition (by contribution, merger, or consolidation) by a partnership of such stock,

“(iii) an exchange to which section 351 (relating to transfer to corporation controlled by transferor) applies, or an acquisition by a corporation of such stock in an exchange in which section 351 applies to the transferor,

26 USC 303.

“(iv) a contribution to the capital of such corporation,
 “(v) a decrease in the amount of such stock outstanding or in the amount of stock outstanding of another corporation owning stock in such corporation (except a decrease resulting from a redemption to pay death taxes to which section 303 applies),

“(vi) a liquidation of the interest of a partner in a partnership owning stock in such corporation, or

“(vii) any combination of the transactions described in clauses (i) through (vi),

then the net operating loss carryover, if any, from such taxable year and the net operating loss carryovers, if any, from prior taxable years to such taxable year and subsequent taxable years of such corporation shall be reduced by the percentage determined under paragraph (2),

“(2) **REDUCTION OF NET OPERATING LOSS CARRYOVER.**—The reduction applicable under paragraph (1) shall be the sum of the percentages determined by multiplying—

“(A) by three and one-half the increase in percentage points (including fractions thereof) in excess of 60 and up to and including 80, and

“(B) by one and one-half the increase in percentage points (including fractions thereof) in excess of 80.

The reduction under this paragraph shall be determined by reference to the increase in percentage points of the total fair market value of the participating stock or of all the stock, whichever increase is greater.

“(3) **MINIMUM OWNERSHIP RULE.**—Notwithstanding the provisions of paragraph (1), a net operating loss carryover from a taxable year shall not be reduced under this subsection if, at all times during the last half of such taxable year, any of the persons described in paragraph (4)(B) (determined on the last day of the taxable year referred to in paragraph (1)(A)) owned at least 40 percent of the total fair market value of the participating stock and of all the stock of the corporation. For purposes of the preceding sentence, persons owning stock of a corporation on the last day of its first taxable year shall be considered to have owned such stock at all times during the last half of such first taxable year.

“(4) **OPERATING RULES.**—For purposes of this subsection—

“(A) **DEFINITION OF PURCHASE.**—The term ‘purchase’ means an acquisition of stock the basis of which is determined by reference to its cost to the holder thereof.

“(B) **DESCRIPTION OF PERSON OR PERSONS.**—The person or persons referred to in paragraph (1)(B) shall be the 15 persons (or such lesser number as there are persons owning the stock on the last day of the taxable year) who own the greatest percentage of the total fair market value of all the stock on the last day of that year, except that if any other person owns the same percentage of such stock at such time as is owned by one of the 15 persons, that other person shall also be included. If any of the persons are so related that the stock owned by one is attributed to the other under the rules specified in subparagraph (C), such persons shall be considered as only one person solely for the purpose of selecting the 15 persons (more or less) who own the greatest percentage of the total fair market value of all the stock.

“(C) **CONSTRUCTIVE OWNERSHIP.**—Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that section 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50 percent limitation contained therein. 26 USC 318.

“(D) **SHORT TAXABLE YEARS.**—If one of the taxable years of the corporation referred to in paragraph (1)(B) is a short taxable year, then such paragraph and paragraph (6) shall be applied by substituting ‘first, second, or third’ for ‘first or second’ each time such phrase occurs.

“(5) **EXCEPTIONS.**—This subsection shall not apply to a purchase or other acquisition of stock (or of an interest in a partnership or trust owning stock in the corporation)—

“(A) from a person whose ownership of stock would be attributed to the holder by application of paragraph (4)(C) to the extent that such stock would be so attributed;

“(B) if (and to the extent) the basis thereof is determined under section 1014 or 1023 (relating to property acquired from a decedent), or section 1015(a) or (b) (relating to property acquired by gift or transfers in trust);

Post, p. 1872.

“(C) by a security holder or creditor in exchange for the relinquishment or extinguishment in whole or part of a claim against the corporation, unless the claim was acquired for the purpose of acquiring such stock;

“(D) by one or more persons who were full-time employees of the corporation at all times during the period of 36 months ending on the last day of the taxable year of the corporation (or at all times during the period of the corporation’s existence, if shorter);

“(E) by a trust described in section 401(a) which is exempt from tax under section 501(a) and which benefits exclusively the employees (or their beneficiaries) of the corporation, including a member of a controlled group of corporations (within the meaning of section 1563(a) determined without regard to section 1563(a)(4) and (e)(3)(C)) which includes such corporation;

“(F) by an employee stock ownership plan meeting the requirements of section 301(d) of the Tax Reduction Act of 1975; or

26 USC 46 note.

“(G) in a recapitalization described in section 368(a)(1)(E).

“(6) **SUCCESSIVE APPLICATIONS OF SUBSECTION.**—If—

“(A) a net operating loss carryover is reduced under this subsection at the end of a taxable year of a corporation, and

“(B) any person described in paragraph (4)(B) who owns stock of the corporation on the last day of such taxable year does not own, on the last day of the first or second succeeding taxable year of the corporation, a greater percentage of the total fair market value of the participating stock or of all the stock of the corporation than such person owned on the last day of such taxable year,

then, for purposes of applying this subsection as of the end of the first or second succeeding taxable year (as the case may be), stock owned by such person at the end of such succeeding taxable year shall be considered owned by such person at the beginning of the first or second preceding taxable year. Other rules relating

Regulations.

to the manner and extent of successive applications of this section in the case of increases in ownership and transfers of stock by the persons described in paragraph (4)(B) shall be prescribed by regulations issued by the Secretary.

“(b) REORGANIZATIONS.—

26 USC 368.

“(1) IN GENERAL.—If one corporation acquires the stock or assets of another corporation in a reorganization described in section 368(a)(1)(A), (B), (C), (D) (but only if the requirements of section 354(b)(1) are met), or (F), and if—

“(A) the acquiring or acquired corporation has a net operating loss for the taxable year which includes the date of the acquisition, or a net operating loss carryover from a prior taxable year to such taxable year, and

“(B) the shareholders (immediately before the reorganization) of such corporation (the ‘loss corporation’), as the result of owning stock of the loss corporation, own (immediately after the reorganization) less than 40 percent of the total fair market value of the participating stock or of all the stock of the acquiring corporation,

then the net operating loss carryover (if any) of the loss corporation from the taxable year which includes the date of the acquisition, and the net operating loss carryovers (if any) of the loss corporation from prior taxable years to such taxable year and subsequent taxable years, shall be reduced by the percentage determined under paragraph (2).

“(2) REDUCTION OF NET OPERATING LOSS CARRYOVER.—

“(A) OWNERSHIP OF 20 PERCENT OR MORE.—If such shareholders own less than 40 percent, but not less than 20 percent, of the total fair market value of the participating stock or of all the stock of the acquiring corporation, the reduction applicable under paragraph (1) shall be the percentage equal to the number of percentage points (including fractions thereof) less than 40 percent, multiplied by three and one-half.

“(B) OWNERSHIP OF LESS THAN 20 PERCENT.—If such shareholders own less than 20 percent of the total fair market value of the participating stock or of all the stock of the acquiring corporation, the reduction applicable under paragraph (1) shall be the sum of—

“(i) the percentage that would be determined under subparagraph (A) if the shareholders owned 20 percent of such stock, plus

“(ii) the percentage equal to the number of percentage points (including fractions thereof) of such stock less than 20 percent, multiplied by one and one-half.

The reduction under this paragraph shall be determined by reference to the lesser of the percentage of the total fair market value of the participating stock or of all the stock of the acquiring corporation owned by such shareholders.

“(3) LOSSES OF CONTROLLED CORPORATIONS.—For purposes of this subsection—

“(A) HOLDING COMPANIES.—If, immediately before the reorganization, the acquiring or acquired corporation controls a corporation which has a net operating loss for the taxable year which includes the date of the acquisition, or a net operating loss carryover from a prior taxable year to such taxable year, the acquiring or acquired corporation, as the case

may be, shall be treated as the loss corporation (whether or not such corporation is a loss corporation). The reduction, if any, so determined under paragraph (2) shall be applied to the losses of such controlled corporation.

“(B) TRIANGULAR REORGANIZATIONS.—Except as otherwise provided in paragraph (5), if the shareholders of the loss corporation (immediately before the reorganization) own, as a result of the reorganization, stock in a corporation controlling the acquiring corporation, such shareholders shall be treated as owning (immediately after the reorganization) a percentage of the total fair market value of the participating stock and of all the stock of the acquiring corporation owned by the controlling corporation equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, of the controlling corporation owned by such shareholders.

“(4) SPECIAL RULES.—For purposes of applying paragraph (1)(B)—

“(A) CERTAIN RELATED TRANSACTIONS.—If, immediately before the reorganization—

“(i) one or more shareholders of the loss corporation own stock of such corporation which such shareholder acquired during the 36-month period ending on the date of the acquisition in a transaction described in paragraph (1) or in subsection (a)(1)(C) (unless excepted by subsection (a)(5)), and

“(ii) such shareholders own more than 50 percent of the total fair market value of the stock of another corporation a party to the reorganization, or any such shareholder is a corporation controlled by another corporation a party to the reorganization,

then such shareholders shall not be treated as shareholders of the loss corporation with respect to such stock.

“(B) CERTAIN PRIOR OWNERSHIP OF LOSS CORPORATION.—If, immediately before the reorganization, the acquiring or acquired corporation owns stock of the loss corporation, then paragraph (1)(B) shall be applied by treating the shareholders of the loss corporation as owning an additional amount of the total fair market value of the participating stock and of all the stock of the acquiring corporation, as a result of owning stock in the loss corporation, equal to the total fair market value of the participating stock and of all the stock, respectively, of the loss corporation owned (immediately before the reorganization) by the acquiring or acquired corporation. This subparagraph shall not apply to stock of the loss corporation owned by the acquiring or acquired corporation if such stock was acquired by such corporation within the 36-month period ending on the date of the reorganization in a transaction described in subsection (a)(1)(C) (unless excepted by subsection (a)(5)); or to a reorganization described in section 368(a)(1)(B) or (C) to the extent the acquired corporation does not distribute the stock received by it to its own shareholders.

26 USC 368.

“(C) CERTAIN ASSET ACQUISITIONS.—If a loss corporation receives stock of the acquiring corporation in a reorganization described in section 368(a)(1)(C) and does not distribute such stock to its shareholders, paragraph (1)(B) shall be

applied by treating the shareholders of the loss corporation as owning (immediately after the reorganization) such undistributed stock in proportion to the fair market value of the stock which such shareholders own in the loss corporation.

26 USC 368. “(5) CERTAIN STOCK-FOR-STOCK REORGANIZATIONS.—In the case of a reorganization described in section 368(a)(1)(B) in which the acquired corporation is a loss corporation—

“(A) STOCK WHICH IS EXCHANGED.—Paragraphs (1)(B) and (2) shall be applied by reference to the ownership of stock of the loss corporation (rather than the acquiring corporation) immediately after the reorganization. Shareholders of the loss corporation who exchange stock of the loss corporation shall be treated as owning (immediately after the reorganization) a percentage of the total fair market value of the participating stock and of all the stock of the loss corporation acquired in the exchange by the acquiring corporation which is equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, of the acquiring corporation owned (immediately after the reorganization) by such shareholders.

“(B) STOCK WHICH IS NOT EXCHANGED.—Stock of the loss corporation owned by shareholders immediately before the reorganization which was not exchanged in the reorganization shall be taken into account in applying paragraph (1)(B). For purposes of the preceding sentence, the acquiring corporation (or a corporation controlled by the acquiring corporation) shall not be treated as a shareholder of the loss corporation with respect to stock of the loss corporation acquired in a transaction described in paragraph (1), or in subsection (a)(1)(C) (unless excepted by subsection (a)(5)), during the 36-month period ending on the date of the exchange.

“(C) TRIANGULAR EXCHANGES.—For purposes of applying the rules in this paragraph, if the shareholders of the loss corporation receive stock of a corporation controlling the acquiring corporation, such shareholders shall be treated as owning a percentage of the participating stock and of all the stock of the acquiring corporation owned by the controlling corporation equal to the percentage of the total fair market value of the participating stock and of all the stock, respectively, which such shareholders own of the controlling corporation immediately after the reorganization.

“(6) EXCEPTIONS.—The limitations in this subsection shall not apply—

“(A) if the same persons own substantially all the stock of the acquiring corporation and of the other corporation in substantially the same proportions; or

“(B) to a net operating loss carryover from a taxable year if the acquiring or acquired corporation owned at least 40 percent of the total fair market value of the participating stock and of all the stock of the loss corporation at all times during the last half of such taxable year.

For purposes of subparagraph (A), if the acquiring or acquired corporation is controlled by another corporation, the shareholders of the controlling corporation shall be considered as also owning the stock owned by the controlling corporation in that proportion which the total fair market value of the stock which

each shareholder owns in the controlling corporation bears to the total fair market value of all the stock in the controlling corporation.

(c) RULES RELATING TO STOCK.—For purposes of this section—

“(1) The term ‘stock’ means all shares of stock, except stock which—

“(A) is not entitled to vote,

“(B) is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent,

“(C) has redemption and liquidation rights which do not exceed the paid-in capital or par value represented by such stock (except for a reasonable redemption premium in excess of such paid-in capital or par value), and

“(D) is not convertible into another class of stock.

“(2) The term ‘participating stock’ means stock (including common stock) which represents an interest in the earnings and assets of the issuing corporation which is not limited to a stated amount of money or property or percentage of paid-in capital or par value, or by any similar formula. “Participating stock.”

“(3) The Secretary shall prescribe regulations under which— Regulations.

“(A) stock or convertible securities shall be treated as stock or participating stock, or

“(B) stock (however denoted) shall not be treated as stock or participating stock,

by reason of conversion and call rights, rights in earnings and assets, priorities and preferences as to distributions of earnings or assets, and similar factors.”

(f) CONFORMING AMENDMENTS.—

(1) **AMENDMENT OF SECTION 368.**—Section 368(c) (relating to the definition of control) is amended by striking out “and this part,” and inserting in lieu thereof “this part, and part V.” 26 USC 368.

(2) **AMENDMENT OF SECTION 383.**—Section 383 (relating to special limitations on certain carryovers) is amended to read as follows: 26 USC 383.

“SEC. 383. SPECIAL LIMITATIONS ON UNUSED INVESTMENT CREDITS, WORK INCENTIVE PROGRAM CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.

“In the case of a change of ownership of a corporation in the manner described in section 382 (a) or (b), the limitations provided in section 382 in such cases with respect to net operating losses shall apply in the same manner, as provided under regulations prescribed by the Secretary, with respect to any unused investment credit of the corporation under section 46(b), to any unused work incentive program credit of the corporation under section 50A(b), to any excess foreign taxes of the corporation under section 904(d), and to any net capital loss of the corporation under section 1212.” Ante, p. 1599.

(g) EFFECTIVE DATE.—

(1) The amendments made by subsections (a), (b), (c), and (d) shall apply to losses incurred in taxable years ending after December 31, 1975. Ante, p. 1582.

(2) For purposes of applying sections 382(a) and 383 (as it relates to section 382(a)) of the Internal Revenue Code of 1954, as amended by subsections (e) and (f), the amendments made by subsections (e) and (f) shall take effect for taxable years beginning after June 30, 1978, except that the beginning of the taxable years specified in clause (ii) of section 382(a) (1) (B) of Post, p. 1620.

26 USC 172 note.

26 USC 382 note.

26 USC 382
note.

such Code, as so amended, shall be considered to be the later of:

- (A) the beginning of such taxable years, or
- (B) January 1, 1978.

Ante, p. 1599.

(3) Sections 382(b) and 383 (as it relates to section 382(b)) of the Internal Revenue Code of 1954, as amended by subsections (e) and (f), shall apply (and such sections as in effect prior to such amendment shall not apply) to reorganizations pursuant to a plan of reorganization adopted by one or more of the parties thereto on or after January 1, 1978. For purposes of the preceding sentence, a corporation shall be considered to have adopted a plan of reorganization on the date on which a resolution of the board of directors is passed adopting the plan or recommending its adoption to the shareholders, or on the date on which the shareholders approve the plan of reorganization, whichever is earlier.

46 USC 1177-1. **SEC. 807. SMALL FISHING VESSEL CONSTRUCTION RESERVES.**

In addition to any other vessel which may be deemed an "eligible vessel" and a "qualified vessel" under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), a commercial fishing vessel under five net tons but not under two net tons—

- (1) which is constructed in the United States and, if reconstructed, is reconstructed in the United States;
- (2) which is owned by a citizen of the United States;
- (3) which has a home port in the United States; and
- (4) which is operated in the commercial fisheries of the United States,

shall be considered to be an "eligible vessel" and a "qualified vessel" for the purposes of such section 607.

TITLE IX—SMALL BUSINESS PROVISIONS

SEC. 901. EXTENSION OF CERTAIN CORPORATE INCOME TAX REDUCTIONS.

26 USC 11.

(a) **IN GENERAL.**—Subsections (a), (b), (c), and (d) of section 11 (relating to tax imposed on corporations) are amended to read as follows:

"(a) **CORPORATIONS IN GENERAL.**—A tax is hereby imposed for each taxable year on the taxable income of every corporation. The tax shall consist of a normal tax computed under subsection (b) and a surtax computed under subsection (c).

"(b) **NORMAL TAX.**—The normal tax is equal to—

"(1) in the case of a taxable year ending after December 31, 1977, 22 percent of the taxable income, and

"(2) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978, the sum of—

"(A) 20 percent of so much of the taxable income as does not exceed \$25,000, plus

"(B) 22 percent of so much of the taxable income as exceeds \$25,000.

"(c) **SURTAX.**—The surtax is 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year.

"(d) **SURTAX EXEMPTION.**—For purposes of this subtitle, the surtax exemption for any taxable year is—

"(1) \$25,000 in the case of a taxable year ending after December 31, 1977, or

"(2) \$50,000 in the case of a taxable year ending after December 31, 1974, and before January 1, 1978,

except that, with respect to a corporation to which section 1561 (relating to certain multiple tax benefits in the case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section."

(b) **MUTUAL INSURANCE COMPANIES.**—

(1) **IN GENERAL.**—Section 821(a)(1) (relating to mutual insurance companies) is amended to read as follows: 26 USC 821.

"(1) **NORMAL TAX.**—A normal tax equal to—

"(A) in the case of a taxable year ending after December 31, 1977, 22 percent of the mutual insurance company taxable income, or 44 percent of the amount by which such taxable income exceeds \$6,000, whichever is lesser, or

"(B) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978—

"(i) 20 percent of so much of the mutual insurance company taxable income as does not exceed \$25,000, plus

"(ii) 22 percent of so much of the mutual insurance company taxable income as exceeds \$25,000,

or 44 percent of the amount by which such taxable income exceeds \$6,000, whichever is lesser; plus".

(2) **SMALL COMPANIES.**—Section 821(c)(1)(A) (relating to alternative tax for certain small companies) is amended to read as follows:

"(A) **NORMAL TAX.**—A normal tax equal to—

"(i) in the case of a taxable year ending after December 31, 1977, 22 percent of the taxable investment income, or 44 percent of the amount by which such taxable income exceeds \$3,000, whichever is lesser, or

"(ii) in the case of a taxable year ending after December 31, 1974, and before January 1, 1978, 20 percent of so much of the taxable investment income as does not exceed \$25,000, plus 22 percent of so much of the taxable investment income as exceeds \$25,000, or 44 percent of the amount by which such taxable income exceeds \$3,000, whichever is lesser; plus".

(c) **CONFORMING AMENDMENTS.**—

(1) Section 1561(a) (relating to certain multiple tax benefits in the case of certain controlled corporations) is amended by adding at the end thereof the following new sentence: "In applying section 11(b)(2), the first \$25,000 of taxable income and the second \$25,000 of taxable income shall each be allocated among the component members of a controlled group of corporations in the same manner as the surtax exemption is allocated." 26 USC 1561.

(2) Subsection (f) of section 21 (relating to change in surtax exemption treated as a change in a rate of tax) is amended by striking out "Tax Reduction Act of 1975" and all that follows and inserting in lieu thereof the following: "Tax Reduction Act of 1975 in the surtax exemption and any change under section 11(d) in the surtax exemption shall be treated as a change in a rate of tax." 26 USC 21.
26 USC 1 note.

(3) Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by striking out subsection (h). 26 USC 6154.

(d) **EFFECTIVE DATES.**—The amendment made by subsection (a) shall take effect on December 23, 1975. The amendments made by subsection (b) shall apply to taxable years ending after December 31, 26 USC 11 note.

1974. The amendments made by subsection (c) shall apply to taxable years ending after December 31, 1975.

SEC. 902. CHANGES IN SUBCHAPTER S RULES.

(a) NUMBER OF SHAREHOLDERS.—

26 USC 1371.

(1) **IN GENERAL.**—Subsection (a)(1) of section 1371 (relating to the definition of small business corporation) is amended to read as follows:

“(1) have (except as provided in subsection (e)) more than 10 shareholders;”.

(2) **SPECIAL SHAREHOLDER RULES.**—Section 1371 is amended by adding at the end thereof the following new subsection:

“(e) SPECIAL SHAREHOLDER RULES.—

“(1) A small business corporation which has been an electing small business corporation for a period of five consecutive taxable years may not have more than 15 shareholders.

“(2) If, during the 5-year period set forth in paragraph (1), the number of shareholders of an electing small business corporation increases to an amount in excess of 10 (but not in excess of 15) solely by reason of additional shareholders who acquired their stock through inheritance, the corporation may have a number of additional shareholders equal to the number by which the inheriting shareholders cause the total number of shareholders of such corporation to exceed 10.”

26 USC 1371
note.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(b) DISTRIBUTIONS BY SUBCHAPTER S CORPORATIONS.—

26 USC 1377.

(1) **IN GENERAL.**—Section 1377 (relating to special rules applicable to earnings and profits of electing small business corporations) is amended by adding at the end thereof the following new subsection:

“(d) DISTRIBUTIONS OF UNDISTRIBUTED TAXABLE INCOME PREVIOUSLY TAXED TO SHAREHOLDERS.—For purposes of determining whether a distribution by an electing small business corporation constitutes a distribution of such corporation’s undistributed taxable income previously taxed to shareholders (as provided for in section 1375(d)), the earnings and profits of such corporation for the taxable year in which the distribution is made shall be computed without regard to section 312(m). Such computation shall be made without regard to section 312(m) only for such purposes.”

26 USC 1377
note.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1975.

(c) ADDITIONAL CHANGES IN SUBCHAPTER S RULES.—

26 USC 1371.

(1) **ESTATE OF DECEASED SPOUSE NOT TO BE TREATED AS SHAREHOLDER.**—Subsection (c) of section 1371 (relating to stock owned by husband and wife) is amended to read as follows:

“(c) STOCK OWNED BY HUSBAND AND WIFE.—For purposes of subsection (a)(1) stock which—

“(1) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State,

“(2) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

“(3) was, on the date of death of a spouse, stock described in paragraph (1) or (2), and is, by reason of such death, held by the estate of the deceased spouse and the surviving spouse, or by the estates of both spouses (by reason of their deaths on the same

date), in the same proportion as held by the spouses before such death, or

“(4) was, on the date of the death of a surviving spouse, stock described in paragraph (3), and is, by reason of such death, held by the estates of both spouses in the same proportion as held by the spouses before their deaths,

shall be treated as owned by one shareholder.”

(2) BROADENING CLASSES OF PERMISSIBLE SHAREHOLDERS TO INCLUDE CERTAIN TRUSTS.—

(A) Section 1371 (relating to definitions for purposes of subchapter S) is amended by adding at the end thereof the following new subsection:

“(f) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (a), the following trusts may be shareholders:

“(1) A trust all of which is treated as owned by the grantor under subpart E of part I of subchapter J of this chapter.

“(2) A trust created primarily to exercise the voting power of stock transferred to it.

“(3) Any trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day period beginning on the day on which such stock is transferred to it.

In the case of a trust described in paragraph (2), each beneficiary of the trust shall, for purposes of subsection (a)(1), be treated as a shareholder.”

(B) Paragraph (2) of section 1371(a) is amended by striking out “(other than an estate)” and inserting in lieu thereof “(other than an estate and other than a trust described in subsection (f))”.

(3) NEW SHAREHOLDERS MUST AFFIRMATIVELY ELECT TO TERMINATE ELECTION.—Paragraph (1) of section 1372(e) (relating to termination of election) is amended to read as follows:

“(1) NEW SHAREHOLDERS.—

“(A) An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder in such corporation—

“(i) on the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

“(ii) on the day on which the election is made, if such election is made after such first day, becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary shall by regulations prescribe) to consent to such election on or before the 60th day after the day on which he acquires the stock.

“(B) If the person acquiring the stock is the estate of a decedent, the period under subparagraph (A) for affirmatively refusing to consent to the election shall expire on the 60th day after whichever of the following is the earlier:

“(i) The day on which the executor or administrator of the estate qualifies; or

“(ii) The last day of the taxable year of the corporation in which the decedent died.

“(C) Any termination of an election under subparagraph (A) by reason of the affirmative refusal of any person to consent to such election shall be effective for the taxable year of the corporation in which such person becomes a shareholder

in the corporation and for all succeeding taxable years of the corporation.”.

26 USC 1371
note.

(4) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

TITLE X—CHANGES IN THE TREATMENT OF FOREIGN INCOME

PART I—FOREIGN TAX PROVISIONS AFFECTING INDIVIDUALS ABROAD

SEC. 1011. INCOME EARNED ABROAD BY UNITED STATES CITIZENS LIVING OR RESIDING ABROAD.

(a) **REDUCTION OF LIMITATIONS ON AMOUNT EXCLUDABLE.**—Paragraph (1) of section 911(c) relating to limitations on amount of exclusion) is amended to read as follows:

26 USC 911.

“(1) **LIMITATIONS ON AMOUNT OF EXCLUSION.**—

“(A) **IN GENERAL.**—Except as provided in subparagraphs (B) and (C), the amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of \$15,000.

“(B) **EMPLOYEES OF CHARITABLE ORGANIZATIONS.**—If any individual performs qualified charitable services during any taxable year, the amount of the earned income attributable to such services excluded from the gross income of the individual under subsection (a) for the taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of \$20,000.

“(C) **SPECIAL RULE.**—If any individual performs qualified charitable services and other services during any taxable year, the amount of the earned income attributable to such other services excluded from the gross income of the individual under subsection (a) for the taxable year shall not (after the application of subparagraph (A) with respect to such earned income) exceed \$15,000 reduced by the amount of the earned income attributable to qualified charitable services excluded from gross income under subsection (a) for the taxable year.

“(D) **QUALIFIED CHARITABLE SERVICES.**—For purposes of this subsection, the term ‘qualified charitable services’ means services performed by an employee for an employer created or organized in the United States, or under the law of the United States, any State, or the District of Columbia, which meets the requirements of section 501(c)(3).”

(b) **ADDITIONAL LIMITATIONS ON EXCLUSION.**—

(1) **DISALLOWANCE OF FOREIGN TAX CREDIT WITH RESPECT TO EXCLUDED AMOUNTS.**—The last sentence of subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

“An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deductions or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection.”

(2) **DISALLOWANCE OF EXCLUSION FOR INCOME RECEIVED OTHER THAN IN COUNTRY WHERE EARNED.**—Section 911(c) (relating to special rules for earned income from sources without the United States) is amended by adding at the end thereof the following new paragraph:

26 USC 911.

“(8) **REQUIREMENT AS TO PLACE OF RECEIPT.**—No amount received by an individual during the taxable year which constitutes earned income (entitled to the exclusion under subsection (a)) attributable to services performed in a foreign country or countries shall be excluded under subsection (a) if such amount is received by such individual outside of the foreign country or countries where such services were performed and if one of the purposes is the avoidance of any tax imposed by such foreign country or countries on such amount.”

(3) **INCLUSION OF EARNED INCOME IN COMPUTATION OF RATE OF TAX.**—Section 911 (relating to earned income from sources without the United States) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

“(d) **AMOUNT EXCLUDED UNDER SUBSECTION (a) INCLUDED IN COMPUTATION OF TAX.**—

“(1) **COMPUTATION OF TAX.**—If for any taxable year an individual has earned income which is excluded from gross income under subsection (a), the tax imposed by section 1 or section 1201 shall be the excess of—

Post, p. 1786.

“(A) the tax imposed by section 1 or section 1201 (whichever is applicable) on the amount of net taxable income, over

“(B) the tax imposed by section 1 or section 1201 (whichever is applicable) on the amount of net excluded earned income.

“(2) **DEFINITIONS.**—For purposes of this subsection—

“(A) the term ‘net taxable income’ means an amount equal to the sum of the amount of taxable income for the taxable year plus the amount of net excluded earned income of such individual for such taxable year; and

“(B) the term ‘net excluded earned income’ means the excess of the amount of earned income excluded under subsection (a) for the taxable year over the amount of the deductions disallowed with respect to such excluded earned income for such taxable year under subsection (a).

“(e) **SECTION NOT TO APPLY.**—

“(1) **IN GENERAL.**—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply.

“(2) **EFFECT OF ELECTION.**—An election under paragraph (1) shall apply to the taxable year for which made and to all subsequent taxable years. Such election may not be revoked except with the consent of the Secretary.”

(c) **ALLOWANCE OF FOREIGN TAX CREDITS TO INDIVIDUALS TAKING STANDARD DEDUCTION.**—Section 36 (relating to credits not allowed to individuals paying optional tax or taking standard deduction) is amended by striking out “sections 32, 33, and” and inserting in lieu thereof “sections 32 and”.

26 USC 36.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

26 USC 911
note.

SEC. 1012. INCOME TAX TREATMENT OF NONRESIDENT ALIEN INDIVIDUALS WHO ARE MARRIED TO CITIZENS OR RESIDENTS OF THE UNITED STATES.

(a) **ELECTION TO BE TREATED AS RESIDENTS OF THE UNITED STATES.**—

26 USC 6013.

(1) **IN GENERAL.**—Section 6013 (relating to joint returns of income tax by husband and wife) is amended by adding at the end thereof the following new subsections:

“(g) **ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.**—

26 USC 1.

“(1) **IN GENERAL.**—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year.

“(2) **INDIVIDUALS WITH RESPECT TO WHOM THIS SUBSECTION IS IN EFFECT.**—This subsection shall be in effect with respect to any individual who, at the time an election was made under this subsection, was a nonresident alien individual married to a citizen or resident of the United States, if both of them made such election to have the benefits of this subsection apply to them.

“(3) **DURATION OF ELECTION.**—An election under this subsection shall apply to the taxable year for which made and to all subsequent taxable years until terminated under paragraph (4) or (5); except that any such election shall not apply for any taxable year if neither spouse is a citizen or resident of the United States at any time during such year.

“(4) **TERMINATION OF ELECTION.**—An election under this subsection shall terminate at the earliest of the following times:

“(A) **REVOCATION BY TAXPAYERS.**—If either taxpayer revokes the election, as of the first taxable year for which the last day prescribed by law for filing the return of tax under chapter 1 has not yet occurred.

“(B) **DEATH.**—In the case of the death of either spouse, as of the beginning of the first taxable year of the spouse who survives following the taxable year in which such death occurred; except that if the spouse who survives is a citizen or resident of the United States who is a surviving spouse entitled to the benefits of section 2, the time provided by this subparagraph shall be as of the close of the last taxable year for which such individual is entitled to the benefits of section 2.

“(C) **LEGAL SEPARATION.**—In the case of the legal separation of the couple under a decree of divorce or of separate maintenance, as of the beginning of the taxable year in which such legal separation occurs.

“(D) **TERMINATION BY SECRETARY.**—At the time provided in paragraph (5).

“(5) **TERMINATION BY SECRETARY.**—The Secretary may terminate any election under this subsection for any taxable year if he determines that either spouse has failed—

“(A) to keep such books and records,

“(B) to grant such access to such books and records, or

“(C) to supply such other information,

as may be reasonably necessary to ascertain the amount of liability for taxes under chapter 1 of either spouse for such taxable year.

“(6) ONLY ONE ELECTION.—If any election under this subsection for any two individuals is terminated under paragraph (4) or (5) for any taxable year, such two individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.

“(h) JOINT RETURN, ETC., FOR YEAR IN WHICH NONRESIDENT ALIEN BECOMES RESIDENT OF UNITED STATES.—

“(1) IN GENERAL.—If—

“(A) any individual is a nonresident alien individual at the beginning of any taxable year but is a resident of the United States at the close of such taxable year,

“(B) at the close of such taxable year, such individual is married to a citizen or resident of the United States, and

“(C) both individuals elect the benefits of this subsection at the time and in the manner prescribed by the Secretary by regulation,

then the individual referred to in subparagraph (A) shall be treated as a resident of the United States for purposes of chapter 1 for all of such taxable year. 26 USC 1.

“(2) ONLY ONE ELECTION.—If any election under this subsection applies for any 2 individuals for any taxable year, such 2 individuals shall be ineligible to make an election under this subsection for any subsequent taxable year.”

(2) CLERICAL AMENDMENT.—Section 871(g) (relating to cross references) is amended by adding at the end thereof the following new paragraph:

“(7) For election to treat married nonresident alien individual as resident of United States in certain cases, see subsections (g) and (h) of section 6013.”

(b) TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF A RESIDENT OR CITIZEN OF THE UNITED STATES WHO IS MARRIED TO A NONRESIDENT ALIEN INDIVIDUAL.—

(1) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 (relating to nonresident alien individuals) is amended by adding at the end thereof the following new section:

“SEC. 879. TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF A RESIDENT OR CITIZEN OF THE UNITED STATES WHO IS MARRIED TO A NONRESIDENT ALIEN INDIVIDUAL. 26 USC 879.

“(a) GENERAL RULE.—In the case of a citizen or resident of the United States who is married to a nonresident alien individual and who has community income for the taxable year, such community income shall be treated as follows:

“(1) Earned income (within the meaning of section 911(b)), other than trade or business income and a partner's distributive share of partnership income, shall be treated as the income of the spouse who rendered the personal services,

“(2) Trade or business income, and a partner's distributive share of partnership income, shall be treated as provided in section 1402(a)(5),

“(3) Community income not described in paragraph (1) or (2) which is derived from the separate property (as determined under the applicable community property law) of one spouse shall be treated as the income of such spouse, and

“(4) All other such community income shall be treated as provided in the applicable community property law.

Ante, p. 1612.

“(b) **EXCEPTION WHERE ELECTION UNDER SECTION 6013(g) IS IN EFFECT.**—Subsection (a) shall not apply for any taxable year for which an election under subsection (g) or (h) of section 6013 (relating to election to treat nonresident alien individual as resident of the United States) is in effect.

“(c) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

“(1) **COMMUNITY INCOME.**—The term ‘community income’ means income which, under applicable community property laws, is treated as community income.

“(2) **COMMUNITY PROPERTY LAWS.**—The term ‘community property laws’ means the community property laws of a State, a foreign country, or a possession of the United States.

“(3) **DETERMINATION OF MARITAL STATUS.**—The determination of marital status shall be made under section 143(a).”

26 USC 981.

(2) **REPEAL OF SECTION 981.**—Subpart II of part III of subchapter N of chapter 1 (relating to election as to treatment of income subject to foreign community property laws) is hereby repealed.

(3) **CLERICAL AMENDMENTS.**—

(A) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

“Sec. 879. Tax treatment of certain community income in the case of a resident or citizen of the United States who is married to a nonresident alien individual.”

(B) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart G.

26 USC 6073.

(c) **DUE DATE FOR FILING ESTIMATED TAX RETURNS IN THE CASE OF CERTAIN NONRESIDENT ALIENS.**—Subsection (a) of section 6073 (relating to time for filing declarations of estimated tax by individuals) is amended by adding at the end thereof the following sentence:

“In the case of a nonresident alien described in section 6072(c), the requirements of section 6015 shall be deemed to be first met no earlier than after April 1 and before June 2 of the taxable year.”

26 USC 6013
note.

(d) **EFFECTIVE DATES.**—The amendments made by subsection (a) shall apply to taxable years ending on or after December 31, 1975. The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1976.

“**SEC. 1013. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES TO BE TAXED CURRENTLY TO GRANTOR.**

(a) **TAXATION OF INCOME TO GRANTOR OF TRUST.**—Subpart E of part I of subchapter J of chapter 1 (relating to grantors and others treated as substantial owners) is amended by adding at the end thereof the following new section:

26 USC 679.

“**SEC. 679. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.**

“(a) **TRANSFEROR TREATED AS OWNER.**—

“(1) **IN GENERAL.**—A United States person who directly or indirectly transfers property to a foreign trust (other than a trust described in section 404(a)(4)) shall be treated as the owner for his taxable year of the portion of such trust attributable to such property if for such year there is a United States beneficiary of any portion of such trust.

“(2) **EXCEPTIONS.**—Paragraph (1) shall not apply—

“(A) TRANSFERS BY REASON OF DEATH.—To any transfer by reason of the death of the transferor.

“(B) TRANSFERS WHERE GAIN IS RECOGNIZED TO TRANSFEROR.—To any sale or exchange of the property at its fair market value in a transaction in which all of the gain to the transferor is realized at the time of the transfer and is recognized either at such time or is returned as provided in section 453.

“(b) TRUSTS ACQUIRING UNITED STATES BENEFICIARIES.—If—

“(1) subsection (a) applies to a trust for the transferor’s taxable year, and

“(2) subsection (a) would have applied to the trust for his immediately preceding taxable year but for the fact that for such preceding taxable year there was no United States beneficiary for any portion of the trust,

then, for purposes of this subtitle, the transferor shall be treated as having income for the taxable year (in addition to his other income for such year) equal to the undistributed net income (at the close of such immediately preceding taxable year) attributable to the portion of the trust referred to in subsection (a).

“(c) TRUSTS TREATED AS HAVING A UNITED STATES BENEFICIARY.—

“(1) IN GENERAL.—For purposes of this section, a trust shall be treated as having a United States beneficiary for the taxable year unless—

“(A) under the terms of the trust, no part of the income or corpus of the trust may be paid or accumulated during the taxable year to or for the benefit of a United States person, and

“(B) if the trust were terminated at any time during the taxable year, no part of the income or corpus of such trust could be paid to or for the benefit of a United States person.

“(2) ATTRIBUTION OF OWNERSHIP.—For purposes of paragraph (1), an amount shall be treated as paid or accumulated to or for the benefit of a United States person if such amount is paid to or accumulated for a foreign corporation, foreign partnership, or foreign trust or estate, and—

“(A) in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)),

“(B) in the case of a foreign partnership, a United States person is a partner of such partnership, or

“(C) in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1)).”.

(b) GRANTOR TO BE TREATED AS OWNER.—Subsection (b) of section 678 (relating to persons other than grantors treated as substantial owners) is amended by striking out everything after “modified,” and inserting in lieu thereof “if the grantor of the trust or a transferor (to whom section 679 applies) is otherwise treated as the owner under the provisions of this subpart other than this section.” 26 USC 678.

(c) TREATMENT OF CAPITAL GAINS AND LOSSES OF CERTAIN FOREIGN TRUSTS.—

(1) FOREIGN TRUSTS CREATED BY UNITED STATES PERSONS TREATED LIKE OTHER FOREIGN TRUSTS.—Subparagraph (C) of section 643 26 USC 643.

- (a) (6) (relating to distributable net income in case of foreign trusts) is amended by striking out "foreign trust created by a United States person" and inserting in lieu thereof "foreign trust".
- 26 USC 643. (2) TRANSITIONAL RULE FOR FOREIGN TRUSTS.—Section 643(a) (6) is amended by adding at the end thereof the following new subparagraph:
- “(D) Effective for distributions made in taxable years beginning after December 31, 1975, the undistributed net income of each foreign trust for each taxable year beginning on or before December 31, 1975, remaining undistributed at the close of the last taxable year beginning on or before December 31, 1975, shall be redetermined by taking into account the deduction allowed by section 1202.”
- (d) RETURNS FOR FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—
- 26 USC 6048. (1) Section 6048 (relating to returns as to creation of or transfers to certain foreign trusts) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:
- “(c) ANNUAL RETURNS FOR FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—Each taxpayer subject to tax under section 679 (relating to foreign trusts having one or more United States beneficiaries) for his taxable year with respect to any trust shall make a return with respect to such trust for such year at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe.”
- 26 USC 6677. (2) Section 6677(a) (relating to failure to file information returns with respect to certain foreign trusts) is amended by striking out “to a trust” and inserting in lieu thereof “to a trust (or, in the case of a failure with respect to section 6048(c), equal to 5 percent of the value of the corpus of the trust at the close of the taxable year)”.
- (e) CONFORMING AMENDMENTS.—
- (1) The table of sections for subpart E of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:
- “Sec. 679. Foreign trusts having one or more United States beneficiaries.”
- 26 USC 643. (2) Subsection (d) of section 643 is hereby repealed.
- 26 USC 6048. (3) Subsection (d) of section 6048 (as redesignated by subsection (d)) is amended to read as follows:
- “(d) CROSS REFERENCE.—
- “For provisions relating to penalties for violation of this section, see sections 6677 and 7203.”
- (4) The heading of section 6048 is amended to read as follows:
- “SEC. 6048. RETURNS AS TO CERTAIN FOREIGN TRUSTS.”
- 26 USC 6041. (5) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6048 and inserting in lieu thereof the following:
- “Sec. 6048. Returns as to certain foreign trusts.”
- (f) EFFECTIVE DATES.—
- 26 USC 679 note. (1) IN GENERAL.—The amendments made by this section (other than subsection (c)) shall apply to taxable years ending after December 31, 1975, but only in the case of—

- (A) foreign trusts created after May 21, 1974, and
- (B) transfers of property to foreign trusts after May 21, 1974.

(2) CHANGES IN CAPITAL GAIN RULES FOR FOREIGN TRUSTS.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1975. 26 USC 643 note.

SEC. 1014. INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS FROM FOREIGN TRUSTS.

(a) TAX TO INCLUDE SPECIAL INTEREST CHARGE.—Section 667(a) (as amended by section 701 of this Act) is amended by striking out “and” at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof “, and ”, and by adding at the end thereof the following new paragraph: *Ante*, p. 1575.
Infra.

“(3) in the case of a foreign trust, the interest charge determined as provided in section 668.” *Infra*.

(b) COMPUTATION OF SPECIAL INTEREST CHARGE.—Subpart D of part I of subchapter J of chapter 1 (relating to treatment of excess distributions by trusts) is amended by adding at the end thereof the following new section:

“SEC. 668. INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS FROM FOREIGN TRUSTS. 26 USC 668.

“(a) GENERAL RULE.—For purposes of the tax determined under section 667(a), the interest charge is an amount equal to 6 percent of the partial tax computed under section 667(b) multiplied by a fraction—

“(1) the numerator of which is the sum of the number of taxable years between each taxable year to which the distribution is allocated under section 666(a) and the taxable year of the distribution (counting in each case the taxable year to which the distribution is allocated but not counting the taxable year of the distribution), and

“(2) the denominator of which is the number of taxable years to which the distribution is allocated under section 666(a).

“(b) LIMITATION.—The total amount of the interest charge shall not, when added to the total partial tax computed under section 667(b), exceed the amount of the accumulation distribution (other than the amount of tax deemed distributed by section 666(b) or (c)) in respect of which such partial tax was determined.

“(c) SPECIAL RULES.—

“(1) INTEREST CHARGE NOT DEDUCTIBLE.—The interest charge determined under this section shall not be allowed as a deduction for purposes of any tax imposed by this title.

“(2) TRANSITIONAL RULE.—For purposes of this section, undistributed net income existing in a trust as of January 1, 1977, shall be treated as allocated under section 666(a) to the first taxable year beginning after December 31, 1976.”

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part I of subchapter J of chapter 1 is amended by adding at the end thereof of the following new item:

Sec. 668. Interest charge on accumulation distributions from foreign trusts.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976. 26 USC 668 note.

SEC. 1015. EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.

(a) AMENDMENT OF SECTION 1491.—Section 1491 (relating to imposition of tax) is amended to read as follows: 26 USC 1491.

26 USC 1491. **"SEC. 1491. IMPOSITION OF TAX.**

"There is hereby imposed on the transfer of property by a citizen or resident of the United States, or by a domestic corporation or partnership, or by a trust which is not a foreign trust, to a foreign corporation as paid-in surplus or as a contribution to capital, or to a foreign trust, or to a foreign partnership, an excise tax equal to 35 percent of the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the sum of—

"(A) the adjusted basis (for determining gain) of such property in the hands of the transferor, plus

"(B) the amount of the gain recognized to the transferor at the time of the transfer."

26 USC 1492. (b) **AMENDMENTS OF SECTION 1492.**—Section 1492 (relating to non-taxable transfers) is amended—

(1) by striking out in paragraph (3) "section 367(d) applies." and inserting in lieu thereof "section 367 applies; or" and

(2) by adding at the end thereof the following new paragraph:

"(4) To a transfer for which an election has been made under section 1057."

Infra.

(c) **ELECTION TO TREAT AS TAXABLE EXCHANGE.**—Part IV of subchapter O of chapter 1 (relating to special rules for determining gain or loss on disposition of property) is amended by redesignating section 1057 as section 1058 and by inserting after section 1056 the following new section:

Ante, p. 1545.

26 USC 1057. **"SEC. 1057. ELECTION TO TREAT TRANSFER TO FOREIGN TRUST, ETC., AS TAXABLE EXCHANGE.**

Supra.

"In lieu of payment of the tax imposed by section 1491, the taxpayer may elect (for purposes of this subtitle), at such time and in such manner as the Secretary may prescribe, to treat a transfer described in section 1491 as a sale or exchange of property for an amount equal in value to the fair market value of the property transferred and to recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for determining gain) of such property in the hands of the transferor."

(c) **CLERICAL AMENDMENT.**—The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the last item thereof and inserting in lieu thereof:

"Sec. 1057. Election to treat transfer to foreign trust, etc., as taxable exchange.

"Sec. 1058. Cross references."

26 USC 1491
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to transfers of property after October 2, 1975.

PART II—AMENDMENTS AFFECTING TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS

SEC. 1021. AMENDMENT OF PROVISION RELATING TO INVESTMENT IN UNITED STATES PROPERTY BY CONTROLLED FOREIGN CORPORATIONS.

(a) **EXCEPTIONS TO DEFINITION OF UNITED STATES PROPERTY.**—Section 956(b)(2) (relating to exceptions to definition of United States property) is amended by striking out "and" at the end of sub-

26 USC 956.

paragraph (E), by redesignating subparagraph (F) as subparagraph (H), and by inserting after subparagraph (E) the following new subparagraphs:

“(F) the stock or obligations of a domestic corporation which is neither a United States shareholder (as defined in section 951(b)) of the controlled foreign corporation, nor a domestic corporation, 25 percent or more of the total combined voting power of which, immediately after the acquisition of any stock in such domestic corporation by the controlled foreign corporation, is owned, or is considered as being owned, by such United States shareholders in the aggregate;

“(G) any movable property (other than a vessel or aircraft) which is used for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or under such waters when used on the Continental Shelf of the United States; and”.

(b) **CONSTRUCTIVE OWNERSHIP OF STOCK.**—Section 958(b) (relating to rules for determining stock ownership) is amended—

(1) by striking out “954(d)(3),” the first place it appears and inserting in lieu thereof “954(d)(3), 956(b)(2),”;

(2) by striking out “954(d)(3),” the second place it appears and inserting in lieu thereof “954(d)(3), to treat the stock of a domestic corporation as owned by a United States shareholder of the controlled foreign corporation for purposes of section 956(b)(2),”;

(3) by adding at the end thereof the following new sentence:

“Paragraphs (1) and (4) shall not apply for purposes of section 956(b)(2) to treat stock of a domestic corporation as not owned by a United States shareholder.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end. In determining for purposes of any taxable year referred to in the preceding sentence the amount referred to in section 956(a)(2)(A) of the Internal Revenue Code of 1954 for the last taxable year of a corporation beginning before January 1, 1976, the amendments made by this section shall be deemed also to apply to such last taxable year.

26 USC 956
note.

SEC. 1022. REPEAL OF EXCLUSION FOR EARNINGS OF LESS DEVELOPED COUNTRY CORPORATIONS FOR PURPOSES OF SECTION 1248.

(a) **AMENDMENT OF SECTION 1248(d).**—Paragraph (3) of section 1248(d) (relating to exclusion from earnings and profits of gain from certain sales or exchanges of stock in certain foreign corporations) is amended to read as follows:

26 USC 1248.

“(3) **LESS DEVELOPED COUNTRY CORPORATIONS UNDER PRIOR LAW.**—Earnings and profits of a foreign corporation which were accumulated during any taxable year beginning before January 1, 1976, while such corporation was a less developed country corporation under section 902(d) as in effect before the enactment of the Tax Reduction Act of 1975.”.

Ante, p. 1626.
26 USC 1 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

26 USC 1248
note.

SEC. 1023. EXCLUSION FROM SUBPART F OF CERTAIN EARNINGS OF INSURANCE COMPANIES.

26 USC 954.

(a) **IN GENERAL.**—Paragraph (3) of section 954(c) (relating to foreign personal holding company income) is amended by striking out “or” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “, or”, and by adding at the end thereof the following new subparagraph:

“(C) dividends, interest, and gains from the sale or exchange of stock or securities received from a person other than a related person (within the meaning of subsection (d) (3)) derived from investments made by an insurance company of an amount of its assets equal to one-third of its premiums earned on insurance contracts (other than life insurance and annuity contracts) during the taxable year (as defined in section 832(b)(4)) which are not directly or indirectly attributable to the insurance or reinsurance of risks of persons who are related persons (within the meaning of subsection (d) (3)).”.

26 USC 954
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.

SEC. 1024. SHIPPING PROFITS OF FOREIGN CORPORATIONS.

26 USC 954.

(a) **CERTAIN SHIPPING OPERATIONS.**—Subsection (b) of section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new paragraph:

“(7) **SPECIAL EXCLUSION FOR FOREIGN BASE COMPANY SHIPPING INCOME.**—Income of a corporation which is foreign base company shipping income under paragraph (4) of subsection (a) (determined without regard to the exclusion under paragraph (2) of this subsection) shall be excluded from foreign base company income if derived by a controlled foreign corporation from, or in connection with, the use (or hiring or leasing for use) of an aircraft or vessel in foreign commerce between two points within the foreign country in which such corporation is created or organized and such aircraft or vessel is registered.”

26 USC 954
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.

PART III—AMENDMENTS AFFECTING TREATMENT OF FOREIGN TAXES**SEC. 1031. REQUIREMENT THAT FOREIGN TAX CREDIT BE DETERMINED ON OVERALL BASIS.**

26 USC 904.

(a) **OVERALL LIMITATION ON FOREIGN TAX CREDIT.**—Section 904 (relating to limitation on foreign tax credit) is amended to read as follows:

“SEC. 904. LIMITATION ON CREDIT.

“(a) **LIMITATION.**—The total amount of the credit taken under section 901(a) shall not exceed the same proportion of the tax against

which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

“(b) **TAXABLE INCOME FOR PURPOSES OF COMPUTING LIMITATION.**—For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

26 USC 151,
642.

“(c) **CARRYBACK AND CARRYOVER OF EXCESS TAX PAID.**—Any amount by which all taxes paid or accrued to foreign countries or possessions of the United States for any taxable year for which the taxpayer chooses to have the benefits of this subpart exceed the limitation under subsection (a) shall be deemed taxes paid or accrued to foreign countries or possessions of the United States in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable years, in that order and to the extent not deemed taxes paid or accrued in a prior taxable year, in the amount by which the limitation under subsection (a) for such preceding or succeeding taxable year exceeds the sum of the taxes paid or accrued to foreign countries or possessions of the United States for such preceding or succeeding taxable year and the amount of the taxes for any taxable year earlier than the current taxable year which shall be deemed to have been paid or accrued in such preceding or subsequent taxable year (whether or not the taxpayer chooses to have the benefits of this subpart with respect to such earlier taxable year). Such amount deemed paid or accrued in any year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions of the United States.

“(d) **APPLICATION OF SECTION IN CASE OF CERTAIN INTEREST INCOME AND DIVIDENDS FROM A DISC OR FORMER DISC.**—

“(1) **IN GENERAL.**—The provisions of subsections (a), (b), and (c) shall be applied separately with respect to each of the following items of income:

“(A) the interest income described in paragraph (2),

“(B) dividends from a DISC or former DISC (as defined in section 992(a)) to the extent such dividends are treated as income from sources without the United States, and

“(C) income other than the interest income described in paragraph (2) and dividends described in subparagraph (B).

“(2) **INTEREST INCOME TO WHICH APPLICABLE.**—For purposes of this subsection, the interest income described in this paragraph is interest other than interest—

“(A) derived from any transaction which is directly related to the active conduct by the taxpayer of a trade or business in a foreign country or a possession of the United States,

“(B) derived in the conduct by the taxpayer of a banking, financing, or similar business,

“(C) received from a corporation in which the taxpayer (or one or more includible corporations in an affiliated group, as defined in section 1504, of which the taxpayer is a member) owns, directly or indirectly, at least 10 percent of the voting stock, or

“(D) received on obligations acquired as a result of the disposition of a trade or business actively conducted by the taxpayer in a foreign country or possession of the United States or as a result of the disposition of stock or obligations of a corporation in which the taxpayer owned at least 10 percent of the voting stock.

For purposes of subparagraph (C), stock owned, directly or indirectly, by or for a foreign corporation, shall be considered as being proportionately owned by its shareholders.

“(e) TRANSITIONAL RULES FOR CARRYBACKS AND CARRYOVERS FOR TAXPAYERS ON THE PER-COUNTRY LIMITATION.—

“(1) APPLICATION OF SUBSECTION.—This subsection shall apply only to a taxpayer who is on the per-country limitation for his last taxable year beginning before January 1, 1976.

“(2) CARRYOVERS TO YEARS BEGINNING AFTER DECEMBER 31, 1975.—In the case of any taxpayer to whom this subsection applies, any carryover from a taxable year beginning before January 1, 1976, may be used in taxable years beginning after December 31, 1975, to the extent provided in subsection (c), but only to the extent such carryover could have been used in such succeeding taxable years if the per-country limitation continued to apply to all taxable years beginning after December 31, 1975.

“(3) CARRYBACKS TO YEARS BEGINNING BEFORE JANUARY 1, 1976.—In the case of any taxpayer to whom this subsection applies, any carryback from a taxable year beginning after December 31, 1975, may be used in taxable years beginning before January 1, 1976, to the extent provided in subsection (c), but only to the extent such carryback could have been used in such preceding taxable year if the per-country limitation continued to apply to all taxable years beginning after December 31, 1975.

“(4) APPLICATION OF LIMITATIONS.—For purposes of this subsection—

“(A) the overall limitation shall be applied before the per-country limitation, and

“(B) where the amount of any carryback or carryover is reduced by the overall limitation, the reduction shall be allocated to the amounts carried from each country or possession in proportion to the taxes paid or accrued to such country or possession in the taxable year from which such amount is being carried.

“(f) CROSS REFERENCE.—

“For increase of limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b).”

(b) CONFORMING AMENDMENTS.—

(1) Sections 901(a), 901(b), and 960(b) are amended by striking out “applicable limitation” each place it appears and inserting in lieu thereof “limitation”.

(2) Subparagraph (B) of section 243(b)(3) is amended to read as follows:

“(B) the members of such affiliated group shall be treated as one taxpayer for purposes of making the election under section 901(a) (relating to allowance of foreign tax credit), and”.

26 USC 901,
960.

26 USC 243.

(3) Paragraph (3) of section 1351(d) is amended to read as follows: 26 USC 1351.

“(3) FOREIGN TAXES.—For purposes of this subsection, any choice made under subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year may be changed.”.

(4) Section 1503(b)(1) is amended by striking out “, and if for the taxable year an election under section 904(b)(1) (relating to election of overall limitation on foreign tax credit) is in effect”. 26 USC 1503.
Post. p 1629.

(5) Sections 383, 6038(b)(1)(A), and 6501(i) are each amended by striking out “section 904(d)” each place it appears therein and inserting in lieu thereof “section 904(c)”. Ante, p. 1605.
26 USC 6038, 6501.

(6) Subsection (e) of section 907 (relating to transitional rules) is amended— 26 USC 907.

(A) by striking out “(d) and (e) of section 904” in paragraphs (1) and (2) and inserting in lieu thereof “(d) and (e) of section 904 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976)”;

Ante, p. 1520.

(B) by striking out “section 904(a)(1)” in paragraph (2) and inserting in lieu thereof “section 904(a)(1) (as so in effect)”;

(C) by striking out “section 904(e)(2)” in paragraph (2) (A) and inserting in lieu thereof “section 904(e)(2) (as so in effect)”.

(c) EFFECTIVE DATES.—

26 USC 904
note.

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(2) EXCEPTION FOR CERTAIN MINING OPERATIONS.—In the case of a domestic corporation or includible corporation in an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954) which has as of October 1, 1975—

(A) been engaged in the active conduct of the trade or business of the extraction of minerals (of a character with respect to which a deduction for depletion is allowable under section 613 of such Code) outside the United States or its possessions for less than 5 years preceding the date of enactment of this Act,

(B) had deductions properly apportioned or allocated to its gross income from such trade or business in excess of such gross income in at least 2 taxable years,

(C) 80 percent of its gross receipts are from the sale of such minerals, and

(D) made commitments for substantial expansion of such mineral extraction activities,

the amendments made by this section shall apply to taxable years beginning after December 31, 1978. In the case of losses sustained in taxable years beginning before January 1, 1979, by any corporation to which this paragraph applies, the provisions of section 904(f) of such Code shall be applied with respect to such losses under the principles of section 904(a)(1) of such Code as in effect before the enactment of this Act.

(3) EXCEPTION FOR INCOME FROM POSSESSIONS.—In the case of gross income from sources within a possession of the United States (and the deductions properly apportioned or allocated thereto), the amendments made by this section shall apply to taxable years beginning after December 31, 1978. In the case of losses sustained

in a possession of the United States in taxable years beginning before January 1, 1979, the provisions of section 904(f) of such Code shall be applied with respect to such losses under the principles of section 904(a)(1) of such Code as in effect before the enactment of this Act.

(4) **CARRYBACKS AND CARRYOVERS IN THE CASE OF MINING OPERATIONS AND INCOME FROM A POSSESSION.**—In the case of a taxpayer to whom paragraph (2) or (3) of this subsection applies, section 904(e) of such Code shall apply except that “January 1, 1979” shall be substituted for “January 1, 1976” each place it appears therein. If such a taxpayer elects the overall limitation for a taxable year beginning before January 1, 1979, such section 904(e) shall be applied by substituting “the January 1, of the last year for which such taxpayer is on the per-country limitation” for “January 1, 1976” each place it appears therein.

SEC. 1032. RECAPTURE OF FOREIGN LOSSES.

26 USC 904.

(a) **IN GENERAL.**—Section 904 (as amended by section 1031 of this Act) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) **RECAPTURE OF OVERALL FOREIGN LOSS.**—

Post, p. 1643.

“(1) **GENERAL RULE.**—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall foreign loss for any taxable year, that portion of the taxpayer’s taxable income from sources without the United States for each succeeding taxable year which is equal to the lesser of—

“(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

“(B) 50 percent (or such larger percent as the taxpayer may choose) of the taxpayer’s taxable income from sources without the United States for such succeeding taxable year, shall be treated as income from sources within the United States (and not as income from sources without the United States).

“(2) **OVERALL FOREIGN LOSS DEFINED.**—For purposes of this subsection, the term ‘overall foreign loss’ means the amount by which the gross income for the taxable year from sources without the United States (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

“(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

“(B) any—

“(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

“(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft, to the extent such loss is not compensated for by insurance or otherwise.

“(3) **DISPOSITIONS.**—

“(A) **IN GENERAL.**—For purposes of this chapter, if property which has been used predominantly without the United States in a trade or business is disposed of during any taxable year—

“(i) the taxpayer, notwithstanding any other provision of this chapter (other than paragraph (1)), shall be deemed to have received and recognized taxable income

from sources without the United States in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the overall foreign losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and

“(ii) paragraph (1) shall be applied with respect to such income by substituting ‘100 percent’ for ‘50 percent’.

In determining for purposes of this subparagraph whether the predominant use of any property has been without the United States, there shall be taken into account use during the 3-year period ending on the date of the disposition (or, if shorter, the period during which the property has been used in the trade or business).

“(B) DISPOSITION DEFINED AND SPECIAL RULES.—

“(i) For purposes of this subsection, the term ‘disposition’ includes a sale, exchange, distribution, or gift of property whether or not gain or loss is recognized on the transfer.

“(ii) Any taxable income recognized solely by reason of subparagraph (A) shall have the same characterization it would have had if the taxpayer had sold or exchanged the property.

“(iii) The Secretary shall prescribe such regulations as he may deem necessary to provide for adjustments to the basis of property to reflect taxable income recognized solely by reason of subparagraph (A).

Regulations.

“(C) EXCEPTIONS.—Notwithstanding subparagraph (B), the term ‘disposition’ does not include—

“(i) a disposition of property which is not a material factor in the realization of income by the taxpayer, or

“(ii) a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a).

26 USC 381.

“(4) DETERMINATION OF FOREIGN OIL RELATED LOSS WHERE SECTION 907 APPLIES.—In the case of a corporation to which section 907 (b) (1) applies, the foreign oil related loss shall be the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

Post, p. 1630.

“(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

“(B) any—

“(i) foreign expropriation loss for such year, as defined in section 172(k) (1), or

“(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft, to the extent such loss is not compensated for by insurance or otherwise.”.

26 USC 907.

- (b) **COORDINATION WITH SECTION 907.**—Section 907 is amended—
 (1) by striking out the last sentence of subsection (b) (as amended by section 1035(b)), and
 (2) by striking out subsection (f), and by redesignating subsection (g) as subsection (f).

26 USC 904
note.(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b) (2) shall apply to losses sustained in taxable years beginning after December 31, 1975, and the amendment made by subsection (b) (1) shall apply to taxable years beginning after December 31, 1975.

(2) **OBLIGATIONS OF FOREIGN GOVERNMENTS.**—The amendments made by subsection (a) shall not apply to losses on the sale, exchange, or other disposition of bonds, notes, or other evidences of indebtedness issued before May 14, 1976, by a foreign government or instrumentality thereof for the acquisition of property located in that country or stock of a corporation (created or organized in or under the laws of that foreign country) or indebtedness of such corporation.

(3) **SUBSTANTIAL WORTHLESSNESS BEFORE ENACTMENT.**—The amendments made by subsection (a) shall not apply to losses incurred on the loss from stock or indebtedness of a corporation in which the taxpayer owned at least 10 percent of the voting stock and which has sustained losses in 3 out of the last 5 taxable years beginning before January 1, 1976, which has sustained an overall loss for those 5 years, and with respect to which the taxpayer has terminated or will terminate all operations by reason of sale, liquidation, or other disposition before January 1, 1977, of such corporation or its assets.

(4) **LIMITATION BASED ON DEFICIT IN EARNINGS AND PROFITS.**—If paragraph (3) would apply to a taxpayer but for the fact that the loss is sustained after December 31, 1976, and if the loss is sustained in a taxable year beginning before January 1, 1979, the amendments made by subsection (a) shall not apply to such loss to the extent that there was on December 31, 1975, a deficit in earnings and profits in the corporation from which the loss arose.

SEC. 1033. DIVIDENDS FROM LESS DEVELOPED COUNTRY CORPORATIONS TO BE GROSSED UP FOR PURPOSES OF DETERMINING UNITED STATES INCOME AND FOREIGN TAX CREDIT AGAINST THAT INCOME.

26 USC 902.

(a) **FOREIGN TAXES DEEMED PAID BY DOMESTIC CORPORATIONS.**—Section 902 (relating to credit for corporate stockholders in foreign corporations) is amended to read as follows:

“SEC. 902. CREDIT FOR CORPORATE STOCKHOLDER IN FOREIGN CORPORATION.

“(a) TREATMENT OF TAXES PAID BY FOREIGN CORPORATION.—For purposes of this subpart, a domestic corporation which owns at least 10 percent of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends (determined without regard to section 78) bears to the amount of such

accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(b) FOREIGN SUBSIDIARY OF FIRST AND SECOND FOREIGN CORPORATION.—

"(1) ONE TIER.—If the foreign corporation described in subsection (a) (hereinafter in this subsection referred to as the 'first foreign corporation') owns 10 percent or more of the voting stock of a second foreign corporation from which it receives dividends in any taxable year, it shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such second foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such second foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid).

"(2) TWO TIERS.—If such first foreign corporation owns 10 percent or more of the voting stock of a second foreign corporation which, in turn, owns 10 percent or more of the voting stock of a third foreign corporation from which the second foreign corporation receives dividends in any taxable year, the second foreign corporation shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such third foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such third foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes.

"(3) VOTING STOCK REQUIREMENT.—For purposes of this subpart—

"(A) paragraph (1) shall not apply unless the percentage of voting stock owned by the domestic corporation in the first foreign corporation and the percentage of voting stock owned by the first foreign corporation in the second foreign corporation when multiplied together equal at least 5 percent, and

"(B) paragraph (2) shall not apply unless the percentage arrived at for purposes of applying paragraph (1) when multiplied by the percentage of voting stock owned by the second foreign corporation in the third foreign corporation is equal to at least 5 percent.

"(c) APPLICABLE RULES.—

"(1) ACCUMULATED PROFITS DEFINED.—For purposes of this section, the term 'accumulated profits' means, with respect to any foreign corporation, the amount of its gains, profits, or income computed without reduction by the amount of the income, war profits, and excess profits taxes imposed on or with respect to such profits or income by any foreign country or by any possession of the United States. The Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid, treating dividends paid in the first 60 days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having

been paid from the most recently accumulated gains, profits, or earnings.

“(2) ACCOUNTING PERIODS.—In the case of a foreign corporation the income, war profits, and excess profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word ‘year’ as used in this subsection, shall be construed to mean such accounting period.

“(d) CROSS REFERENCES.—

“(1) For inclusion in gross income of an amount equal to taxes deemed paid under subsection (a), see section 78.

“(2) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by a United States shareholder with respect to a controlled foreign corporation, see section 960.

“(3) For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038.”

(b) CONFORMING AMENDMENTS.—

26 USC 78.

(1) Section 78 (relating to dividends received from certain foreign corporations) is amended—

(A) by striking out “section 902(a)(1)” and inserting in lieu thereof “section 902(a)”, and

(B) by striking out “section 960(a)(1)(C)” and inserting in lieu thereof “section 960(a)(1)”.

26 USC 960.

(2) Paragraph (1) of section 960(a) (relating to special rules for foreign tax credit) is amended by striking out “bears to—” and all that follows down through the period at the end of such paragraph and inserting in lieu thereof “bears to the entire amount of the earnings and profits of such foreign corporation for such taxable year.”

26 USC 535.

(3) Section 535(b)(1) (relating to accumulated taxable income) is amended by striking out “section 902(a)(1) or 960(a)(1)(C)” and inserting in lieu thereof “section 902(a) or 960(a)(1)”.

26 USC 545.

(4) Section 545(b)(1) (relating to undistributed personal holding company income) is amended by striking out “section 902(a)(1) or 960(a)(1)(C)” and inserting in lieu thereof “section 902(a) or 960(a)(1)”.

26 USC 902
note.

(c) EFFECTIVE DATES.—The amendments made by this section shall apply—

(1) in respect of any distribution received by a domestic corporation after December 31, 1977, and

(2) in respect of any distribution received by a domestic corporation before January 1, 1978, in a taxable year of such corporation beginning after December 31, 1975, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year (of such foreign corporation) beginning after December 31, 1975.

For purposes of paragraph (2), a distribution made by a foreign corporation out of its profits which are attributable to a distribution received from a foreign corporation to which section 902(b) of the Internal Revenue Code of 1954 applies shall be treated as made out of the accumulated profits of a foreign corporation for a taxable year beginning before January 1, 1976, to the extent that such distribution was paid out of the accumulated profits of such foreign corporation for a taxable year beginning before January 1, 1976.

Post, p. 1626.

SEC. 1034. TREATMENT OF CAPITAL GAINS FOR PURPOSES OF FOREIGN TAX CREDIT.

(a) **IN GENERAL.**—Section (b) of section 904 (relating to taxable income for purposes of computing the foreign tax credit limitation), as amended by section 1031 of this Act, is amended to read as follows:

“(b) **TAXABLE INCOME FOR PURPOSE OF COMPUTING LIMITATION.**—

“(1) **PERSONAL EXEMPTIONS.**—For purposes of subsection (a), the taxable income in the case of an individual, estate, or trust shall be computed without any deduction for personal exemptions under section 151 or 642(b).

“(2) **CAPITAL GAINS.**—For purposes of subsection (a)—

“(A) **CORPORATIONS.**—In the case of a corporation—

“(i) the taxable income of such corporation from sources without the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by three-eighths of foreign source net capital gain,

“(ii) the entire taxable income of such corporation shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by three-eighths of net capital gain, and

“(iii) any net capital loss from sources without the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to three-eighths of the excess of net capital gain from sources within the United States over net capital gain.

“(B) **OTHER TAXPAYERS.**—In the case of a taxpayer other than a taxpayer described in subparagraph (A), taxable income from sources without the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

“(3) **DEFINITIONS.**—For purposes of this subsection—

“(A) **FOREIGN SOURCE CAPITAL GAIN NET INCOME.**—The term ‘foreign source capital gain net income’ means the lesser of—

“(i) capital gain net income from sources without the United States, or

“(ii) capital gain net income.

“(B) **FOREIGN SOURCE NET CAPITAL GAIN.**—The term ‘foreign source net capital gain’ means the lesser of—

“(i) net capital gain from sources without the United States, or

“(ii) net capital gain.

“(C) **EXCEPTION FOR GAIN FROM THE SALE OF CERTAIN PERSONAL PROPERTY.**—For purposes of this paragraph, there shall be included as gain from sources within the United States any gain from sources without the United States from the sale or exchange of a capital asset which is personal property which—

“(i) in the case of an individual, is sold or exchanged outside of the country (or possession) of the individual’s residence,

“(ii) in the case of a corporation, is stock in a second corporation sold or exchanged other than in a country (or possession) in which such second corporation derived more than 50 percent of its gross income for the 3-year

period ending with the close of such second corporation's taxable year immediately preceding the year during which the sale or exchange occurred, or

"(iii) in the case of any taxpayer, is personal property (other than stock in a corporation) sold or exchanged other than in a country (or possession) in which such property is used in a trade or business of the taxpayer or in which such taxpayer derived more than 50 percent of its gross income for the 3-year period ending with the close of its taxable year immediately preceding the year during which the sale or exchange occurred,

unless such gain is subject to an income, war profits, or excess profits tax of a foreign country or possession of the United States, and the rate of tax applicable to such gain is 10 percent or more of the gain from the sale or exchange (computed under this chapter).

"(D) SECTION 1231 GAINS.—The term 'gain from the sale or exchange of capital assets' includes any gain so treated under section 1231."

"Gain from the sale or exchange of capital assets."
26 USC 904
note.

Ante, p. 1620.

(b) EFFECTIVE DATES.—The amendment made by this section shall apply to taxable years beginning after December 31, 1975, except that the provisions of section 904(b)(3)(C) shall only apply to sales or exchanges made after November 12, 1975.

SEC. 1035. FOREIGN OIL AND GAS EXTRACTION INCOME.

26 USC 907.

(a) REDUCTION IN LIMITATION ON FOREIGN TAX CREDITS ALLOWABLE FOR OIL AND GAS EXTRACTION INCOME.—Subsection (a) of section 907 (relating to reduction in amounts allowable as foreign tax under section 901) is amended to read as follows:

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year, multiplied by

"(2) the percentage which is the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11."

(b) FOREIGN OIL RELATED INCOME EARNED BY INDIVIDUALS.—Subsection (b) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—

Ante, p. 1620.

"(1) CORPORATIONS.—In the case of a corporation, the provisions of section 904 shall be applied separately with respect to—

"(A) foreign oil related income, and

"(B) other taxable income.

"(2) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, the provisions of subsection (a) shall not apply and the provisions of section 904 shall be applied separately with respect to—

"(A) foreign oil and gas extraction income, and

"(B) other taxable income (including other foreign oil related income).

In the case of a corporation, with respect to foreign oil-related income, and in the case of a taxpayer other than a corporation, with respect to foreign oil and gas extraction income, the overall limitation provided

by section 904(a)(2) shall apply and the per-country limitation provided by subsection (a)(1) shall not apply.” *Ante*, p. 1620.

(c) **TAX CREDIT FOR PRODUCTION-SHARING CONTRACTS.**—

26 USC 907
note.

(1) For purposes of section 901 of the Internal Revenue Code of 1954, there shall be treated as income, war profits, and excess profits taxes to be taken into account under section 907(a) of such Code amounts designated as income taxes of a foreign government by such government (which otherwise would not be treated as taxes for purposes of section 901 of such Code) with respect to production-sharing contracts for the extraction of foreign oil or gas.

(2) The amounts specified in paragraph (1) shall not exceed the lesser of—

(A) the product of the foreign oil and gas extraction income with respect to all such production-sharing contracts multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code, or

(B) the excess of the total amount of foreign oil and gas extraction income (as defined in section 907(c)(1) of such Code) for the taxable year multiplied by the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11 of such Code over the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) without regard to paragraph (1) during the taxable year with respect to foreign oil and gas extraction income.

(3) The production-sharing contracts taken into account for purposes of paragraph (1) shall be those contracts which were entered into before April 8, 1976, for the sharing of foreign oil and gas production with a foreign government (or an entity owned by such government) with respect to which amounts claimed as taxes paid or accrued to such foreign government for taxable years beginning before June 30, 1976, will not be disallowed as taxes. No such contract shall be taken into account for any taxable year ending after December 31, 1977.

(d) **CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.**—

26 USC 907.

(1) **IN GENERAL.**—Section 907 (as amended by section 1032) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) **CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.**—

“(1) **IN GENERAL.**—If the amount of the oil and gas extraction taxes paid or accrued during any taxable year exceeds the limitation provided by subsection (a) for such taxable year (hereinafter in this subsection referred to as the ‘unused credit year’), so much of such excess as does not exceed 2 percent of foreign oil and gas extraction income for such taxable year shall be deemed to be oil and gas extraction taxes paid or accrued in the second preceding taxable year, in the first preceding taxable year, and in the first, second, third, fourth, or fifth succeeding taxable year, in that order and to the extent not deemed tax paid or accrued in a prior taxable year by reason of the limitation imposed by paragraph (2). Such amount deemed paid or accrued in any taxable year may be availed of only as a tax credit and not as a deduction and only if the taxpayer for such year chooses to have the benefits of this subpart as to taxes paid or accrued for that year to foreign countries or possessions. For purposes of this

subsection, the terms 'second preceding taxable year', and 'first preceding taxable year' do not include any taxable year ending before January 1, 1975. For purposes of determining the amount of such taxes which may be deemed paid or accrued in any taxable year ending in 1975, 1976, or 1977, the first sentence of this paragraph shall be applied by substituting 'such excess' for 'so much of such excess as does not exceed 2 percent of the foreign oil and gas extraction income for such taxable year'.

"(2) LIMITATION.—The amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued in any preceding or succeeding taxable year shall not exceed the lesser of—

"(A) the amount by which the limitation provided by subsection (a) for such taxable year exceeds the sum of—

"(i) the oil and gas extraction taxes paid or accrued during such taxable year, plus

"(ii) the amounts of the oil and gas extraction taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year; or

"(B) the amount by which the limitation provided by section 904 on taxes paid or accrued with respect to foreign oil-related income for such taxable year exceeds the sum of—

"(i) the taxes paid or accrued (or deemed to have been paid under section 902 or 960) to all foreign countries and possessions of the United States with respect to such income during such taxable year,

"(ii) the amount of such taxes which were deemed paid or accrued in such taxable year under section 904(c) and which are attributable to taxable years preceding the unused credit year, plus

"(iii) the amount of the oil and gas extraction taxes which by reason of this subsection are deemed paid or accrued in such taxable year and are attributable to taxable years preceding the unused credit year.

"(3) SPECIAL RULES.—

"(A) In the case of any taxable year which is an unused credit year under this subsection and which is an unused credit year under section 904(c) with respect to oil-related income, the provisions of this subsection shall be applied before section 904(c).

"(B) For purposes of determining the amount of oil-related taxes paid or accrued in any taxable year which may be deemed paid or accrued in a preceding or succeeding taxable year under section 904(c), any tax deemed paid or accrued in such preceding or succeeding taxable year under this subsection shall be considered to be tax paid or accrued in such preceding or succeeding taxable year.

"(C) For purposes of determining the amount of the unused oil and gas extraction taxes which under paragraph (1) may be deemed paid or accrued in any taxable year ending before January 1, 1977, subparagraph (A) of paragraph (2) shall be applied as if the amendment made by section 1035(a) of the Tax Reform Act of 1976 applied to such taxable year."

(2) DEFINITION OF OIL AND GAS EXTRACTION TAXES.—Subsection (c) of section 907 is amended by adding at the end thereof the following new paragraph:

Ante, p. 1620.

Ante, p. 1626.

26 USC 960.

26 USC 907.

“(5) OIL AND GAS EXTRACTION TAXES.—The term ‘oil and gas extraction taxes’ means any income, war profits, and excess profits tax paid or accrued (or deemed to have been paid under section 902 or 960) during the taxable year with respect to foreign oil and gas extraction income (determined without regard to paragraph (4)) or loss which would be taken into account for purposes of section 901 without regard to this section.”

Ante, p. 1626.
26 USC 960.

(3) TECHNICAL AMENDMENT.—Subsection (i) of section 6501, as amended by section 1031, (relating to foreign tax carrybacks) is amended—

26 USC 6501.

(A) by striking out “excess foreign taxes)” and inserting in lieu thereof “excess foreign taxes) or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes)”;

Ante, p. 1631.

(B) by striking out “section 904(c)” the second place it appears and inserting in lieu thereof “section 904(c) or 907(f)”.

(e) EFFECTIVE DATES.—

26 USC 907
note.

(1) The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1976.

(2) The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1974; except that the last sentence of section 907(b) of the Internal Revenue Code of 1954 shall only apply to taxable years ending after December 31, 1975.

Ante, p. 1630.

(3) The amendment made by subsection (c) shall apply to taxable years beginning after June 29, 1976.

(4) The amendments made by subsection (d) shall apply to taxes paid or accrued during taxable years ending after the date of the enactment of this Act.

SEC. 1036. UNDERWRITING INCOME.

(a) TREATMENT AS INCOME FROM SOURCES WITHIN THE UNITED STATES.—Section 861(a) (relating to gross income from sources within the United States) is amended by adding the following new paragraph:

26 USC 861.

“(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the insurance of United States risks (as defined in section 953(a)).”.

(b) TREATMENT AS FOREIGN SOURCE INCOME.—Section 862(a) (relating to gross income from sources without the United States) is amended by adding the following new paragraph:

26 USC 862.

“(7) Underwriting income other than that derived from sources within the United States as provided in section 861(a)(7).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

26 USC 861
note.

SEC. 1037. THIRD TIER FOREIGN TAX CREDIT WHEN SECTION 951 APPLIES.

(a) FOREIGN TAXES DEEMED PAID BY FOREIGN CORPORATIONS.—Section 960(a)(1) (relating to special rules for foreign tax credits), as amended in section 1033, is further amended to read as follows:

26 USC 960.

“(1) GENERAL RULE.—For purposes of subpart A of this part, if there is included, under section 951(a), in the gross income of a domestic corporation any amount attributable to earnings and profits—

“(A) of a foreign corporation (hereafter in this subsection referred to as the ‘first foreign corporation’) at least 10 per-

cent of the voting stock of which is owned by such domestic corporation, or

“(B) of a second foreign corporation (hereinafter in this subsection referred to as the ‘second foreign corporation’) at least 10 percent of the voting stock of which is owned by the first foreign corporation, or

“(C) of a third foreign corporation (hereinafter in this subsection referred to as the ‘third foreign corporation’) at least 10 percent of the voting stock of which is owned by the second foreign corporation,

then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in gross income of the domestic corporation bears to the entire amount of the earnings and profits of such corporation for such taxable year. This paragraph shall not apply with respect to any amount included in the gross income of such domestic corporation attributable to earnings and profits of the second foreign corporation or of the third foreign corporation unless, in the case of the second foreign corporation, the percentage-of-voting-stock requirement of section 902(b)(3)(A) is satisfied, and in the case of the third foreign corporation, the percentage-of-voting-stock requirement of section 902(b)(3)(B) is satisfied.”

26 USC 960
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to earnings and profits of a foreign corporation included, under section 951(a) of the Internal Revenue Code of 1954, in the gross income of a domestic corporation in taxable years beginning after December 31, 1976.

PART IV—MONEY OR OTHER PROPERTY MOVING OUT OF OR INTO THE UNITED STATES

SEC. 1041. PORTFOLIO DEBT INVESTMENTS IN UNITED STATES OF NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

26 USC 861. The last sentence of section 861(c) (relating to interest on deposits, etc.) is hereby repealed.

SEC. 1042. CHANGES IN RULING REQUIREMENTS UNDER SECTION 367; CERTAIN CHANGES IN SECTION 1248.

26 USC 367. (a) **AMENDMENT OF SECTION 367.**—Section 367 (relating to foreign corporations) is amended to read as follows:

“SEC. 367. FOREIGN CORPORATIONS.

“(a) **TRANSFERS OF PROPERTY FROM THE UNITED STATES.**—

“(1) **GENERAL RULE.**—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, there is a transfer of property (other than stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization) by a United States person to a foreign corporation, for purposes of determining the extent to which gain shall be recognized on such transfer, a foreign corporation shall not be considered to be a corporation unless, pursuant to a request filed not later than the close of the 183d day after the beginning of such

transfer (and filed in such form and manner as may be prescribed by regulations by the Secretary), it is established to the satisfaction of the Secretary that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

“(2) EXCEPTION FOR TRANSACTIONS DESIGNATED BY THE SECRETARY.—Paragraph (1) shall not apply to any exchange (otherwise within paragraph (1)), or to any type of property, which the Secretary by regulations designates as not requiring the filing of a request.

“(b) OTHER TRANSFERS.—

“(1) EFFECT OF SECTION TO BE DETERMINED UNDER REGULATIONS.—In the case of any exchange described in section 332, 351, 354, 355, 356, or 361 in connection with which there is no transfer of property described in subsection (a) (1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes.

26 USC 332,
351, 354, 355,
356, 361.

“(2) REGULATIONS RELATING TO SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS.—The regulations prescribed pursuant to paragraph (1) shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person, including regulations providing—

“(A) the circumstances under which—

“(i) gain shall be recognized currently, or amounts included in gross income currently as a dividend, or both, or

“(ii) gain or other amounts may be deferred for inclusion in the gross income of a shareholder (or his successor in interest) at a later date, and

“(B) the extent to which adjustments shall be made to earnings and profits, basis of stock or securities, and basis of assets.

“(c) TRANSACTIONS TO BE TREATED AS EXCHANGES.—

“(1) SECTION 355 DISTRIBUTION.—For purposes of this section, any distribution described in section 355 (or so much of section 356 as relates to section 355) shall be treated as an exchange whether or not it is an exchange.

“(2) CONTRIBUTION OF CAPITAL TO CONTROLLED CORPORATIONS.—For purposes of this chapter, any transfer of property to a foreign corporation as a contribution to the capital of such corporation by one or more persons who, immediately after the transfer, own (within the meaning of section 318) stock possessing at least 80 percent of the total combined voting power of all classes of stock of such corporation entitled to vote shall be treated as an exchange of such property for stock of the foreign corporation equal in value to the fair market value of the property transferred.

“(d) TRANSITIONAL RULE.—In the case of any exchange beginning before January 1, 1978—

“(1) subsection (a) shall be applied without regard to whether or not there is a transfer of property described in subsection (a) (1), and

“(2) subsection (b) shall not apply.”.

26 USC 1248.

(b) EARNINGS AND PROFITS OF SUBSIDIARIES OF FOREIGN CORPORATIONS FOR PURPOSES OF SECTION 1248.—Subparagraph (C) of section 1248(c) (2) is amended by striking out “; and” at the end thereof and inserting in lieu thereof the following: “(or on the date of any sale or exchange of the stock of such other foreign corporation occurring during the 5-year period ending on the date of the sale or exchange of the stock of such foreign corporation, to the extent not otherwise taken into account under this section but not in excess of the fair market value of the stock of such other foreign corporation sold or exchanged over the basis of such stock (for determining gain) in the hands of the transferor); and”.

(c) CERTAIN SECTION 311, 336, OR 337 TRANSACTIONS.—

(1) GENERAL RULE.—Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

“(f) CERTAIN SECTION 311, 336, OR 337 TRANSACTIONS.—

“(1) IN GENERAL.—If—

“(A) a domestic corporation satisfies the stock ownership requirements of subsection (a) (2) with respect to a foreign corporation, and

“(B) such domestic corporation distributes, sells, or exchanges stock of such foreign corporation in a transaction to which section 311, 336, or 337 applies,

then, notwithstanding any other provision of this subtitle, an amount equal to the excess of the fair market value of such stock over its adjusted basis in the hands of the domestic corporation shall be included in the gross income of the domestic corporation as a dividend to the extent of the earnings and profits of the foreign corporation attributable (under regulations prescribed by the Secretary) to such stock which were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, and during the period or periods the stock was held by such domestic corporation while such foreign corporation was a controlled foreign corporation. For purposes of subsections (c) (2), (d), and (h), a distribution, sale, or exchange of stock to which this subsection applies shall be treated as a sale of stock to which subsection (a) applies.

“(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—In the case of any distribution of stock of a foreign corporation, paragraph (1) shall not apply if such distribution is to a domestic corporation—

“(A) which is treated under this section as holding such stock for the period for which the stock was held by the distributing corporation, and

“(B) which, immediately after the distribution, satisfies the stock ownership requirements of subsection (a) (2) with respect to such foreign corporation.

“(3) NONAPPLICATION OF PARAGRAPH (1) IN CERTAIN CASES.—Paragraph (1) shall not apply to a sale or exchange to which section 337 applies if—

“(A) throughout the period or periods the stock of the foreign corporation was held by the domestic corporation (or predecessor referred to in paragraph (2)) all the stock of such domestic corporation was owned by United States persons who satisfied the 10-percent stock ownership require-

ments of subsection (a) (2) with respect to such domestic corporation, and

“(B) subsection (a) applies to the proceeds of the sale or exchange and also applied to all transactions described in subsection (e) (1) which took place during the period or periods referred to in subparagraph (A).”

“(4) APPLICATION TO CASES DESCRIBED IN SUBSECTION (e).—To the extent that earnings and profits are taken into account under this subsection, they shall be excluded and not taken into account for purposes of subsection (e).”

(2) INTEREST IN PARTNERSHIP HOLDING STOCK IN CERTAIN FOREIGN CORPORATIONS.—The last sentence of section 751(c) (relating to unrealized receivables) is amended—

(A) by striking out “(as defined in section 1245(a) (3)),” and inserting in lieu thereof “as defined in section 1245(a) (3),” stock in certain foreign corporations (as described in section 1248),” and

(B) by striking out “1245(a),” and inserting in lieu thereof “1245(a), 1248(a),”.

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of paragraph (2) of subsection (c) of section 1248 is amended by striking out “subsection (a) applies to a sale or exchange” and inserting in lieu thereof “subsection (a) or (f) applies to a sale, exchange, or distribution”.

(B) Subparagraph (A) of paragraph (3) of subsection (g) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended to read as follows:

“(A) a dividend (other than an amount treated as a dividend under subsection (f)),”.

(C) Subsection (h) (as redesignated by paragraph (1) of this subsection) of section 1248 is amended by striking out “subsection (a)” each place it appears and inserting in lieu thereof “subsection (a) or (f)”.

(d) DECLARATORY JUDGMENT PROCEDURE FOR REVIEW BY THE TAX COURT OF SECTION 367 DETERMINATIONS.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

“SEC. 7477. DECLARATORY JUDGMENTS RELATING TO TRANSFERS OF PROPERTY FROM THE UNITED STATES.

“(a) CREATION OF REMEDY.—

“(1) IN GENERAL.—In a case of actual controversy involving—

“(A) a determination by the Secretary—

“(i) that an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

“(ii) of the terms and conditions pursuant to which an exchange described in section 367(a) (1) will be determined not to be in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes, or

“(B) a failure by the Secretary to make a determination as to whether an exchange described in section 367(a) (1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes,

26 USC 751.

26 USC 1248.

Ante, p. 1634.

26 USC 7477.

upon the filing of an appropriate pleading, the Tax Court may make the appropriate declaration referred to in paragraph (2). Such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

“(2) SCOPE OF DECLARATION.—The declaration referred to in paragraph (1) shall be—

“(A) in the case of a determination referred to in subparagraph (A) of paragraph (1), whether or not such determination is reasonable, and, if it is not reasonable, a determination of the issue set forth in subparagraph (A) (ii) of paragraph (1), and

“(B) in the case of a failure described in subparagraph (B) of paragraph (1), the determination of the issues set forth in subparagraph (A) of paragraph (1).

“(b) LIMITATIONS.—

“(1) PETITIONER.—A pleading may be filed under this section only by a petitioner who is a transferor or transferee of stock, securities, or property transferred in an exchange described in section 367(a)(1).

Ante, p. 1634.

“(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Secretary to make a determination with respect to whether or not an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes before the expiration of 270 days after the request for such determination was made.

“(3) EXCHANGE SHALL HAVE BEGUN.—No proceeding may be maintained under this section unless the exchange is described in section 367(a)(1) with respect to which a decision of the Tax Court is sought has begun before the filing of the pleading.

“(4) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail to the petitioners referred to in paragraph (1) notice of his determination with respect to whether or not an exchange described in section 367(a)(1) is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes or with respect to the terms and conditions pursuant to which such an exchange will be determined not to be made in pursuance of such a plan, no proceeding may be initiated under this section by any petitioner unless the pleading is filed before the 91st day after the day after such notice is mailed to such petitioner.

“(c) COMMISSIONERS.—The chief judge of the Tax Court may assign proceedings under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.”

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out “or” at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “, or”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) in the case of a person seeking a declaratory judgment under section 7477, the legal residence of such person if such person is not a corporation, or the principal place of business or principal office or agency of such person if such person is a corporation.” *Ante*, p. 1637.

(B) Section 7482(b)(1) is further amended— 26 USC 7482.

(i) by striking out “subparagraph (A), (B), and (C) do not apply” in the second sentence and inserting in lieu thereof “no subparagraph of the preceding sentence applies”; and

(ii) by striking out “section 7476” in the last sentence and inserting in lieu thereof “section 7476 or 7477”.

(C) The heading for section 7476 is amended to read as follows:

“SEC. 7476. DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN RETIREMENT PLANS.”

(D) The table of sections for part IV of subchapter C of chapter 76 is amended to read as follows:

“Sec. 7476. Declaratory judgments relating to qualification of certain retirement plans.

“Sec. 7477. Declaratory judgments relating to transfers of property from United States.”

(E) The heading of part IV of subchapter C of chapter 76 is amended to read as follows:

“PART IV—DECLARATORY JUDGMENTS”.

(F) The table of parts for subchapter C of chapter 76 is amended by striking out the item relating to part IV and inserting in lieu thereof the following:

“Part IV. Declaratory judgments.”

(e) EFFECTIVE DATES.—

(1) The amendments made by this section (other than by subsection (d)) shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date. The amendments made by subsection (d) shall apply with respect to pleadings filed with the Tax Court after the date of the enactment of this Act but only with respect to transfers beginning after October 9, 1975.

(2) In the case of any exchange described in section 367 of the Internal Revenue Code of 1954 (as in effect on December 31, 1974) in any taxable year beginning after December 31, 1962, and before the date of the enactment of this Act, which does not involve the transfer of property to or from a United States person, a taxpayer shall have for purposes of such section until 183 days after the date of the enactment of this Act to file a request with the Secretary of the Treasury or his delegate seeking to establish to the satisfaction of the Secretary of the Treasury or his delegate that such exchange was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes and that for purposes of such section a foreign corporation is to be treated as a foreign corporation.

26 USC 367
note.

SEC. 1043. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

(a) AMENDMENT OF SUBCHAPTER L.—Subpart E of part I of subchapter L of chapter 1 (relating to life insurance companies) is amended by inserting after section 819 the following new section:

26 USC 819A.

"SEC. 819A. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

"(a) **EXCLUSION OF ITEMS.**—In the case of a domestic mutual insurance company which—

"(1) is a life insurance company,

"(2) has a contiguous country life insurance branch, and

"(3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each and every item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

"(b) **CONTIGUOUS COUNTRY LIFE INSURANCE BRANCH.**—For purposes of this section, the term 'contiguous country life insurance branch' means a branch which—

"(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

"(2) has its principal place of business in such contiguous country, and

"(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

"Insurance contract."

For purposes of this section, the term 'insurance contract' means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

"(c) **SEPARATE ACCOUNTING REQUIRED.**—Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) **RECOGNITION OF GAIN ON ASSETS IN BRANCH ACCOUNT.**—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

"(e) **TRANSACTIONS BETWEEN CONTIGUOUS COUNTRY BRANCH AND DOMESTIC LIFE INSURANCE COMPANY.**—

"(1) **REIMBURSEMENT FOR HOME OFFICE SERVICES, ETC.**—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reim-

bursament, credit, or allowance had been received from a separate person.

“(2) REPATRIATION OF INCOME.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the life insurance company taxable income of the domestic life insurance company (as computed without regard to this paragraph).

“(B) LIMITATION.—The addition provided by subparagraph (A) for the taxable year with respect to any contiguous country life insurance branch shall not exceed the amount by which—

“(i) the aggregate decrease in the life insurance company taxable income of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds

“(ii) the amount of additions to life insurance company taxable income pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.

“(f) OTHER RULES.—

“(1) TREATMENT OF FOREIGN TAXES.—

“(A) IN GENERAL.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

26 USC 901.

“(B) TREATMENT OF REPATRIATED AMOUNTS.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e) (2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

“(2) UNITED STATES SOURCE INCOME ALLOCABLE TO CONTIGUOUS COUNTRY BRANCH.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties. to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

“(g) ELECTION.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year beginning after December 31, 1975. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be

made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

“(h) **SPECIAL RULE FOR DOMESTIC STOCK LIFE INSURANCE COMPANIES.**—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b) (3)), the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. Subsection (a) shall apply to the stock of such foreign corporation as if such domestic company were a mutual company and as if the stock were an item described in subsection (c). Subsection (c) (2) shall apply to amounts transferred or credited to such domestic company as if such domestic company and such foreign corporation constituted one domestic mutual life insurance company. The insurance contracts which may be transferred pursuant to this subsection shall include only those which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such subpart E is amended by inserting after the item relating to section 819 the following new item:

“Sec. 819A. Contiguous country branches of domestic life insurance companies.”

26 USC 819A
note.

(c) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1044. TRANSITIONAL RULE FOR BOND, ETC., LOSSES OF FOREIGN BANKS.

26 USC 582.

(a) **GENERAL RULE.**—Section 582(c) (relating to bond, etc., losses and gains of financial institutions) is amended by adding at the end thereof the following new paragraph:

“(4) **TRANSITIONAL RULE FOR BANKS.**—In the case of a corporation which would be a bank except for the fact that it is a foreign corporation, the net gain, if any, for the taxable year on sales and exchanges described in paragraph (1) shall be considered as gain from the sale or exchange of a capital asset to the extent such net gain does not exceed the portion of any capital loss carryover to such taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) for a taxable year beginning before July 12, 1969. For purposes of the preceding sentence, the portion of a net capital loss for a taxable year which is attributable to capital losses on sales or exchanges described in paragraph (1) is the amount of the net capital loss on such sales or exchanges

for such taxable year (but not in excess of the net capital loss for such taxable year).”

(b) **EFFECTIVE DATE.**—

26 USC 582
note.

(1) The amendment made by subsection (a) shall apply with respect to taxable years beginning after July 11, 1969.

(2) If the refund or credit of any overpayment attributable to the application of the amendment made by subsection (a) to any taxable year is otherwise prevented by the operation of any law or rule of law (other than section 7122 of the Internal Revenue Code of 1954, relating to compromises) on the day which is one year after the date of the enactment of this Act, such credit or refund shall be nevertheless allowed or made if claim therefor is filed on or before such day.

PART V—SPECIAL CATEGORIES OF FOREIGN TAX TREATMENT

SEC. 1051. TAX TREATMENT OF CORPORATIONS CONDUCTING TRADE OR BUSINESS IN PUERTO RICO AND POSSESSIONS OF THE UNITED STATES.

(a) **ALLOWANCE OF PUERTO RICAN AND POSSESSION TAX CREDIT.**—Section 33 (relating to taxes of foreign countries and possessions of the United States) is amended to read as follows:

26 USC 33.

“SEC. 33. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF THE UNITED STATES; POSSESSION TAX CREDIT.

“(a) **FOREIGN TAX CREDIT.**—The amount of taxes imposed by foreign countries and possessions of the United States shall be allowed as a credit against the tax imposed by this chapter to the extent provided in section 901.

“(b) **SECTION 936 CREDIT.**—In the case of a domestic corporation, the amount provided by section 936 (relating to Puerto Rico and possession tax credit) shall be allowed as a credit against the tax imposed by this chapter.”

Infra.

(b) **RULES ON POSSESSION TAX CREDIT.**—Subpart D of part III of subchapter N of chapter 1 (relating to possessions of the United States) is amended by adding at the end thereof the following new section:

“SEC. 936. PUERTO RICO AND POSSESSION TAX CREDIT.

26 USC 936.

“(a) ALLOWANCE OF CREDIT.—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), in the case of a domestic corporation which elects the application of this section, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to taxable income, from sources without the United States, from the active conduct of a trade or business within a possession of the United States, and from qualified possession source investment income, if the conditions of both subparagraph (A) and subparagraph (B) are satisfied:

“(A) **3-YEAR PERIOD.**—If 80 percent or more of the gross income of such domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States (determined without regard to section 904(f)); and

Ante, p. 1624.

“(B) **TRADE OR BUSINESS.**—If 50 percent or more of the gross income of such domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

“(2) **CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.**—The credit provided by paragraph (1) shall not be allowed against the tax imposed by—

Ante, p. 1549.
26 USC 531.

“(A) section 56 (relating to minimum tax),

“(B) section 531 (relating to the tax on accumulated earnings),

“(C) section 541 (relating to personal holding company tax),

“(D) section 1333 (relating to war loss recoveries), or

“(E) section 1351 (relating to recoveries of foreign expropriation losses).

“(b) **AMOUNTS RECEIVED IN UNITED STATES.**—In determining taxable income for purposes of subsection (a), there shall not be taken into account as income from sources without the United States any gross income which was received by such domestic corporation within the United States, whether derived from sources within or without the United States.

“(c) **TREATMENT OF CERTAIN FOREIGN TAXES.**—For purposes of this title, any tax of a foreign country or a possession of the United States which is paid or accrued with respect to taxable income which is taken into account in computing the credit under subsection (a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amounts so paid or accrued.

“(d) **DEFINITIONS.**—For purposes of this section—

“(1) **POSSESSION.**—The term ‘possession of the United States’ includes the Commonwealth of Puerto Rico, but does not include the Virgin Islands of the United States.

“(2) **QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.**—The term ‘qualified possession source investment income’ means gross income which—

“(A) is from sources within a possession of the United States in which a trade or business is actively conducted, and

“(B) the taxpayer establishes to the satisfaction of the Secretary is attributable to the investment in such possession (for use therein) of funds derived from the active conduct of a trade or business in such possession, or from such investment,

less the deductions properly apportioned or allocated thereto.

“(e) **ELECTION.**—

“(1) **PERIOD OF ELECTION.**—The election provided in subsection (a) shall be made at such time and in such manner as the Secretary may by regulations prescribe. Any such election shall apply to the first taxable year for which such election was made and for which the domestic corporation satisfied the conditions of subparagraphs (A) and (B) of subsection (a) (1) and for each taxable year thereafter until such election is revoked by the domestic corporation under paragraph (2). If any such election is revoked by the domestic corporation under paragraph (2), such domestic corporation may make a subsequent election under subsection (a) for any taxable year thereafter for which such domestic cor-

poration satisfies the conditions of subparagraphs (A) and (B) of subsection (a)(1) and any such subsequent election shall remain in effect until revoked by such domestic corporation under paragraph (2).

“(2) REVOCATION.—An election under subsection (a)—

“(A) may be revoked for any taxable year beginning before the expiration of the 9th taxable year following the taxable year for which such election first applies only with the consent of the Secretary; and

“(B) may be revoked for any taxable year beginning after the expiration of such 9th taxable year without the consent of the Secretary.

“(f) DISC OR FORMER DISC CORPORATION INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to a corporation for a taxable year for which it is a DISC or former DISC (as defined in section 992(a)) or in which it owns at any time stock in a DISC or former DISC.

“(g) EXCEPTION TO ACCUMULATED EARNINGS TAX.—

“(1) For purposes of section 535, the term ‘accumulated taxable income’ shall not include taxable income entitled to the credit under subsection (a).

“Accumulated taxable income.”

“(2) For purposes of section 537, the term ‘reasonable needs of the business’ includes assets which produce income eligible for the credit under subsection (a).”

“Reasonable needs of the business.”

(c) AMENDMENTS OF SECTION 931.—

(1) Subsection (a) of section 931 (relating to general rule in the case of income from sources within possessions of the United States) is amended to read as follows:

26 USC 931.

“(a) GENERAL RULE.—In the case of individual citizens of the United States, gross income means only gross income from sources within the United States if the conditions of both paragraph (1) and paragraph (2) are satisfied:

“(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of such citizen (computed without the benefit of this section) for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States: and

“(2) TRADE OR BUSINESS.—If 50 percent or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.”.

(2) Subsection (c) of section 931 (defining the term “possession”) is amended to read as follows:

“(c) DEFINITION.—For purposes of this section, the term ‘possession of the United States’ does not include the Commonwealth of Puerto Rico, the Virgin Islands of the United States, or Guam.”.

(3) Subsections (d), (e), and (f) of section 931 are each amended by striking out “persons” each place it appears and inserting in lieu thereof “a citizen of the United States”.

(d) AMENDMENTS OF SECTION 901.—

(1) Section 901(d) (relating to certain corporations treated as foreign corporations) is amended to read as follows:

26 USC 901.

“(d) TREATMENT OF DIVIDENDS FROM A DISC OR FORMER DISC.—For purposes of this subpart, dividends from a DISC or former DISC

(as defined in section 992(a)) shall be treated as dividends from a foreign corporation to the extent such dividends are treated under part I as income from sources without the United States.”

26 USC 901.

(2) Section 901 (relating to taxes of foreign countries and possessions of the United States) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection:

“(g) CERTAIN TAXES PAID WITH RESPECT TO DISTRIBUTIONS FROM POSSESSIONS CORPORATIONS.—

“(1) IN GENERAL.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation, to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued.

Ante, p. 1643.

“(2) POSSESSIONS CORPORATION.—For purposes of paragraph (1), a corporation shall be treated as a possessions corporation for any period during which an election under section 936 applied to such corporation or during which section 931 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) applied to such corporation.”

26 USC 904.

Ante, p. 1629.

(e) AMENDMENT OF SECTION 904(b).—Section 904(b) (as amended by sections 1031 and 1034(a) of this Act) is amended by adding at the end thereof the following new paragraph:

“(4) COORDINATION WITH SECTION 936.—For purposes of subsection (a), in the case of a corporation, the taxable income shall not include any portion thereof taken into account for purposes of the credit (if any) allowed by section 936.”

26 USC 243.

(f) DIVIDENDS RECEIVED DEDUCTION ALLOWED.—

(1) Section 243(b)(1) (defining qualifying dividends) is amended by adding “either” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) (ii) and inserting in lieu thereof a comma and “or”, and by adding at the end thereof the following new subparagraph:

“(C) such dividends are paid by a corporation with respect to which an election under section 936 is in effect for the taxable year in which such dividends are paid.”

26 USC 243.

(2) Section 243(b)(5) (defining affiliated group) is amended by inserting “, 1504(b)(4),” immediately after “1504(b)(2)”.

26 USC 246.

(3) Section 246(a) (relating to dividends from certain corporations) is amended to read as follows:

“(a) DEDUCTION NOT ALLOWED FOR DIVIDENDS FROM CERTAIN CORPORATIONS.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).”

26 USC 1504.

(g) CONSOLIDATED RETURN TREATMENT.—Section 1504(b)(4) (defining includible corporation) is amended to read as follows:

“(4) Corporations with respect to which an election under section 936 (relating to possession tax credit) is in effect for the taxable year.”

(h) CONFORMING AMENDMENTS.—

(1) Section 48(a)(2)(B)(vii) (relating to definition of section 38 property) is amended by striking out “(other than a corporation entitled to the benefits of section 931 or 934(b))” and inserting in lieu thereof the following: “(other than a corporation which has an election in effect under section 936 or which is entitled to the benefits of section 934(b))”.

26 USC 48.

(2) Paragraph (2) of subsection 116(b) (relating to certain dividends excluded from partial exclusion of dividends received by individuals) is amended to read as follows:

26 USC 116.

“(2) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers’ cooperative associations); or”.

(3) Section 861(a)(2)(A) (relating to income from sources within the United States) is amended by striking out “other than a corporation entitled to the benefits of section 931,” and inserting in lieu thereof the following: “other than a corporation which has an election in effect under section 936.”

26 USC 861.

(4) Section 6091(b)(2)(B)(ii) (relating to place of filing for corporations) is amended by striking out “section 931 (relating to income from sources within possessions of the United States),” and inserting in lieu thereof the following: “section 936 (relating to possession tax credit).”

Post, p. 1648.

(i) EFFECTIVE DATE.—

26 USC 33 note.

(1) Except as provided by paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1975, except that “qualified possession source investment income” as defined in section 936(d)(2) of the Internal Revenue Code of 1954 shall include income from any source outside the United States if the taxpayer establishes to the satisfaction of the Secretary of the Treasury or his delegate that the income from such sources was earned before October 1, 1976.

Ante, p. 1643.

(2) The amendment made by subsection (d)(2) shall not apply to any tax imposed by a possession of the United States with respect to the complete liquidation occurring before January 1, 1979, of a corporation to the extent that such tax is attributable to earnings and profits accumulated by such corporation during periods ending before January 1, 1976.

SEC. 1052. WESTERN HEMISPHERE TRADE CORPORATIONS.

(a) PHASEOUT OF SPECIAL DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPORATIONS.—Section 922 (special deduction for Western Hemisphere trade corporations) is amended by adding at the end thereof the following new subsection:

26 USC 922.

“(b) PHASEOUT OF DEDUCTION.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1980, the percent specified in subsection (a)(2)(A) shall be (in lieu of 14 percent) the percent specified in the following table:

“For a taxable year beginning in—	The percentage shall be—
1976 -----	11
1977 -----	8
1978 -----	5
1979 -----	2”.

- 26 USC 921, 922.
26 USC 922.
26 USC 170.
26 USC 172.
Repeal. 26 USC 907. 26 USC 1503.
26 USC 6091.
Ante, p. 1643.
26 USC 922 note.

(b) REPEAL OF WESTERN HEMISPHERE TRADE CORPORATION DEDUCTION FOR TAXABLE YEARS BEGINNING AFTER 1979.—Subpart C of part III of subchapter N of chapter 1 (relating to Western Hemisphere trade corporations) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) The first sentence of section 922 (relating to special deduction) is amended by striking out “In the case of” and inserting in lieu thereof the following:

“(a) GENERAL RULE.—In the case of”.

(2) Section 170(b)(2) (relating to percentage limitations on charitable contributions in the case of corporations) is amended by adding “and” at the end of subparagraph (C), by striking out subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(3) Section 172(d) (relating to modifications for purposes of the net operating loss deduction) is amended by striking out paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(4) Subsection (g) of section 907 is hereby repealed.

(5) Section 1503 (relating to computation and payment of tax in the case of consolidated returns) is amended by striking out subsection (b) and by striking out “(a) GENERAL RULE.—”.

(6) Section 6091(b)(2)(B)(ii) (relating to place for filing returns of corporations) is amended to read as follows:

“(ii) corporations which claim the benefits of section 936 (relating to possession tax credit), and”.

(7) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart C.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) and paragraph (1) of subsection (c) shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsection (b) and by subsection (c) (other than paragraph (1)) shall apply with respect to taxable years beginning after December 31, 1979.

SEC. 1053. REPEAL OF PROVISIONS RELATING TO CHINA TRADE ACT CORPORATIONS.

- 26 USC 941.

(a) PHASEOUT OF SECTION 941.—Section 941 (relating to special deductions for China Trade Act corporations) is amended by adding the following new subsection:

“(d) PHASEOUT OF DEDUCTION.—In the case of a taxable year beginning after December 31, 1975, and before January 1, 1978, the amount of the special deduction under subsection (a) (determined without regard to this subsection) shall be reduced by the percentage reduction specified in the following table:

“For a taxable year beginning in—	The percentage reduction shall be—
1976 -----	33½%.”
1977 -----	66%.”
- 26 USC 943.

(b) PHASEOUT OF SECTION 943.—Section 943 (relating to the exclusion of certain dividends to residents of Formosa or Hong Kong) is amended by adding at the end thereof the following new sentence: “In the case of a taxable year beginning after December 31, 1975, and before January 1, 1978, the amount of the distributions which are excludable from gross income under this section (determined without

regard to this sentence) shall be reduced by the percentage reduction specified in the following table:

"For a taxable year beginning in—	The percentage reduction shall be—
1976 -----	33 $\frac{1}{3}$ %
1977 -----	66 $\frac{2}{3}$ %."

(c) **REPEAL.**—Subpart E of part III of subchapter N of chapter 1 (relating to China Trade Act corporations) is hereby repealed. 26 USC 941, 942, 943.

(d) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) Section 116(b) is amended by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively. 26 USC 116.

(2) Section 1504(b) is amended by striking out paragraph (5). 26 USC 1504.

(3) Section 6072 is amended by striking out subsection (e). 26 USC 6072.

(4) Section 6091(b)(2)(B)(ii) is amended by striking out the comma after "trade corporations" and inserting in lieu thereof "or" and by striking out "or section 941 (relating to the special deduction for China Trade Act corporations),". 26 USC 6091.

(5) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out the item relating to subpart E.

(e) **EFFECTIVE DATES.**—The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1975. The amendments made by subsections (c) and (d) shall apply with respect to taxable years beginning after December 31, 1977. 26 USC 941 note.

PART VI—DENIAL OF CERTAIN TAX BENEFITS FOR COOPERATION WITH OR PARTICIPATION IN INTERNATIONAL BOYCOTTS AND IN CONNECTION WITH THE PAYMENT OF CERTAIN BRIBES

SEC. 1061. DENIAL OF FOREIGN TAX CREDIT.

(a) **IN GENERAL.**—Subpart A of part III of subchapter N (relating to income from sources without the United States) is amended by adding at the end thereof the following new section:

"SEC. 908. REDUCTION OF CREDIT FOR PARTICIPATION IN OR COOPERATION WITH AN INTERNATIONAL BOYCOTT. 26 USC 908.

"(a) **IN GENERAL.**—If a person, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes such person, participates in or cooperates with an international boycott during the taxable year (within the meaning of section 999(b)), the amount of the credit allowable under section 901 to such person, or under section 902 or 960 to United States shareholders of such person, for foreign taxes paid during the taxable year shall be reduced by an amount equal to the product of—

"(1) the amount of the credit which, but for this section, would be allowed under section 901 for the taxable year, multiplied by

"(2) the international boycott factor (determined under section 999).

"(b) **APPLICATION WITH SECTIONS 275(a)(4) AND 78.**—Section 275(a)(4) and section 78 shall not apply to any amount of taxes denied credit under subsection (a)."

Post, p. 1650.

Ante, p. 1626.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by adding at the end thereof the following new item:

“Sec. 908. Reduction of credit for participation in or cooperation with an international boycott.”

SEC. 1062. DENIAL OF DEFERRAL OF INTERNATIONAL BOYCOTT AMOUNTS.

26 USC 952.

(a) DENIAL OF DEFERRAL.—Section 952(a) (relating to general definition of subpart F income) is amended—

(1) by striking out “and” at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma, and the word “and”, and

(3) by adding at the end thereof the following new paragraph:

“(3) an amount equal to the product of—

“(A) the income of such corporation other than income which—

“(i) is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph), or

“(ii) is described in subsection (b),

multiplied by

“(B) the international boycott factor (as determined under section 999).”

Infra.

SEC. 1063. DENIAL OF DISC BENEFITS.

26 USC 995.

(a) INTERNATIONAL BOYCOTT ACTIVITY.—Subparagraph (D) of section 995(b)(1) (relating to distributions in qualified years) is amended to read as follows:

“(D) the sum of—

“(i) one-half of the excess of the taxable income of the DISC for the taxable year, before reduction for any distributions during the year, over the sum of the amounts deemed distributed for the taxable year under subparagraphs (A), (B), and (C), and

“(ii) an amount equal to the amount determined under clause (i) multiplied by the international boycott factor determined under section 999, and”.

SEC. 1064. DETERMINATIONS AS TO PARTICIPATION IN OR COOPERATION WITH AN INTERNATIONAL BOYCOTT.

(a) IN GENERAL.—Subchapter N of chapter 1 (relating to tax based on income from sources within or without the United States) is amended by adding at the end thereof the following new part:

“PART V—INTERNATIONAL BOYCOTT DETERMINATIONS

“Sec. 999. Reports by taxpayers: determinations.

26 USC 999.

“SEC. 999. REPORTS BY TAXPAYERS; DETERMINATIONS.

“(a) INTERNATIONAL BOYCOTT REPORTS BY TAXPAYERS.—

“(1) REPORT REQUIRED.—If any person, or a member of a controlled group (within the meaning of section 993(a)(3)) which includes that person, has operations in, or related to—

“(A) a country (or with the government, a company, or a national of a country) which is on the list maintained by the Secretary under paragraph (3), or

“(B) any other country (or with the government, a company, or a national of that country) in which such person or such member had operations during the taxable year if such person (or, if such person is a foreign corporation, any United States shareholder of that corporation) knows or has reason to know that participation in or cooperation with an international boycott is required as a condition of doing business within such country or with such government, company, or national,

that person or shareholder (within the meaning of section 951(b)) shall report such operations to the Secretary at such time and in such manner as the Secretary prescribes, except that in the case of a foreign corporation such report shall be required only of a United States shareholder (within the meaning of such section) of such corporation.

26 USC 951.

“(2) PARTICIPATION AND COOPERATION; REQUEST THEREFOR.—A taxpayer shall report whether he, a foreign corporation of which he is a United States shareholder, or any member of a controlled group which includes the taxpayer or such foreign corporation has participated in or cooperated with an international boycott at any time during the taxable year, or has been requested to participate in or cooperate with such a boycott, and, if so, the nature of any operation in connection with which there was participation in or cooperation with such boycott (or there was a request to participate or cooperate).

“(3) LIST TO BE MAINTAINED.—The Secretary shall maintain and publish not less frequently than quarterly a current list of countries which require or may require participation in or cooperation with an international boycott (within the meaning of subsection (b)(3)).

“(b) PARTICIPATION IN OR COOPERATION WITH AN INTERNATIONAL BOYCOTT.—

“(1) GENERAL RULE.—If the person or a member of a controlled group (within the meaning of section 993(a)(3)) which includes the person participates in or cooperates with an international boycott in the taxable year, all operations of the taxpayer or such group in that country and in any other country which requires participation in or cooperation with the boycott as a condition of doing business within that country, or with the government, a company, or a national of that country, shall be treated as operations in connection with which such participation or cooperation occurred, except to the extent that the person can clearly demonstrate that a particular operation is a clearly separate and identifiable operation in connection with which there was no participation in or cooperation with an international boycott.

“(2) SPECIAL RULE.—

“(A) NONBOYCOTT OPERATIONS.—A clearly separate and identifiable operation of a person, or of a member of the controlled group (within the meaning of section 993(a)(3)) which includes that person, in or related to any country within the group of countries referred to in paragraph (1) shall not be treated as an operation in or related to a group of countries associated in carrying out an international boycott if the person can clearly demonstrate that he, or that such member, did not participate in or cooperate with the international boycott in connection with that operation.

“(B) SEPARATE AND IDENTIFIABLE OPERATIONS.—A taxpayer may show that different operations within the same country, or operations in different countries, are clearly separate and identifiable operations.

“(3) DEFINITION OF BOYCOTT PARTICIPATION AND COOPERATION.—For purposes of this section, a person participates in or cooperates with an international boycott if he agrees—

“(A) as a condition of doing business directly or indirectly within a country or with the government, a company, or a national of a country—

“(i) to refrain from doing business with or in a country which is the object of the boycott or with the government, companies, or nationals of that country;

“(ii) to refrain from doing business with any United States person engaged in trade in a country which is the object of the boycott or with the government, companies, or nationals of that country;

“(iii) to refrain from doing business with any company whose ownership or management is made up, all or in part, of individuals of a particular nationality, race, or religion, or to remove (or refrain from selecting) corporate directors who are individuals of a particular nationality, race, or religion; or

“(iv) to refrain from employing individuals of a particular nationality, race, or religion; or

“(B) as a condition of the sale of a product to the government, a company, or a national of a country, to refrain from shipping or insuring that product on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott (within the meaning of subparagraph (A)).

“(4) COMPLIANCE WITH CERTAIN LAWS.—This section shall not apply to any agreement by a person (or such member)—

“(A) to meet requirements imposed by a foreign country with respect to an international boycott if United States law or regulations, or an Executive Order, sanctions participation in, or cooperation with, that international boycott,

“(B) to comply with a prohibition on the importation of goods produced in whole or in part in any country which is the object of an international boycott, or

“(C) to comply with a prohibition imposed by a country on the exportation of products obtained in such country to any country which is the object of an international boycott.

“(c) INTERNATIONAL BOYCOTT FACTOR.—

“(1) INTERNATIONAL BOYCOTT FACTOR.—For purposes of sections 908(a), 952(a)(3), and 995(b)(3), the international boycott factor is a fraction, determined under regulations prescribed by the Secretary, the numerator of which reflects the world-wide operations of a person (or, in the case of a controlled group (within the meaning of section 993(a)(3)) which includes that person, of the group) which are operations in or related to a group of countries associated in carrying out an international boycott in or with which that person or a member of that controlled group has participated or cooperated in the taxable year, and the denominator of which reflects the world-wide operations of that person or group.

Ante, pp. 1649, 1650.

Post, p. 1655.

26 USC 993.

“(2) SPECIFICALLY ATTRIBUTABLE TAXES AND INCOME.—If the taxpayer clearly demonstrates that the foreign taxes paid and income earned for the taxable year are attributable to specific operations, then, in lieu of applying the international boycott factor for such taxable year, the amount of the credit disallowed under section 908(a), the addition to subpart F income under section 952(a)(3), and the amount of deemed distribution under section 995(b)(1)(D)(ii) for the taxable year, if any, shall be the amount specifically attributable to the operations in which there was participation in or cooperation with an international boycott under section 999(b)(1).

Ante, p. 1649.

Ante, p. 1650.

“(3) WORLD-WIDE OPERATIONS.—For purposes of this subsection, the term ‘world-wide operations’ means operations in or related to countries other than the United States.

Ante, p. 1650.

“(d) DETERMINATIONS WITH RESPECT TO PARTICULAR OPERATIONS.—Upon a request made by the taxpayer, the Secretary shall issue a determination with respect to whether a particular operation of a person, or of a member of a controlled group which includes that person, constitutes participation in or cooperation with an international boycott. The Secretary may issue such a determination in advance of such operation in cases which are of such a nature that an advance determination is possible and appropriate under the circumstances. If the request is made before the operation is commenced, or before the end of a taxable year in which the operation is carried out, the Secretary may decline to issue such a determination before close of the taxable year.

“(e) PARTICIPATION OR COOPERATION BY RELATED PERSONS.—If a person controls (within the meaning of section 304(c)) a corporation—

“(1) participation in or cooperation with an international boycott by such corporation shall be presumed to be such participation or cooperation by such person, and

“(2) participation in or cooperation with such a boycott by such person shall be presumed to be such participation or cooperation by such corporation.

“(f) WILLFUL FAILURE TO REPORT.—Any person (within the meaning of section 6671 (b)) required to report under this section who willfully fails to make such report shall, in addition to other penalties provided by law, be fined not more than \$25,000, imprisoned for not more than one year, or both.”

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter is amended by adding at the end thereof the following new item:

“Part V. International boycott determinations.”

SEC. 1065. FOREIGN BRIBES.

(a) DENIAL OF DEFERRAL.—

(1) CONTROLLED FOREIGN CORPORATIONS.—Section 952(a) (relating to general definition of subpart F income) is amended—

(A) by striking out “and” at the end of paragraph (2),

(B) by striking out the period at the end of paragraph

(3) and inserting in lieu thereof a comma and the word “and”, and

(C) by adding at the end thereof the following new paragraph:

“(4) the sum of the amounts of any illegal bribes, kickbacks, or other payments (within the meaning of section 162(c)) paid by or on behalf of the corporation during the taxable year of

26 USC 952.

the corporation directly or indirectly to an official, employee, or agent in fact of a government.”

26 USC 995.

(2) DISC's.—Subparagraph (D) of section 995(b)(1) (relating to distributions in qualified years) is amended—

(A) by striking out “and” at the end of clause (i),

(B) by adding at the end thereof the following new clause:

“(iii) any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) paid by or on behalf of the DISC directly or indirectly to an official, employee, or agent in fact of a government, and”.

26 USC 964.

(b) BRIBES NOT TO REDUCE FOREIGN EARNINGS AND PROFITS.—Section 964(a) (relating to earnings and profits of foreign corporations) is amended by adding at the end thereof the following sentence: “In determining such earnings and profits, or the deficit in such earnings and profits, the amount of any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) shall not be taken into account to decrease such earnings and profits or to increase such deficit.”.

SEC. 1066. EFFECTIVE DATES.

26 USC 908
note.

(a) INTERNATIONAL BOYCOTTS.—

(1) GENERAL RULE.—The amendments made by this part (other than by section 1065) apply to participation in or cooperation with an international boycott more than 30 days after the date of enactment of this Act.

(2) EXISTING CONTRACTS.—In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the amendments made by this part (other than by section 1065) apply to such participation or cooperation after December 31, 1977.

26 USC 952
note.

(b) FOREIGN BRIBES.—The amendments made by section 1065 apply to payments described in section 162(c) of the Internal Revenue Code of 1954 made more than 30 days after the date of enactment of this Act.

SEC. 1067. REPORTS BY SECRETARY.

26 USC 999
note.

(a) REPORTS TO THE CONGRESS.—As soon after the close of each calendar year as the data become available, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth, for that calendar year—

Ante, p. 1650.

(1) the number of reports filed under section 999(a) of the Internal Revenue Code of 1954 for taxable years ending with or within such taxable year,

(2) the number of such reports on which the taxpayer indicated international boycott participation or cooperation (within the meaning of section 999(b)(3) of such Code), and

(3) a detailed description of the manner in which the provisions of such Code relating to international boycott activity have been administered during such calendar year.

(b) INITIAL LIST.—The Secretary of the Treasury shall publish an initial list of those countries which may require participation in or cooperation with an international boycott as a condition of doing business within such country, or with the government, a company, or a national of such country (within the meaning of section 999(b) of the Internal Revenue Code of 1954) within 30 days after the enactment of this Act.

TITLE XI—AMENDMENTS AFFECTING DISC

SEC. 1101. AMENDMENTS AFFECTING DISC.

(a) **IN GENERAL.**—Section 995 (relating to taxation of DISC income to shareholders) is amended—

(1) in paragraph (1) of subsection (b) thereof, by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively, by striking out “and (C)” in subparagraph (F) (as so redesignated) and inserting in lieu thereof “(C), (D), and (E)”, and by inserting after subparagraph (C) the following new subparagraphs:

“(D) 50 percent of the taxable income of the DISC for the taxable year attributable to military property,

“(E) the taxable income for the taxable year attributable to base period export gross receipts (as defined in subsection (e)),”;

(2) in paragraph (2) (B) of subsection (b) thereof, by striking out “more than the number” and inserting in lieu thereof “more than twice the number”;

(3) by adding at the end of subsection (b) thereof the following new paragraph:

“(3) **TAXABLE INCOME ATTRIBUTABLE TO MILITARY PROPERTY.**—

“(A) **IN GENERAL.**—For purposes of paragraph (1) (D), taxable income of a DISC for the taxable year attributable to military property shall be determined by only taking into account—

“(i) the gross income of the DISC for the taxable year which is attributable to military property, and

“(ii) the deductions which are properly apportioned or allocated to such income.

“(B) **MILITARY PROPERTY.**—For purposes of subparagraph (A), the term ‘military property’ means any property which is an arm, ammunition, or implement of war designated in the munitions list published pursuant to the Military Security Act of 1954 (22 U.S.C. 1934).”; and

(4) by adding at the end thereof the following new subsections:

“(e) **DEFINITIONS AND SPECIAL RULES RELATING TO COMPUTATION OF TAXABLE INCOME ATTRIBUTABLE TO BASE PERIOD EXPORT GROSS RECEIPTS.**—

“(1) **TAXABLE INCOME ATTRIBUTABLE TO BASE PERIOD EXPORT GROSS RECEIPTS.**—For purposes of this section, the taxable income attributable to base period export gross receipts shall be an amount equal to that portion of the adjusted taxable income of a DISC which—

“(A) the amount of the adjusted base period export gross receipts, bears to

“(B) the amount of the export gross receipts of the DISC for the taxable year.

“(2) **ADJUSTED TAXABLE INCOME.**—For purposes of this section, the term ‘adjusted taxable income’ means the income of a DISC for the taxable year, reduced by the amounts described in subparagraphs (A), (B), (C), and (D) of paragraph (1) of subsection (b).

26 USC 993.

“(3) **ADJUSTED BASE PERIOD EXPORT GROSS RECEIPTS.**—For purposes of this section, the term ‘adjusted base period export gross receipts’ means 67 percent of the average of the export gross receipts of the DISC for taxable years during the base period (as defined in paragraph (5)). For purposes of the preceding sentence, if any property would not qualify during the taxable year as export property by reason of section 993(c)(2), gross receipts from such property shall be excluded from export gross receipts during the taxable years in the base period.

“(4) **EXPORT GROSS RECEIPTS.**—For purposes of this section, the term ‘export gross receipts’ means—

“(A) qualified export receipts described in subparagraphs (A), (B), (C), (G), and (H) of section 993(a)(1), reduced by

“(B) 50 percent of such qualified export receipts which are attributable to military property (as defined in subsection (b)(3)(B)).

“(5) **BASE PERIOD.**—For purposes of paragraph (3)—

“(A) for any taxable year beginning before 1980, the base period shall be the taxable years beginning in 1972, 1973, 1974, and 1975, and

“(B) for any taxable year beginning in any calendar year after 1979, the base period shall be the taxable years beginning in the fourth, fifth, sixth, and seventh calendar years preceding such calendar year.

“(6) **NO BASE PERIOD YEAR.**—If a DISC did not have a taxable year beginning in a calendar year specified in paragraph (5), then, for purposes of computing the adjusted base period export gross receipts, such DISC is deemed to have a taxable year and export gross receipts of zero for that year.

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“(7) **SHORT TAXABLE YEAR.**—The Secretary shall prescribe such regulations as he deems necessary with respect to a short taxable year for purposes of computing base period export gross receipts of a DISC, or a short taxable year in which deemed distributions (as described in subsection (b)) are made, including the circumstances under which the short taxable year shall be annualized, and the proper method of annualization.

“(8) **CONTROLLED GROUP.**—If more than one member of a controlled group (as defined in section 993(a)(3)) for the taxable year qualifies as a DISC, then subsection (b)(1)(E), this subsection, and subsection (f) shall each be applied in a manner provided by regulations prescribed by the Secretary by aggregating the export gross receipts and taxable income of such DISCs for the taxable year and by aggregating the export gross receipts of such DISCs for each taxable year in the base period.

“(9) **SPECIAL RULE WHERE THE OWNERSHIP OF DISC STOCK AND THE TRADE OR BUSINESS GIVING RISE TO EXPORT GROSS RECEIPTS OF THE DISC ARE SEPARATED.**—

“(A) **IN GENERAL.**—If, at any time after the beginning of the base period, there has been a separation of the ownership of the stock in the DISC from the ownership of the trade or business which (during the base period) produced the export gross receipts of the DISC, then the persons who own the trade or business during the taxable year shall be treated as having had additional export gross receipts during the base period attributable to such trade or business.

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

“(i) where the stock in the DISC and the trade or business are owned throughout the taxable year by members of the same controlled group, and

“(ii) to the extent that the taxpayer's ownership of the stock in the DISC for the taxable year is proportionate to his ownership during the taxable year of the trade or business.

“(10) DISC BASE PERIOD ATTRIBUTED THROUGH SHAREHOLDERS IN CERTAIN CASES.—

“(A) IN GENERAL.—If—

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“(i) any person owns 5 percent or more of the stock of a DISC (hereinafter in this paragraph referred to as ‘first DISC’), and

“(ii) such person at any time during the base period of the first DISC owned 5 percent or more of the stock of a second DISC,

then, to the extent provided in such regulations as the Secretary may prescribe to prevent circumvention of the application of subsection (b)(1)(E), an amount equal to such shareholder's share of the base period export gross receipts of the second DISC shall be added to the base period export gross receipts of the first DISC.

“(B) OWNERSHIP OF STOCK.—For purposes of subparagraph (A), the ownership of stock shall be determined under section 318.

26 USC 318.

“(f) SMALL DISCS.—

“(1) ADJUSTED TAXABLE INCOME OF \$100,000 OR LESS.—If a DISC has adjusted taxable income of \$100,000 or less for a taxable year, subsection (b)(1)(E) shall not apply with respect to such year.

“(2) SPECIAL RULE.—If a DISC has adjusted taxable income of more than \$100,000 for a taxable year, then the amount taken into account under subsection (b)(1)(E) shall be deemed to be an amount equal to the excess (if any) of—

“(A) the amount which would (but for this paragraph) be taken into account under subsection (b)(1)(E), over

“(B) twice the excess (if any) of \$150,000 over the adjusted taxable income.

“(g) CERTAIN TRANSFERS OF DISC ASSETS.—If—

“(1) a corporation owns, directly or indirectly, all of the stock of a subsidiary and a DISC,

“(2) the subsidiary has been engaged in the active conduct of a trade or business (within the meaning of section 355(b)) throughout the 5-year period ending on the date of the transfer and continues to be so engaged thereafter, and

“(3) during the taxable year of the subsidiary in which its stock is transferred and its preceding taxable year, such trade or business gives rise to qualified export receipts of the subsidiary and the DISC,

then, under such terms and conditions as the Secretary by regulations shall prescribe, transfers of assets, stock, or both, will be deemed to be a reorganization within the meaning of section 368, a transaction to which section 355 applies, an exchange of stock to which section 351 applies, or a combination thereof. The preceding sentence shall apply only to the extent that the transfer or transfers involved are for the purpose of preventing the separation of the ownership of the stock in

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the DISC from the ownership of the trade or business which (during the base period) produced the export gross receipts of the DISC.”

26 USC 993.

(b) AMENDMENT OF SECTION 993(c)(2).—Section 993(c)(2) (relating to property excluded from export property) is amended—

(1) by striking out “or” at the end of subparagraph (B), and

(2) by striking out “under section 611” in subparagraph (C) and inserting in lieu thereof “under section 613 or 613A”.

(c) AMENDMENTS TO SECTION 993(d).—Section 993(d) (relating to definition of producer’s loans) is amended—

(1) by inserting in paragraph (1)(C) immediately after “export property”, the following: “determined without regard to subparagraph (C) or (D) of subsection (c)(2).”.

(2) by inserting in paragraph (2) immediately after “of property which would be export property” the following: “(determined without regard to subparagraph (C) or (D) of subsection (c)(2)).”.

(d) RECAPTURE OF ACCUMULATED DISC INCOME ON DISPOSITION OF STOCK IN A DISC OR FORMER DISC.—

26 USC 995.

(1) Section 995(c) is amended to read as follows:

“(c) GAIN ON DISPOSITION OF STOCK IN A DISC.—

“(1) IN GENERAL.—If—

“(A) a shareholder disposes of stock in a DISC or former DISC any gain recognized on such disposition shall be included in gross income as a dividend to the extent provided in paragraph (2),

“(B) stock of a DISC or former DISC is disposed of in a transaction in which the separate corporate existence of the DISC or former DISC is terminated other than by a mere change in place of organization, however effected, any gain realized on the disposition of such stock in the transaction shall be recognized notwithstanding any other provision of this title to the extent provided in paragraph (2) and to the extent so recognized shall be included in gross income as a dividend, or

“(C) a shareholder distributes, sells, or exchanges stock in a DISC or former DISC in a transaction to which section 311, 336, or 337 applies, then an amount equal to the excess of the fair market value of such stock over its adjusted basis in the hands of the shareholder shall, notwithstanding any provision of this title, be included in gross income of the shareholder as a dividend to the extent provided in paragraph (2).

“(2) AMOUNT INCLUDED.—The amounts described in paragraph (1) shall be included in gross income as a dividend to the extent of the accumulated DISC income of the DISC or former DISC which is attributable to the stock disposed of and which was accumulated in taxable years of such corporation during the period or periods the stock disposed of was held by the shareholder which disposed of such stock.”

26 USC 751.

(2) INTEREST IN A PARTNERSHIP HOLDING STOCK IN A DISC.—The last sentence of section 751(c) (relating to unrealized receivables) is amended—

(A) by striking out “(as defined in section 617(f)(2))”, and inserting in lieu thereof “(as defined in section 617(f)(2), stock in a DISC (as described in section 992(a)),” and

(B) by striking out “617(d)(1), 1245(a),” and inserting in lieu thereof “617(d)(1), 995(c), 1245(a),”.

(e) **RULES FOR ALLOCATING DISTRIBUTIONS MADE TO MEET QUALIFICATION REQUIREMENTS.**—Paragraph (2) of section 996(a) (relating to rules for actual distributions and certain deemed distributions) is amended by adding at the end thereof the following new sentence: “In the case of any amount of any actual distribution made pursuant to section 992(c) which is required to satisfy the condition of section 992(a)(1)(A), the preceding sentence shall apply to one-half of such amount, and paragraph (1) shall apply to the remaining one-half of such amount.” 26 USC 996.

(f) **AMENDMENT OF SECTION 603(b) OF TAX REDUCTION ACT OF 1975.**—Section 603(b) of the Tax Reduction Act of 1975 (relating to effective date) is amended to read as follows: 26 USC 993 note.

“(b) **EFFECTIVE DATES.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

“(2) **BINDING CONTRACT.**—The amendments made by subsection (a) shall not apply to sales, exchanges, and other dispositions made after March 18, 1975, but before March 19, 1980, if such sales, exchanges, and other dispositions are made pursuant to a fixed contract. The term ‘fixed contract’ means a contract which was, on March 18, 1975, and is at all times thereafter binding on the DISC or a taxpayer which was a member of the same controlled group (within the meaning of section 993(a)(3) of the Internal Revenue Code of 1954) as the DISC, which was entered into after the date on which the DISC qualified as a DISC and the DISC and the taxpayer became members of the same controlled group, and under which the price and quantity of the products sold, exchanged, or otherwise disposed of cannot be increased.” “Fixed contract.”

(g) **EFFECTIVE DATES.**—

(1) **FOR SUBSECTIONS (a) AND (e).**—The amendments made by subsections (a) and (e) shall apply to taxable years beginning after December 31, 1975. 26 USC 995 note.

(2) **FOR SUBSECTION (b).**—The amendments made by subsection (b) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date. 26 USC 993 note.

(3) **FOR SUBSECTIONS (c) AND (f).**—The amendments made by subsections (c) and (f) shall apply to taxable years ending after March 18, 1975. 26 USC 993 note.

(4) **FOR SUBSECTION (d).**—The amendments made by subsection (d) shall apply to sales, exchanges, or other dispositions after December 31, 1975, in taxable years ending after such date. 26 USC 995 note.

(5) **PRORATION OF BASE PERIOD IN CASE OF FIXED CONTRACTS.**—For purposes of determining adjusted base period export gross receipts (under section 995(e)(3) of the Internal Revenue Code of 1954, as amended by this section), if any DISC has export gross receipts from export property by reason of paragraph (2) of section 603(b) of the Tax Reduction Act of 1975, then the export gross receipts of such DISC for the taxable years of the base period shall be increased by an amount equal to the amount of gross receipts which were excluded from export gross receipts during each taxable year of the base period by reason of the last sentence of section 993(e)(3) of such Code multiplied by a fraction, the numerator of which is the amount of the gross receipts in the taxable year which are export gross receipts by reason of 26 USC 995 note.

26 USC 993
note.

paragraph (2) of section 603(b) of the Tax Reduction Act of 1975 and the denominator of which is the amount of total gross receipts which are excluded from export gross receipts in the taxable year by reason of subparagraph (C) or (D) of paragraph (2) of section 993(c) (determined without regard to paragraph (2) of section 603(b) of the Tax Reduction Act of 1975).

TITLE XII—ADMINISTRATIVE PROVISIONS

SEC. 1201. PUBLIC INSPECTION OF WRITTEN DETERMINATIONS BY INTERNAL REVENUE SERVICE.

(a) **REQUIREMENT THAT WRITTEN DETERMINATIONS BE OPEN TO PUBLIC INSPECTION.**—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6110 as 6111 and by inserting after section 6109 the following new section:

26 USC 6110.
Regulations.

“SEC. 6110. PUBLIC INSPECTION OF WRITTEN DETERMINATIONS.

“(a) **GENERAL RULE.**—Except as otherwise provided in this section, the text of any written determination and any background file document relating to such written determination shall be open to public inspection at such place as the Secretary may by regulations prescribe.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **WRITTEN DETERMINATION.**—The term ‘written determination’ means a ruling, determination letter, or technical advice memorandum.

“(2) **BACKGROUND FILE DOCUMENT.**—The term ‘background file document’ with respect to a written determination includes the request for that written determination, any written material submitted in support of the request, and any communication (written or otherwise) between the Internal Revenue Service and persons outside the Internal Revenue Service in connection with such written determination (other than any communication between the Department of Justice and the Internal Revenue Service relating to a pending civil or criminal case or investigation) received before issuance of the written determination.

“(3) **REFERENCE AND GENERAL WRITTEN DETERMINATIONS.**—

“(A) **REFERENCE WRITTEN DETERMINATION.**—The term ‘reference written determination’ means any written determination which has been determined by the Secretary to have significant reference value.

“(B) **GENERAL WRITTEN DETERMINATION.**—The term ‘general written determination’ means any written determination other than a reference written determination.

“(c) **EXEMPTIONS FROM DISCLOSURE.**—Before making any written determination or background file document open or available to public inspection under subsection (a), the Secretary shall delete—

“(1) the names, addresses, and other identifying details of the person to whom the written determination pertains and of any other person, other than a person with respect to whom a notation is made under subsection (d) (1), identified in the written determination or any background file document;

“(2) information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified pursuant to such Executive order;

“(3) information specifically exempted from disclosure by any statute (other than this title) which is applicable to the Internal Revenue Service;

“(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

“(5) information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

“(6) information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions; and

“(7) geological and geophysical information and data, including maps, concerning wells.

The Secretary shall determine the appropriate extent of such deletions and, except in the case of intentional or willful disregard of this subsection, shall not be required to make such deletions (nor be liable for failure to make deletions) unless the Secretary has agreed to such deletions or has been ordered by a court (in a proceeding under subsection (f) (3)) to make such deletions.

“(d) PROCEDURES WITH REGARD TO THIRD PARTY CONTACTS.—

“(1) NOTATIONS.—If, before the issuance of a written determination, the Internal Revenue Service receives any communication (written or otherwise) concerning such written determination, any request for such determination, or any other matter involving such written determination from a person other than an employee of the Internal Revenue Service or the person to whom such written determination pertains (or his authorized representative with regard to such written determination), the Internal Revenue Service shall indicate, on the written determination open to public inspection, the category of the person making such communication and the date of such communication.

“(2) EXCEPTION.—Paragraph (1) shall not apply to any communication made by the Chief of Staff of the Joint Committee on Taxation.

“(3) DISCLOSURE OF IDENTITY.—In the case of any written determination to which paragraph (1) applies, any person may file a petition in the United States Tax Court or file a complaint in the United States District Court for the District of Columbia for an order requiring that the identity of any person to whom the written determination pertains be disclosed. The court shall order disclosure of such identity if there is evidence in the record from which one could reasonably conclude that an impropriety occurred or undue influence was exercised with respect to such written determination by or on behalf of such person. The court may also direct the Secretary to disclose any portion of any other deletions made in accordance with subsection (c) where such disclosure is in the public interest. If a proceeding is commenced under this paragraph, the person whose identity is subject to being disclosed and the person about whom a notation is made under paragraph (1) shall be notified of the proceeding in accordance with the procedures described in subsection (f) (4) (B) and shall have the right to intervene in the proceeding (anonymously, if appropriate).

“(4) PERIOD IN WHICH TO BRING ACTION.—No proceeding shall be commenced under paragraph (3) unless a petition is filed before the expiration of 36 months after the first day that the written determination is open to public inspection.

“(e) **BACKGROUND FILE DOCUMENTS.**—Whenever the Secretary makes a written determination open to public inspection under this section, he shall also make available to any person, but only upon the written request of that person, any background file document relating to the written determination.

“(f) **RESOLUTION OF DISPUTES RELATING TO DISCLOSURE.**—

“(1) **NOTICE OF INTENTION TO DISCLOSE.**—The Secretary shall upon issuance of any written determination, or upon receipt of a request for a background file document, mail a notice of intention to disclose such determination or document to any person to whom the written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person).

Regulations.

“(2) **ADMINISTRATIVE REMEDIES.**—The Secretary shall prescribe regulations establishing administrative remedies with respect to—

“(A) requests for additional disclosure of any written determination of any background file document, and

“(B) requests to restrain disclosure.

“(3) **ACTION TO RESTRAIN DISCLOSURE.**—

“(A) **CREATION OF REMEDY.**—Any person—

“(i) to whom a written determination pertains (or a successor in interest, executor, or other person authorized by law to act for or on behalf of such person), or who has a direct interest in maintaining the confidentiality of any such written determination or background file document (or portion thereof),

“(ii) who disagrees with any failure to make a deletion with respect to that portion of any written determination or any background file document which is to be open or available to public inspection, and

“(iii) who has exhausted his administrative remedies as prescribed pursuant to paragraph (2), may, within 60 days after the mailing by the Secretary of a notice of intention to disclose any written determination or background file document under paragraph (1), together with the proposed deletions, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination or background file document which is to be open to public inspection.

“(B) **NOTICE TO CERTAIN PERSONS.**—The Secretary shall notify any person to whom a written determination pertains (unless such person is the petitioner) of the filing of a petition under this paragraph with respect to such written determination or related background file document, and any such person may intervene (anonymously, if appropriate) in any proceeding conducted pursuant to this paragraph. The Secretary shall send such notice by registered or certified mail to the last known address of such person within 15 days after such petition is served on the Secretary. No person who has received such a notice may thereafter file any petition under this paragraph with respect to such written determination or background file document with respect to which such notice was received.

“(4) **ACTION TO OBTAIN ADDITIONAL DISCLOSURE.**—

“(A) **CREATION OF REMEDY.**—Any person who has exhausted the administrative remedies prescribed pursuant to para-

graph (2) with respect to a request for disclosure may file a petition in the United States Tax Court or a complaint in the United States District Court for the District of Columbia for an order requiring that any written determination or background file document (or portion thereof) be made open or available to public inspection. Except where inconsistent with subparagraph (B), the provisions of subparagraphs (C), (D), (E), (F), and (G) of section 552(a)(4) of title 5, United States Code, shall apply to any proceeding under this paragraph. The Court shall examine the matter de novo and without regard to a decision of a court under paragraph (3) with respect to such written determination or background file document, and may examine the entire text of such written determination or background file document in order to determine whether such written determination or background file document or any part thereof shall be open or available to public inspection under this section. The burden of proof with respect to the issue of disclosure of any information shall be on the Secretary and any other person seeking to restrain disclosure.

“(B) INTERVENTION.—If a proceeding is commenced under this paragraph with respect to any written determination or background file document, the Secretary shall, within 15 days after notice of the petition filed under subparagraph (A) is served on him, send notice of the commencement of such proceeding to all persons who are identified by name and address in such written determination or background file document. The Secretary shall send such notice by registered or certified mail to the last known address of such person. Any person to whom such determination or background file document pertains may intervene in the proceeding (anonymously, if appropriate). If such notice is sent, the Secretary shall not be required to defend the action and shall not be liable for public disclosure of the written determination or background file document (or any portion thereof) in accordance with the final decision of the court. Notice.

“(5) EXPEDITION OF DETERMINATION.—The Tax Court shall make a decision with respect to any petition described in paragraph (3) at the earliest practicable date and the Court of Appeals shall expedite any review of such decision in every way possible.

“(6) PUBLICITY OF TAX COURT PROCEEDINGS.—Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this section, provide by rules adopted under section 7453 that portions of hearings, testimony, evidence, and reports in connection with proceedings under this section may be closed to the public or to inspection by the public.

26 USC 7458,
7461.

“(g) TIME FOR DISCLOSURE.—

“(1) IN GENERAL.—Except as otherwise provided in this section, the text of any written determination or any background file document (as modified under subsection (c)) shall be open or available to public inspection—

“(A) no earlier than 75 days, and no later than 90 days, after the notice provided in subsection (f)(1) is mailed, or, if later,

“(B) within 30 days after the date on which a court decision under subsection (f) (3) becomes final.

“(2) **POSTPONEMENT BY ORDER OF COURT.**—The court may extend the period referred to in paragraph (1) (B) for such time as the court finds necessary to allow the Secretary to comply with its decision.

“(3) **POSTPONEMENT OF DISCLOSURE FOR UP TO 90 DAYS.**—At the written request of the person by whom or on whose behalf the request for the written determination was made, the period referred to in paragraph (1) (A) shall be extended (for not to exceed an additional 90 days) until the day which is 15 days after the date of the Secretary’s determination that the transaction set forth in the written determination has been completed.

“(4) **ADDITIONAL 180 DAYS.**—If—

“(A) the transaction set forth in the written determination is not completed during the period set forth in paragraph (3), and

“(B) the person by whom or on whose behalf the request for the written determination was made establishes to the satisfaction of the Secretary that good cause exists for additional delay in opening the written determination to public inspection,

the period referred to in paragraph (3) shall be further extended (for not to exceed an additional 180 days) until the day which is 15 days after the date of the Secretary’s determination that the transaction set forth in the written determination has been completed.

“(5) **SPECIAL RULES FOR CERTAIN WRITTEN DETERMINATIONS, ETC.**—Notwithstanding the provisions of paragraph (1), the Secretary shall not be required to make available to the public—

“(A) any technical advice memorandum and any related background file document involving any matter which is the subject of a civil fraud or criminal investigation or jeopardy or termination assessment until after any action relating to such investigation or assessment is completed, or

“(B) any general written determination and any related background file document that relates solely to approval of the Secretary of any adoption or change of—

“(i) the funding method or plan year of a plan under section 412,

“(ii) a taxpayer’s annual accounting period under section 442,

“(iii) a taxpayer’s method of accounting under section 446(e), or

“(iv) a partnership’s or partner’s taxable year under section 706,

but the Secretary shall make any such written determination and related background file document available upon the written request of any person after the date on which (except for this subparagraph) such determination would be open to public inspection.

“(h) **DISCLOSURE OF PRIOR WRITTEN DETERMINATIONS AND RELATED BACKGROUND FILE DOCUMENTS.**—

“(1) **IN GENERAL.**—Except as otherwise provided in this subsection, a written determination issued pursuant to a request made

before November 1, 1976, and any background file document relating to such written determination shall be open or available to public inspection in accordance with this section.

“(2) **TIME FOR DISCLOSURE.**—In the case of any written determination or background file document which is to be made open or available to public inspection under paragraph (1)—

“(A) subsection (g) shall not apply, but

“(B) such written determination or background file document shall be made open or available to public inspection at the earliest practicable date after funds for that purpose have been appropriated and made available to the Internal Revenue Service.

“(3) **ORDER OF RELEASE.**—Any written determination or background file document described in paragraph (1) shall be open or available to public inspection in the following order starting with the most recent written determination in each category:

“(A) reference written determinations issued under this title;

“(B) general written determinations issued after July 4, 1967; and

“(C) reference written determinations issued under the Internal Revenue Code of 1939 or corresponding provisions of prior law.

53 Stat. 1.

General written determinations not described in subparagraph (B) shall be open to public inspection on written request, but not until after the written determinations referred to in subparagraphs (A), (B), and (C) are open to public inspection.

“(4) **NOTICE THAT PRIOR WRITTEN DETERMINATIONS ARE OPEN TO PUBLIC INSPECTION.**—Notwithstanding the provisions of subsections (f) (1) and (f) (3) (A), not less than 90 days before making any portion of a written determination described in this subsection open to public inspection, the Secretary shall issue public notice in the Federal Register that such written determination is to be made open to public inspection. The person who received a written determination may, within 75 days after the date of publication of notice under this paragraph, file a petition in the United States Tax Court (anonymously, if appropriate) for a determination with respect to that portion of such written determination which is to be made open to public inspection. The provisions of subsections (f) (3) (B), (5), and (6) shall apply if such a petition is filed. If no petition is filed, the text of any written determination shall be open to public inspection no earlier than 90 days, and no later than 120 days, after notice is published in the Federal Register.

Publication in
Federal Register.

“(5) **EXCLUSION.**—Subsection (d) shall not apply to any written determination described in paragraph (1).

“(i) **CIVIL REMEDIES.**—

“(1) **CIVIL ACTION.**—Whenever the Secretary—

“(A) fails to make deletions required in accordance with subsection (c), or

“(B) fails to follow the procedures in subsection (g), the recipient of the written determination or any person identified in the written determination shall have as an exclusive civil remedy an action against the Secretary in the Court of Claims, which shall have jurisdiction to hear any action under this paragraph.

“(2) **DAMAGES.**—In any suit brought under the provisions of paragraph (1) (A) in which the Court determines that an em-

ployee of the Internal Revenue Service intentionally or willfully failed to delete in accordance with subsection (c), or in any suit brought under subparagraph (1)(B) in which the Court determines that an employee intentionally or willfully failed to act in accordance with subsection (g), the United States shall be liable to the person in an amount equal to the sum of—

“(A) actual damages sustained by the person but in no case shall a person be entitled to receive less than the sum of \$1,000, and

“(B) the costs of the action together with reasonable attorney’s fees as determined by the Court.

“(j) **SPECIAL PROVISIONS.**—

“(1) **FEES.**—The Secretary is authorized to assess actual costs—

“(A) for duplication of any written determination or background file document made open or available to the public under this section, and

“(B) incurred in searching for and making deletions required under subsection (c) from any written determination or background file document which is available to public inspection only upon written request.

The Secretary shall furnish any written determination or background file document without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing such determination or background file document can be considered as primarily benefiting the general public.

“(2) **RECORDS DISPOSAL PROCEDURES.**—Nothing in this section shall prevent the Secretary from disposing of any general written determination or background file document described in subsection (b) in accordance with established records disposition procedures, but such disposal shall, except as provided in the following sentence, occur not earlier than 3 years after such written determination is first made open to public inspection. In the case of any general written determination described in subsection (h), the Secretary may dispose of such determination and any related background file document in accordance with such procedures but such disposal shall not occur earlier than 3 years after such written determination is first made open to public inspection if funds are appropriated for such purpose before January 20, 1979, or not earlier than January 20, 1979, if funds are not appropriated before such date. The Secretary shall not dispose of any reference written determinations and related background file documents.

“(3) **PRECEDENTIAL STATUS.**—Unless the Secretary otherwise establishes by regulations, a written determination may not be used or cited as precedent. The preceding sentence shall not apply to change the precedential status (if any) of written determinations with regard to taxes imposed by subtitle D of this title.

“(k) **SECTION NOT TO APPLY.**—This section shall not apply to—

“(1) any matter to which section 6104 applies, or

“(2) any—

“(A) written determination issued pursuant to a request made before November 1, 1976, with respect to the exempt status under section 501(a) of an organization described in section 501 (c) or (d), the status of an organization as a private foundation under section 509(a), or the status of

an organization as an operating foundation under section 4942(j)(3),

“(B) written determination described in subsection (g)(5)(B) issued pursuant to a request made before November 1, 1976,

“(C) determination letter not otherwise described in subparagraph (A), (B), or (E) issued pursuant to a request made before November 1, 1976,

“(D) background file document relating to any general written determination issued before July 5, 1967, or

“(E) letter or other document described in section 6104(a)(1)(B)(iv) issued before September 2, 1974.

“(1) **EXCLUSIVE REMEDY.**—Except as otherwise provided in this title, or with respect to a discovery order made in connection with a judicial proceeding, the Secretary shall not be required by any Court to make any written determination or background file document open or available to public inspection, or to refrain from disclosure of any such documents.”

(b) **EFFECT UPON PENDING REQUESTS.**—Any written determination or background file document which is the subject of a judicial proceeding pursuant to section 552 of title 5, United States Code, commenced before January 1, 1976, shall not be treated as a written determination subject to subsection (h)(1), but shall be available to the complainant along with the background file document, if requested, as soon as practicable after July 1, 1976. 26 USC 6110 note.

(c) **CLERICAL AMENDMENT.**—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6110 and inserting in lieu thereof the following:

Ante, p. 1660.

“Sec. 6110. Public inspection of written determinations.

“Sec. 6111. Cross references.”

(d) **LETTERS MADE PUBLIC.**—

(1) Section 6104(a)(1)(A) (relating to inspection of applications for tax exemption) is amended— 26 USC 6104.

(A) by inserting after “such application,” in the first sentence thereof the following: “and any letter or other document issued by the Internal Revenue Service with respect to such application”; and

(B) by inserting after “such application” in the second sentence thereof the following: “and such letter or document”.

(2) The amendments made by this subsection apply to any letter or other document issued with respect to applications filed after October 31, 1976. 26 USC 6104 note.

(e) **EFFECTIVE DATE.**—Except as otherwise provided in this section, the amendments made by this section shall take effect on November 1, 1976. 26 USC 6110 note.

SEC. 1202. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) **CONFIDENTIALITY.**—

(1) **IN GENERAL.**—Section 6103 (relating to publicity of tax returns and disclosure of information as to persons filing tax returns) is amended to read as follows: 26 USC 6103.

“SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

“(a) **GENERAL RULE.**—Returns and return information shall be confidential, and except as authorized by this title—

“(1) no officer or employee of the United States,

“(2) no officer or employee of any State or of any local child support enforcement agency who has or had access to returns or return information under this section, and

“(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e) (1) (D) (iii) or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term ‘officer or employee’ includes a former officer or employee.

“Officer or employee.”

“(b) DEFINITIONS.—For purposes of this section—

“(1) RETURN.—The term ‘return’ means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

“(2) RETURN INFORMATION.—The term ‘return information’ means—

“(A) a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and

“(B) any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110,

but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

“(3) TAXPAYER RETURN INFORMATION.—The term ‘taxpayer return information’ means return information as defined in paragraph (2) which is filed with, or furnished to, the Secretary by or on behalf of the taxpayer to whom such return information relates.

“(4) TAX ADMINISTRATION.—The term ‘tax administration’—

“(A) means—

“(i) the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party, and

“(ii) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and

Ante, p. 1660.

“(B) includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

“(5) STATE.—The term ‘State’ means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

“(6) TAXPAYER IDENTITY.—The term ‘taxpayer identity’ means the name of a person with respect to whom a return is filed, his mailing address, his taxpayer identifying number (as described in section 6109), or a combination thereof.

26 USC 6109.

“(7) INSPECTION.—The terms ‘inspected’ and ‘inspection’ mean any examination of a return or return information.

“(8) DISCLOSURE.—The term ‘disclosure’ means the making known to any person in any manner whatever a return or return information.

“(9) FEDERAL AGENCY.—The term ‘Federal agency’ means an agency within the meaning of section 551(1) of title 5, United States Code.

“(c) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.—The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a written request for or consent to such disclosure, or to any other person at the taxpayer’s request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

Regulations.

“(d) DISCLOSURE TO STATE TAX OFFICIALS.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 44, 51, and 52 and subchapter D of chapter 36, shall be open to inspection by or disclosure to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the return or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

26 USC 1, 1401,
1501, 2001,
2501, 3101,
3301, 3401,
Post, p. 1754.
26 USC 5001,
5701, 4481.

“(e) DISCLOSURE TO PERSONS HAVING MATERIAL INTEREST.—

“(1) IN GENERAL.—The return of a person shall, upon written request, be open to inspection by or disclosure to—

“(A) in the case of the return of an individual—

Ante, p. 1578.

26 USC 2513.

26 USC 1371.

- “(i) that individual,
- “(ii) if property transferred by that individual to a trust is sold or exchanged in a transaction described in section 644, the trustee or trustees, jointly or separately, of such trust to the extent necessary to ascertain any amount of tax imposed upon the trust by section 644, or
- “(iii) the spouse of that individual if the individual and such spouse have signified their consent to consider a gift reported on such return as made one-half by him and one-half by the spouse pursuant to the provisions of section 2513;
- “(B) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;
- “(C) in the case of the return of a partnership, any person who was a member of such partnership during any part of the period covered by the return;
- “(D) in the case of the return of a corporation or a subsidiary thereof—
 - “(i) any person designated by resolution of its board of directors or other similar governing body,
 - “(ii) any officer or employee of such corporation upon written request signed by any principal officer and attested to by the secretary or other officer,
 - “(iii) any bona fide shareholder of record owning 1 percent or more of the outstanding stock of such corporation,
 - “(iv) if the corporation was a foreign personal holding company, as defined by section 552, any person who was a shareholder during any part of a period covered by such return if with respect to that period, or any part thereof, such shareholder was required under section 551 to include in his gross income undistributed foreign personal holding company income of such company,
 - “(v) if the corporation was an electing small business corporation under subchapter S of chapter 1, any person who was a shareholder during any part of the period covered by such return during which an election was in effect, or
 - “(vi) if the corporation has been dissolved, any person authorized by applicable State law to act for the corporation or any person who the Secretary finds to have a material interest which will be affected by information contained therein;
- “(E) in the case of the return of an estate—
 - “(i) the administrator, executor, or trustee of such estate, and
 - “(ii) any heir at law, next of kin, or beneficiary under the will, of the decedent, but only if the Secretary finds that such heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained therein; and
- “(F) in the case of the return of a trust—
 - “(i) the trustee or trustees, jointly or separately, and
 - “(ii) any beneficiary of such trust, but only if the Secretary finds that such beneficiary has a material interest which will be affected by information contained therein.

“(2) **INCOMPETENCY.**—If an individual described in paragraph (1) is legally incompetent, the applicable return shall, upon written request, be open to inspection by or disclosure to the committee, trustee, or guardian of his estate.

“(3) **DECEASED INDIVIDUALS.**—The return of a decedent shall, upon written request, be open to inspection by or disclosure to—

“(A) the administrator, executor, or trustee of his estate, and

“(B) any heir at law, next of kin, or beneficiary under the will, of such decedent, or a donee of property, but only if the Secretary finds that such heir at law, next of kin, beneficiary, or donee has a material interest which will be affected by information contained therein.

“(4) **BANKRUPTCY.**—If substantially all of the property of the person with respect to whom the return is filed is in the hands of a trustee in bankruptcy or receiver, such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary finds that such receiver or trustee, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

“(5) **ATTORNEY IN FACT.**—Any return to which this subsection applies shall, upon written request, also be open to inspection by or disclosure to the attorney in fact duly authorized in writing by any of the persons described in paragraph (1), (2), (3), or (4) to inspect the return or receive the information on his behalf, subject to the conditions provided in such paragraphs.

“(6) **RETURN INFORMATION.**—Return information with respect to any taxpayer may be open to inspection by or disclosure to any person authorized by this subsection to inspect any return of such taxpayer if the Secretary determines that such disclosure would not seriously impair Federal tax administration.

“(f) **DISCLOSURE TO COMMITTEES OF CONGRESS.**—

“(1) **COMMITTEE ON WAYS AND MEANS, COMMITTEE ON FINANCE, AND JOINT COMMITTEE ON TAXATION.**—Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

“(2) **CHIEF OF STAFF OF JOINT COMMITTEE ON TAXATION.**—Upon written request by the Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any return or return information specified in such request. Such Chief of Staff may submit such return or return information to any committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

“(3) **OTHER COMMITTEES.**—Pursuant to an action by, and upon

written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

“(4) AGENTS OF COMMITTEES AND SUBMISSION OF INFORMATION TO SENATE OR HOUSE OF REPRESENTATIVES.—

“(A) COMMITTEES DESCRIBED IN PARAGRAPH (1).—Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such committee or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

“(B) OTHER COMMITTEES.—Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

“(g) DISCLOSURE TO PRESIDENT AND CERTAIN OTHER PERSONS.—

“(1) IN GENERAL.—Upon written request by the President, signed by him personally, the Secretary shall furnish to the Presi-

dent, or to such employee or employees of the White House Office as the President may designate by name in such request, a return or return information with respect to any taxpayer named in such request. Any such request shall state—

“(A) the name and address of the taxpayer whose return or return information is to be disclosed,

“(B) the kind of return or return information which is to be disclosed,

“(C) the taxable period or periods covered by such return or return information, and

“(D) the specific reason why the inspection or disclosure is requested.

“(2) DISCLOSURE OF RETURN INFORMATION AS TO PRESIDENTIAL APPOINTEES AND CERTAIN OTHER FEDERAL GOVERNMENT APPOINTEES.—The Secretary may disclose to a duly authorized representative of the Executive Office of the President or to the head of any Federal agency, upon written request by the President or head of such agency, or to the Federal Bureau of Investigation on behalf of and upon written request by the President or such head, return information with respect to an individual who is designated as being under consideration for appointment to a position in the executive or judicial branch of the Federal Government. Such return information shall be limited to whether such individual—

“(A) has filed returns with respect to the taxes imposed under chapter 1 for not more than the immediately preceding 3 years;

26 USC 1.

“(B) has failed to pay any tax within 10 days after notice and demand, or has been assessed any penalty under this title for negligence, in the current year or immediately preceding 3 years;

“(C) has been or is under investigation for possible criminal offenses under the internal revenue laws and the results of any such investigation; or

“(D) has been assessed any civil penalty under this title for fraud.

Within 3 days of the receipt of any request for any return information with respect to any individual under this paragraph, the Secretary shall notify such individual in writing that such information has been requested under the provisions of this paragraph.

Notification.

“(3) RESTRICTION ON DISCLOSURE.—The employees to whom returns and return information are disclosed under this subsection shall not disclose such returns and return information to any other person except the President or the head of such agency without the personal written direction of the President or the head of such agency.

“(4) RESTRICTION ON DISCLOSURE TO CERTAIN EMPLOYEES.—Disclosure of returns and return information under this subsection shall not be made to any employee whose annual rate of basic pay is less than the annual rate of basic pay specified for positions subject to section 5316 of title 5, United States Code.

“(5) REPORTING REQUIREMENTS.—Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were

Report to congressional committee.

made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests. The President shall not be required to report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary.

“(h) DISCLOSURE TO CERTAIN FEDERAL OFFICERS AND EMPLOYEES FOR PURPOSES OF TAX ADMINISTRATION, ETC.—

“(1) DEPARTMENT OF THE TREASURY.—Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

“(2) DEPARTMENT OF JUSTICE.—A return or return information shall be open to inspection by or disclosure to attorneys of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their use in, preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court in a matter involving tax administration, but only if—

“(A) the taxpayer is or may be a party to such proceeding;

“(B) the treatment of an item reflected on such return is or may be related to the resolution of an issue in the proceeding or investigation; or

“(C) such return or return information relates or may relate to a transactional relationship between a person who is or may be a party to the proceeding and the taxpayer which affects, or may affect, the resolution of an issue in such proceeding or investigation.

“(3) FORM OF REQUEST.—In any case in which the Secretary is authorized to disclose a return or return information to the Department of Justice pursuant to the provisions of this subsection—

“(A) if the Secretary has referred the case to the Department of Justice, or if the proceeding is authorized by subchapter B of chapter 76, the Secretary may make such disclosure on his own motion, or

“(B) if the Secretary receives a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General for a return of, or return information relating to, a person named in such request and setting forth the need for the disclosure, the Secretary shall disclose return or return the information so requested.

“(4) DISCLOSURE IN JUDICIAL AND ADMINISTRATIVE TAX PROCEEDINGS.—A return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—

“(A) if the taxpayer is a party to such proceeding;

“(B) if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;

“(C) if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or

“(D) to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

18 USC app.

However, such return or return information shall not be disclosed as provided in subparagraph (A), (B), or (C) if the Secretary determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

“(5) PROSPECTIVE JURORS.—In connection with any judicial proceeding described in paragraph (4) to which the United States is a party, the Secretary shall respond to a written inquiry from an attorney of the Department of Justice (including a United States attorney) involved in such proceeding or any person (or his legal representative) who is a party to such proceeding as to whether an individual who is a prospective juror in such proceeding has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service. The Secretary shall limit such response to an affirmative or negative reply to such inquiry.

“(i) DISCLOSURE TO FEDERAL OFFICERS OR EMPLOYEES FOR ADMINISTRATION OF FEDERAL LAWS NOT RELATING TO TAX ADMINISTRATION.—

“(1) NONTAX CRIMINAL INVESTIGATION.—

“(A) INFORMATION FROM TAXPAYER.—A return or taxpayer return information shall, pursuant to, and upon the grant of, an ex parte order by a Federal district court judge as provided by this paragraph, be open, but only to the extent necessary as provided in such order, to officers and employees of a Federal agency personally and directly engaged in and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party.

“(B) APPLICATION FOR ORDER.—The head of any Federal agency described in subparagraph (A) or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, may authorize an application to a Federal district court judge for the order referred to in subparagraph (A). Upon such application, such judge may grant such order if he determines on the basis of the facts submitted by the applicant that—

“(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

“(ii) there is reason to believe that such return or return information is probative evidence of a matter in

issue related to the commission of such criminal act;
and

“(iii) the information sought to be disclosed cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines and certifies to the court that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

“(2) RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION.—Upon written request from the head of a Federal agency described in paragraph (1)(A), or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) described in paragraph (1)(A). Such request shall set forth—

“(A) the name and address of the taxpayer with respect to whom such return information relates;

“(B) the taxable period or periods to which the return information relates;

“(C) the statutory authority under which the proceeding or investigation is being conducted; and

“(D) the specific reason or reasons why such disclosure is or may be material to the proceeding or investigation.

However, the Secretary shall not disclose any return or return information under this paragraph if he determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

“(3) DISCLOSURE OF RETURN INFORMATION CONCERNING POSSIBLE CRIMINAL ACTIVITIES.—The Secretary may disclose in writing return information, other than taxpayer return information, which may constitute evidence of a violation of Federal criminal laws to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility for enforcing such laws.

“(4) USE IN JUDICIAL OR ADMINISTRATIVE PROCEEDING.—Any return or return information obtained under paragraph (1), (2), or (3) may be entered into evidence in any administrative or judicial proceeding pertaining to enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or an agency described in paragraph (1)(A) is a party but, in the case of any return or return information obtained under paragraph (1), only if the court finds that such return or return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt of a party. However, any return or return information obtained under paragraph (1), (2), or (3) shall not be admitted into evidence in such proceeding if the Secretary determines and

notifies the Attorney General or his delegate or the head of such agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation. The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in such proceeding.

“(5) RENEGOTIATION OF CONTRACTS.—A return or return information with respect to the tax imposed by chapter 1 upon a taxpayer subject to the provisions of the Renegotiation Act of 1951 shall, upon request in writing by the Chairman of the Renegotiation Board, be open to officers and employees of such board personally and directly engaged in, and solely for their use in, verifying or analyzing financial information required by such Act to be filed with, or otherwise disclosed to, the board, or to the extent necessary to implement the provisions of section 1481 or 1482. The Chairman of the Renegotiation Board may, upon referral of any matter with respect to such Act to the Department of Justice for further legal action, disclose such return and return information to any employee of such department charged with the responsibility for handling such matters.

26 USC 1.
50 USC app.
1211 note.

26 USC 1481,
1482.

“(6) COMPTROLLER GENERAL.—

“(A) RETURNS AVAILABLE FOR INSPECTION.—Except as provided in subparagraph (B), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—

“(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67), or

“(ii) any audit authorized by subsection (p) (6), except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p) (6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

“(B) DISAPPROVAL BY JOINT COMMITTEE ON TAXATION.—Returns and return information shall not be open to inspection or disclosed under subparagraph (A) with respect to an audit—

Notification of
congressional
committee.

“(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

“(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

“(j) STATISTICAL USE.—

Regulations.

“(1) DEPARTMENT OF COMMERCE.—Upon request in writing by the Secretary of Commerce, the Secretary shall furnish—

“(A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and

“(B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis,

as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

26 USC 1.

“(2) FEDERAL TRADE COMMISSION.—Upon request in writing by the Chairman of the Federal Trade Commission, the Secretary shall furnish such return information reflected on any return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Division of Financial Statistics of the Bureau of Economics of such commission as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, administration by such division of legally authorized economic surveys of corporations.

“(3) DEPARTMENT OF TREASURY.—Returns and return information shall be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, preparing economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities. Such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Department of the Treasury requesting the inspection or disclosure.

“(4) ANONYMOUS FORM.—No person who receives a return or return information under this subsection shall disclose such return or return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

“(k) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION FOR TAX ADMINISTRATION PURPOSES.—

26 USC 7122.

“(1) DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.—Return information shall be disclosed to members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

“(2) DISCLOSURE OF AMOUNT OF OUTSTANDING LIEN.—If a notice of lien has been filed pursuant to section 6323(f), the amount of the outstanding obligation secured by such lien may be disclosed to any person who furnishes satisfactory written evidence that he has a right in the property subject to such lien or intends to obtain a right in such property.

“(3) DISCLOSURE OF RETURN INFORMATION TO CORRECT MISSTATEMENTS OF FACT.—The Secretary may, but only following approval by the Joint Committee on Taxation, disclose such return information or any other information with respect to any specific taxpayer to the extent necessary for tax administration purposes to correct a misstatement of fact published or disclosed

with respect to such taxpayer's return or any transaction of the taxpayer with the Internal Revenue Service.

"(4) DISCLOSURE TO COMPETENT AUTHORITY UNDER INCOME TAX CONVENTION.—A return or return information may be disclosed to a competent authority of a foreign government which has an income tax convention with the United States but only to the extent provided in, and subject to the terms and conditions of, such convention.

"(5) STATE AGENCIES REGULATING TAX RETURN PREPARERS.—Taxpayer identity information with respect to any income tax return preparer, and information as to whether or not any penalty has been assessed against such income tax return preparer under section 6694, 6695, or 7216, may be furnished to any agency, body, or commission lawfully charged under any State or local law with the licensing, registration, or regulation of income tax return preparers. Such information may be furnished only upon written request by the head of such agency, body, or commission designating the officers or employees to whom such information is to be furnished. Information may be furnished and used under this paragraph only for purposes of the licensing, registration, or regulation of income tax return preparers.

Post, pp. 1689,
1692.
26 USC 7216.

"(6) DISCLOSURE BY INTERNAL REVENUE OFFICERS AND EMPLOYEES FOR INVESTIGATIVE PURPOSES.—An internal revenue officer or employee may, in connection with his official duties relating to any audit, collection activity, or civil or criminal tax investigation or any other offense under the internal revenue laws, disclose return information to the extent that such disclosure is necessary in obtaining information, which is not otherwise reasonably available, with respect to the correct determination of tax, liability for tax, or the amount to be collected or with respect to the enforcement of any other provision of this title. Such disclosures shall be made only in such situations and under such conditions as the Secretary may prescribe by regulation.

Regulations.

"(1) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—

"(1) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION AND RAILROAD RETIREMENT BOARD.—The Secretary may, upon written request, disclose returns and return information with respect to—

"(A) taxes imposed by chapters 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

26 USC 1401,
3101, 3401.
42 USC 1305.
26 USC 401.

"(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057(d); and

42 USC
1320b-1.
26 USC 6057.
26 USC 3201.
45 USC 215
note.

"(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

"(2) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO THE DEPARTMENT OF LABOR AND PENSION BENEFIT GUARANTY CORPORATION.—The Secretary may, upon written request, furnish returns and return information to the proper officers and employees of the Department of Labor and the Pension Benefit Guaranty Corporation for purposes of, but only to the extent necessary in, the

29 USC 1001
note.

administration of titles I and IV of the Employee Retirement Income Security Act of 1974.

“(3) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO PRIVACY PROTECTION STUDY COMMISSION.—The Secretary may, upon written request, disclose returns and return information to the Privacy Protection Study Commission, or to such members, officers, or employees of such commission as may be named in such written request, to the extent provided under section 5 of the Privacy Act of 1974.

5 USC 552a
note.

“(4) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN PERSONNEL OR CLAIMANT REPRESENTATIVE MATTERS.—The Secretary may disclose returns and return information—

“(A) upon written request—

“(i) to an employee or former employee of the Department of the Treasury, or to the duly authorized legal representative of such employee or former employee, who is or may be a party to any administrative action or proceeding affecting the personnel rights of such employee or former employee; or

“(ii) to any person, or to the duly authorized legal representative of such person, whose rights are or may be affected by an administrative action or proceeding under section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026),

solely for use in the action or proceeding, or in preparation for the action or proceeding, but only to the extent that the Secretary determines that such returns or return information is or may be relevant and material to the action or proceeding; or

“(B) to officers and employees of the Department of the Treasury for use in any action or proceeding described in subparagraph (A), or in preparation for such action or proceeding, to the extent necessary to advance or protect the interests of the United States.

26 USC 6031.

42 USC 432.

“(5) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Upon written request by the Secretary of Health, Education, and Welfare, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program.

“(6) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

“(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

“(i) available return information from the master files of the Internal Revenue Service relating to the address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect

42 USC 651.

to any individual to whom such support obligations are owing, and

“(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

26 USC 61.

“(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

“(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—The Secretary is authorized—

“(1) to disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons, and

“(2) upon written request, to disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

31 USC 952.
Regulations.

“(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration.

“(o) DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO CERTAIN TAXES.—

“(1) TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.

26 USC 5001.

“(2) TAXES IMPOSED BY CHAPTER 35.—Returns and return information with respect to taxes imposed by chapter 35 (relating to taxes on wagering) shall, notwithstanding any other provision of this section, be open to inspection by or disclosure only to such person or persons and for such purpose or purposes as are prescribed by section 4424.

26 USC 4401.

“(p) PROCEDURE AND RECORDKEEPING.—

“(1) MANNER, TIME, AND PLACE OF INSPECTIONS.—Requests for the inspection or disclosure of a return or return information and such inspection or disclosure shall be made in such manner and at such time and place as shall be prescribed by the Secretary.

“(2) PROCEDURE.—

“(A) REPRODUCTION OF RETURNS.—A reproduction or certified reproduction of a return shall, upon written request, be furnished to any person to whom disclosure or inspection

Fee.

of such return is authorized under this section. A reasonable fee may be prescribed for furnishing such reproduction or certified reproduction.

“(B) DISCLOSURE OF RETURN INFORMATION.—Return information disclosed to any person under the provisions of this title may be provided in the form of written documents, reproductions of such documents, films or photoimpressions, or electronically produced tapes, disks, or records, or by any other mode or means which the Secretary determines necessary or appropriate. A reasonable fee may be prescribed for furnishing such return information.

Fee.

“(C) USE OF REPRODUCTIONS.—Any reproduction of any return, document, or other matter made in accordance with this paragraph shall have the same legal status as the original, and any such reproduction shall, if properly authenticated, be admissible in evidence in any judicial or administrative proceeding as if it were the original, whether or not the original is in existence.

“(3) RECORDS OF INSPECTION AND DISCLOSURE.—

“(A) SYSTEM OF RECORDKEEPING.—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a (c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (h) (1), (3) (A), or (4), (i) (4) or (6) (A) (ii), (k) (1), (2), or (6), (l) (1) or (4) (B) or (5), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a (c) (3) of title 5, United States Code.

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congressional
committee.

“(B) REPORT BY THE SECRETARY.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation a report with respect to, or summary of, the records or accountings described in subparagraph (A) in such form and containing such information as such joint committee or the Chief of Staff of such joint committee may designate. Such report or summary shall not, however, include a record or accounting of any request by the President under subsection (g) for, or the disclosure in response to such request of, any return or return information with respect to any individual who, at the time of such request, was an officer or employee of the executive branch of the Federal Government. Such report or summary, or any part thereof, may be disclosed by such joint committee to such persons and for such purposes as the joint committee may,

by record vote of a majority of the members of the joint committee, determine.

“(C) **PUBLIC REPORT ON DISCLOSURES.**—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which—

Report to congressional committee.

“(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d) or (1) (3) or (6), and the General Accounting Office the number of—

“(I) requests for disclosure of returns and return information,

“(II) instances in which returns and return information were disclosed pursuant to such requests,

“(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

“(ii) describes the general purposes for which such requests were made,

“(4) **SAFEGUARDS.**—Any Federal agency described in subsection (h) (2), (i) (1), (2) or (5), (j) (1) or (2), (1) (1), (2), or (5), or (o) (1), the General Accounting Office, or any agency, body, or commission described in subsection (d) or (1) (3) or (6) shall, as a condition for receiving returns or return information—

“(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

Record maintenance.

“(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

“(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

“(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

“(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

Report.

“(F) upon completion of use of such returns or return information—

Report.

“(i) in the case of an agency, body, or commission described in subsection (d) or (1) (6), return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

“(ii) in the case of an agency described in subsections (h) (2), (i) (1), (2), or (5), (j) (1) or (2), (l) (1), (2), or (5), or (o) (1), the commission described in subsection (1) (3), or the General Accounting Office, either—

“(I) return to the Secretary such returns or return information (along with any copies made therefrom),

“(II) otherwise make such returns or return information undisclosable, or

“(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information,

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met.

“(5) **REPORT ON PROCEDURES AND SAFEGUARDS.**—After the close of each calendar quarter, the Secretary shall furnish to each committee described in subsection (f) (1) a report which describes the procedures and safeguards established and utilized by such agencies, bodies, or commissions and the General Accounting Office for ensuring the confidentiality of returns and return information as required by this subsection. Such report shall also describe instances of deficiencies in, and failure to establish or utilize, such procedures.

“(6) **AUDIT OF PROCEDURES AND SAFEGUARDS.**—

“(A) **AUDIT BY COMPTROLLER GENERAL.**—The Comptroller General may audit the procedures and safeguards established by such agencies, bodies, or commissions pursuant to this subsection to determine whether such safeguards and procedures meet the requirements of this subsection and ensure the confidentiality of returns and return information. The Comptroller General shall notify the Secretary before any such audit is conducted.

“(B) **RECORDS OF INSPECTION AND REPORTS BY THE COMPTROLLER GENERAL.**—The Comptroller General shall—

“(i) maintain a permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the General Accounting Office under subsection (i) (6) (A) (ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

“(ii) furnish an annual report to each committee described in subsection (f) and to the Secretary setting forth his findings with respect to any audit conducted pursuant to subparagraph (A).

Report to congressional committees.

The Secretary may disclose to the Joint Committee any report furnished to him under clause (i).

“(7) ADMINISTRATIVE REVIEW.—The Secretary shall by regulations prescribe procedures which provide for administrative review of any determination under paragraph (4) that any agency, body, or commission described in subsection (d) has failed to meet the requirements of such paragraph.

Regulations.

“(8) STATE LAW REQUIREMENTS.—

“(A) SAFEGUARDS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

“(B) DISCLOSURE OF RETURNS OR RETURN INFORMATION IN STATE RETURNS.—Nothing in subparagraph (A) shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

“(q) REGULATIONS.—The Secretary is authorized to prescribe such other regulations as are necessary to carry out the provisions of this section.”

Regulations.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6103 and inserting in lieu thereof the following:

“Sec. 6103. Confidentiality and disclosure of returns and return information.”

(b) STATISTICAL PUBLICATIONS AND STUDIES.—Section 6108 (relating to publication of statistics of income) is amended to read as follows:

26 USC 6108.

***SEC. 6108. STATISTICAL PUBLICATIONS AND STUDIES.**

“(a) PUBLICATION OR OTHER DISCLOSURE OF STATISTICS OF INCOME.—The Secretary shall prepare and publish not less than annually statistics reasonably available with respect to the operations of the internal revenue laws, including classifications of taxpayers and of income, the amounts claimed or allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

“(b) SPECIAL STATISTICAL STUDIES.—The Secretary may, upon written request by any party or parties, make special statistical studies and compilations involving return information (as defined in section 6103(b)(2)) and furnish to such party or parties transcripts of any such special statistical study or compilation. A reasonable fee may be prescribed for the cost of the work or services performed for such party or parties.

Fee.

“(c) **ANONYMOUS FORM.**—No publication or other disclosure of statistics or other information required or authorized by subsection (a) or special statistical study authorized by subsection (b) shall in any manner permit the statistics, study, or any information so published, furnished, or otherwise disclosed to be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.”

26 USC 4102. (c) **INSPECTION OF CERTAIN RECORDS BY LOCAL OFFICERS.**—

(1) **IN GENERAL.**—Section 4102 (relating to inspection of records, returns, etc., by local officers) is amended to read as follows:

“**SEC. 4102. INSPECTION OF RECORDS BY LOCAL OFFICERS.**

Regulations.

“Under regulations prescribed by the Secretary, records required to be kept with respect to taxes under this part shall be open to inspection by such officers of a State, or a political subdivision of any such State, as shall be charged with the enforcement or collection of any tax on gasoline or lubricating oils.”

(2) **CONFORMING AMENDMENT.**—The table of sections for subpart B of part III of chapter 32 is amended by striking out the item relating to section 4102 and inserting in lieu thereof the following:

“Sec. 4102. Inspection of records by local officers.”

26 USC 7213. (d) **PENALTY FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.**—Section 7213 (relating to unauthorized disclosure of information) is amended by striking out subsection (c), redesignating subsections (d) and (e) as (c) and (d), respectively, and by amending subsection (a) to read as follows:

“(a) **RETURNS AND RETURN INFORMATION.**—

“(1) **FEDERAL EMPLOYEES AND OTHER PERSONS.**—It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

Ante, p. 1681.

Ante, p. 1668.

“(2) **STATE AND OTHER EMPLOYEES.**—It shall be unlawful for any officer, employee, or agent, or former officer, employee, or agent, of any State (as defined in section 6103(b)(5)) or any local child support enforcement agency to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under section 6103(d) or (1)(6). Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

“(3) **OTHER PERSONS.**—It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title to thereafter print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount

not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

“(4) SOLICITATION.—It shall be unlawful for any person to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

Ante, p. 1668.

“(5) SHAREHOLDERS.—It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e) (1) (D) (iii) to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.”

(e) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.—

(1) IN GENERAL.—Part I of subchapter A of chapter 75 (relating to miscellaneous penalties and forfeitures) is amended by adding at the end thereof the following new section:

“SEC. 7217. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.

26 USC 7217.

“(a) GENERAL RULE.—Whenever any person knowingly, or by reason of negligence, discloses a return or return information (as defined in section 6103(b)) with respect to a taxpayer in violation of the provisions of section 6103, such taxpayer may bring a civil action for damages against such person, and the district courts of the United States shall have jurisdiction of any action commenced under the provisions of this section.

“(b) DAMAGES.—In any suit brought under the provisions of subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

“(1) actual damages sustained by the plaintiff as a result of the unauthorized disclosure of the return or return information and, in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, but in no case shall a plaintiff entitled to recovery receive less than the sum of \$1,000 with respect to each instance of such unauthorized disclosure; and

“(2) the costs of the action.

“(c) An action to enforce any liability created under this section may be brought, without regard to the amount in controversy, within 2 years from the date on which the cause of action arises or at any time within 2 years after discovery by the plaintiff of the unauthorized disclosure.”

(2) CONFORMING AMENDMENT.—The table of sections for such part is amended by adding at the end thereof the following new item:

“Sec. 7217. Civil damages for unauthorized disclosure of returns and return information.”

(f) PROCESSING OF RETURNS, RETURN INFORMATION, AND OTHER DOCUMENTS.—Section 7513 (relating to reproduction of returns and other documents) is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c).

26 USC 7513.

26 USC 7852.

(g) **OTHER APPLICABLE RULES.**—Section 7852 (relating to other rules applicable under title 26) is amended by adding at the end thereof the following new subsection:

“(e) **PRIVACY ACT OF 1974.**—The provisions of subsections (d) (2), (3), and (4), and (g) of section 552a of title 5, United States Code, shall not be applied, directly or indirectly, to the determination of the existence or possible existence of liability (or the amount thereof) of any person for any tax, penalty, interest, fine, forfeiture, or other imposition or offense to which the provisions of this title apply.”

(h) **TECHNICAL AND CONFORMING AMENDMENTS.**—

26 USC 6106.

(1) Section 6106 (relating to publicity of unemployment tax returns) is hereby repealed.

26 USC 6323.

(2) Section 6323 (relating to validity and priority of tax liens against certain persons) is amended by striking out paragraph (3) of subsection (i).

26 USC 7213.

(3) Subsection (d) of section 7213 (relating to cross references) is amended by striking out paragraph (1) and inserting in lieu thereof:

“(1) **Penalties for disclosure of information by preparers of returns.**—For penalty for disclosure or use of information by preparers of returns, see section 7216.”

26 USC 7515.

(4) Section 7515 (relating to special statistical studies and compilations and other services on request) is hereby repealed.

26 USC 7809.

(5) Subsection (c) of section 7809 (relating to deposit of collections) is amended by striking out in paragraph (1) “section 7515 (relating to special statistical studies and compilations for other services on request)” and inserting in lieu thereof “section 6103(p) (relating to furnishing of copies of returns or of return information), and section 6108(b) (relating to special statistical studies and compilations)”.

26 USC 4424.

(6) Subsection (d) of section 4424 (relating to disclosure of wagering tax information) is amended by striking out “6103(d)” and inserting in lieu thereof “6103(f)”.

26 USC 6103
note.

(i) **EFFECTIVE DATE.**—The amendments made by this section take effect January 1, 1977.

SEC. 1203. INCOME TAX RETURN PREPARERS.

26 USC 7701.

(a) **DEFINITION.**—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

“(36) **INCOME TAX RETURN PREPARER.**—

“Income tax
return
preparer.”

“(A) **IN GENERAL.**—The term ‘income tax return preparer’ means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by subtitle A or any claim for refund of tax imposed by subtitle A. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

26 USC 1.

“(B) **EXCEPTIONS.**—A person shall not be an ‘income tax return preparer’ merely because such person—

“(i) furnishes typing, reproducing, or other mechanical assistance,

“(ii) prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,

“(iii) prepares a return or claim for refund for any trust or estate with respect to which he is a fiduciary, or

“(iv) prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.”

(b) ASSESSABLE PENALTIES WHERE PREPARER UNDERSTATES TAXPAYER'S LIABILITY.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

“SEC. 6694. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

26 USC 6694.

“(a) NEGLIGENT OR INTENTIONAL DISREGARD OF RULES AND REGULATIONS.—If any part of any understatement of liability with respect to any return or claim for refund is due to the negligent or intentional disregard of rules and regulations by any person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of \$100 with respect to such return or claim.

Penalties.

“(b) WILLFUL UNDERSTATEMENT OF LIABILITY.—If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is an income tax return preparer with respect to such return or claim, such person shall pay a penalty of \$500 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).

“(c) EXTENSION OF PERIOD OF COLLECTION WHERE PREPARER PAYS 15 PERCENT OF PENALTY.—

“(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under subsection (a) or (b) is made against any person who is an income tax return preparer, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421 (a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

“(2) PREPARER MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under subsection (a) or (b) is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the income tax return preparer fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

“(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in

section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

“(d) **ABATEMENT OF PENALTY WHERE TAXPAYER’S LIABILITY NOT UNDERSTATED.**—If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty under subsection (a) or (b) has been assessed, such assessment shall be abated, and if any portion of such penalty has been paid the amount so paid shall be refunded to the person who made such payment as an overpayment of tax without regard to any period of limitations which, but for this subsection, would apply to the making of such refund.

26 USC 1. “(e) **UNDERSTATEMENT OF LIABILITY DEFINED.**—For purposes of this section, the term ‘understatement of liability’ means any understatement of the net amount payable with respect to any tax imposed by subtitle A or any overstatement of the net amount creditable or refundable with respect to any such tax. Except as otherwise provided in subsection (d), the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

“(f) **CROSS REFERENCE.**—

Ante, p. 1688. “For definition of income tax return preparer, see section 7701 (a)(36).”

(2) **BURDEN OF PROOF UNDER 6694 (b).**—

26 USC 7428. (A) Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7427 as section 7428 and by inserting after section 7426 the following new section:

26 USC 7427. “**SEC. 7427. INCOME TAX RETURN PREPARERS.**

Ante, p. 1689. “In any proceeding involving the issue of whether or not an income tax return preparer has willfully attempted in any manner to understate the liability for tax (within the meaning of section 6694(b)), the burden of proof in respect to such issue shall be upon the Secretary.”

(B) The table of sections for such subchapter B is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 7427. Income tax return preparers.

“Sec. 7428. Cross references.”

(c) **PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN COPY OR LIST.**—Subchapter B of chapter 61 (relating to information and returns) is amended by inserting after section 6106 the following new section:

26 USC 6107. “**SEC. 6107. INCOME TAX RETURN PREPARER MUST FURNISH COPY OF RETURN TO TAXPAYER AND MUST RETAIN A COPY OR LIST.**

“(a) **FURNISHING COPY TO TAXPAYER.**—Any person who is an income tax return preparer with respect to any return or claim for refund shall furnish a completed copy of such return or claim to the taxpayer not later than the time such return or claim is presented for such taxpayer’s signature.

“(b) **COPY OR LIST TO BE RETAINED BY INCOME TAX RETURN PREPARER.**—Any person who is an income tax return preparer with

respect to a return or claim for refund shall, for the period ending 3 years after the close of the return period—

“(1) retain a completed copy of such return or claim, or retain, on a list, the name and taxpayer identification number of the taxpayer for whom such return or claim was prepared, and

“(2) make such copy or list available for inspection upon request by the Secretary.

“(c) REGULATIONS.—The Secretary shall prescribe regulations under which, in cases where 2 or more persons are income tax return preparers with respect to the same return or claim for refund, compliance with the requirements of subsection (a) or (b), as the case may be, of one such person shall be deemed to be compliance with the requirements of such subsection by the other persons.

“(d) DEFINITIONS.—For purposes of this section, the terms ‘return’ and ‘claim for refund’ have the respective meanings given to such terms by section 6696(e), and the term ‘return period’ has the meaning given to such term by section 6060(c).”

Post, p. 1693.

Infra.

(d) TAXPAYER IDENTIFYING NUMBER OF PREPARER TO BE FURNISHED.—Section 6109(a) (relating to supplying of identifying numbers) is amended by adding at the end thereof the following:

26 USC 6109.

“(4) FURNISHING IDENTIFYING NUMBER OF INCOME TAX RETURN PREPARER.—Any return or claim for refund prepared by an income tax return preparer shall bear such identifying number for securing proper identification of such preparer, his employer, or both, as may be prescribed. For purposes of this paragraph, the terms ‘return’ and ‘claim for refund’ have the respective meanings given to such terms by section 6696(e).

Definitions.

For purposes of this subsection, the identifying number of an individual (or his estate) shall be such individual’s social security account number.”

(e) PREPARER MUST FILE ANNUAL INFORMATION RETURN.—Part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new subpart:

“Subpart F—Information Concerning Income Tax Return Preparers

“Sec. 6060. Information returns of income tax return preparers.

“SEC. 6060. INFORMATION RETURNS OF INCOME TAX RETURN PREPARERS.

26 USC 6060.

“(a) GENERAL RULE.—Any person who employs an income tax return preparer to prepare any return or claim for refund other than for such person at any time during a return period shall make a return setting forth the name, taxpayer identification number, and place of work of each income tax return preparer employed by him at any time during such period. For purposes of this section, any individual who in acting as an income tax return preparer is not the employee of another income tax return preparer shall be treated as his own employer. The return required by this section shall be filed, in such manner as the Secretary may by regulations prescribe, on or before the first July 31 following the end of such return period.

Regulations.

“(b) ALTERNATIVE REPORTING.—In lieu of the return required by subsection (a), the Secretary may approve an alternative reporting method if he determines that the necessary information is available to him from other sources.

“(c) RETURN PERIOD DEFINED.—For purposes of subsection (a), the term ‘return period’ means the 12-month period beginning on

July 1 of each year, except that the first return period shall be the 6-month period beginning on January 1, 1977, and ending on June 30, 1977.”

(f) OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new sections:

26 USC 6695.

“SEC. 6695. OTHER ASSESSABLE PENALTIES WITH RESPECT TO THE PREPARATION OF INCOME TAX RETURNS FOR OTHER PERSONS.

Ante, p. 1690.

“(a) FAILURE TO FURNISH COPY TO TAXPAYER.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(a) with respect to such return or claim shall pay a penalty of \$25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

Regulations.

“(b) FAILURE TO SIGN RETURN.—Any person who is an income tax return preparer with respect to any return or claim for refund, who is required by regulations prescribed by the Secretary to sign such return or claim, and who fails to comply with such regulations with respect to such return or claim shall pay a penalty of \$25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

“(c) FAILURE TO FURNISH IDENTIFYING NUMBER.—Any person who is an income tax return preparer with respect to any return or claim for refund and who fails to comply with section 6109(a) (4) with respect to such return or claim shall pay a penalty of \$25 for such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect.

“(d) FAILURE TO RETAIN COPY OR LIST.—Any person who is an income tax return preparer with respect to any return or claim for refund who fails to comply with section 6107(b) with respect to such return or claim shall pay a penalty of \$50 for each such failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$25,000.

“(e) FAILURE TO FILE CORRECT INFORMATION RETURN.—Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of—

“(1) \$100 for each failure to file a return as required under such section, and

“(2) \$5 for each failure to set forth an item in the return as required under such section, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed \$20,000.

“(f) NEGOTIATION OF CHECK.—Any person who is an income tax return preparer who endorses or otherwise negotiates (directly or through an agent) any check made in respect of the taxes imposed by subtitle A which is issued to a taxpayer (other than the income tax return preparer) shall pay a penalty of \$500 with respect to each such check.

26 USC 1.

"SEC. 6696. RULES APPLICABLE WITH RESPECT TO SECTIONS 6694 AND 6695. 26 USC 6696.

"(a) **PENALTIES TO BE ADDITIONAL TO ANY OTHER PENALTIES.**—The penalties provided by section 6694 and 6695 shall be in addition to any other penalties provided by law.

Ante, p. 1689.

Post, p. 1878.

Ante, p. 1692.

"(b) **DEFICIENCY PROCEDURES NOT TO APPLY.**—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply with respect to the assessment or collection of the penalties provided by sections 6694 and 6695.

26 USC 6211.

"(c) **PROCEDURE FOR CLAIMING REFUND.**—Any claim for credit or refund of any penalty paid under section 6694 or 6695 shall be filed in accordance with regulations prescribed by the Secretary.

Regulations.

"(d) **PERIODS OF LIMITATION.**—

"(1) **ASSESSMENT.**—The amount of any penalty under section 6694(a) or under section 6695 shall be assessed within 3 years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period. In the case of any penalty under section 6694(b), the penalty may be assessed, or a proceeding in court for the collection of the penalty may be begun without assessment, at any time.

"(2) **CLAIM FOR REFUND.**—Except as provided in section 6694 (d), any claim for refund of an overpayment of any penalty assessed under section 6694 or 6695 shall be filed within 3 years from the time the penalty was paid.

"(e) **DEFINITIONS.**—For purposes of sections 6694 and 6695—

"(1) **RETURN.**—The term 'return' means any return of any tax imposed by subtitle A.

"(2) **CLAIM FOR REFUND.**—The term 'claim for refund' means a claim for refund of, or credit against, any tax imposed by subtitle A."

(g) **AUTHORITY TO SEEK INJUNCTION AGAINST INCOME TAX RETURN PREPARERS.**—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7407 as section 7408 and by inserting after section 7406 the following new section:

"SEC. 7407. ACTION TO ENJOIN INCOME TAX RETURN PREPARERS.

26 USC 7407.

"(a) **AUTHORITY TO SEEK INJUNCTION.**—Except as provided in subsection (c), a civil action in the name of the United States to enjoin any person who is an income tax return preparer from further engaging in any conduct described in subsection (b) or from further acting as an income tax return preparer may be commenced at the request of the Secretary. Any action under this section shall be brought in the District Court of the United States for the district in which the income tax preparer resides or has his principal place of business or in which the taxpayer with respect to whose income tax return the action is brought resides. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such income tax preparer or any taxpayer.

"(b) **ADJUDICATION AND DECREES.**—In any action under subsection (a), if the court finds—

"(1) that an income tax return preparer has—

"(A) engaged in any conduct subject to penalty under section 6694 or 6695, or subject to any criminal penalty provided by this title,

“(B) misrepresented his eligibility to practice before the Internal Revenue Service, or otherwise misrepresented his experience or education as an income tax return preparer,

“(C) guaranteed the payment of any tax refund or the allowance of any tax credit, or

“(D) engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the Internal Revenue laws, and

“(2) that injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin such person from further engaging in such conduct. If the court finds that an income tax return preparer has continually or repeatedly engaged in any conduct described in subparagraphs (A) through (D) of this subsection and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, the court may enjoin such person from acting as an income tax return preparer.

“(c) **BOND TO STAY INJUNCTION.**—No action to enjoin under subsection (b)(1)(A) shall be commenced or pursued with respect to any income tax return preparer who files and maintains, with the Secretary in the internal revenue district in which is located such preparer's legal residence or principal place of business, a bond in a sum of \$50,000 as surety for the payment of penalties under section 6694 and 6695.”

Ante, p. 1689;

Post, p. 1878;

Ante, p. 1692.

26 USC 6503.

(h) **CROSS REFERENCES.**—

(1) Section 6503(h), as redesignated by this Act, is amended by adding at the end thereof the following new paragraph:

“(4) **Income tax return preparers, see section 6694(c)(3).**”

26 USC 6504.

(2) Section 6504, as amended by this Act, is amended by adding at the end thereof the following new paragraph:

“(11) **Assessment of civil penalties under section 6694 or 6695, see section 6696(d)(1).**”

26 USC 6511.

(3) Section 6511(g) is amended by adding at the end thereof the following new paragraph:

“(7) **For a period of limitations for refund of an overpayment of penalties imposed under section 6694 or 6695, see section 6696(d)(2).**”

(i) **CONFORMING AMENDMENTS.**—

(1) The table of subparts for part III of such chapter A of chapter 61 is amended by adding at the end thereof the following new item:

“Subpart F. Information concerning income tax return preparers.”

(2) The table of sections for subchapter B of chapter 61 is amended by inserting immediately after the item relating to section 6106 the following new item:

“Sec. 6107. Income tax return preparer must furnish copy of return to taxpayer and must retain a copy or list.”

(3) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new items:

“Sec. 6694. Understatement of taxpayer's liability by income tax return preparer.

“Sec. 6695. Other assessable penalties with respect to the preparation of income tax returns for other persons.

“Sec. 6696. Rules applicable with respect to sections 6694 and 6695.”

(4) The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

“Sec. 7407. Action to enjoin income tax return preparers.

“Sec. 7408. Cross references.”

(j) **EFFECTIVE DATE.**—The amendments made by this section shall apply to documents prepared after December 31, 1976. 26 USC 7701 note.

SEC. 1204. JEOPARDY AND TERMINATION ASSESSMENTS.

(a) **REVIEW OF JEOPARDY AND TERMINATION ASSESSMENTS.**—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7428 the following new section:

“SEC. 7429. REVIEW OF JEOPARDY ASSESSMENT PROCEDURES.

26 USC 7429.

“(a) ADMINISTRATIVE REVIEW.—

“(1) **INFORMATION TO TAXPAYER.**—Within 5 days after the day on which an assessment is made under section 6851(a), 6861(a), or 6862, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relies in making such assessment.

“(2) **REQUEST FOR REVIEW.**—Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph (1), or within 30 days after the last day of the period within which such statement is required to be furnished, the taxpayer may request the Secretary to review the action taken.

“(3) **REDETERMINATION BY SECRETARY.**—After a request for review is made under paragraph (2), the Secretary shall determine whether or not—

“(A) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

“(B) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances.

“(b) JUDICIAL REVIEW.—

“(1) **ACTIONS PERMITTED.**—Within 30 days after the earlier of—

“(A) the day the Secretary notifies the taxpayer of his determination described in subsection (a) (3), or

“(B) the 16th day after the request described in subsection (a) (2) was made,

the taxpayer may bring a civil action against the United States in a district court of the United States for a determination under this subsection.

“(2) **DETERMINATION BY DISTRICT COURT.**—Within 20 days after an action is commenced under paragraph (1), the district court shall determine whether or not—

“(A) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

“(B) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862, is appropriate under the circumstances.

“(3) **ORDER OF DISTRICT COURT.**—If the court determines that the making of such assessment is unreasonable or that the amount assessed or demanded is inappropriate, the court may order the Secretary to abate such assessment, to redetermine (in whole or

in part) the amount assessed or demanded, or to take such other action as the court finds appropriate.

“(c) **EXTENSION OF 20-DAY PERIOD WHERE TAXPAYER SO REQUESTS.**—If the taxpayer requests an extension of the 20-day period set forth in subsection (b) (2) and establishes reasonable grounds why such extension should be granted, the district court may grant an extension of not more than 40 additional days.

“(d) **COMPUTATION OF DAYS.**—For purposes of this section, Saturday, Sunday, or a legal holiday in the District of Columbia shall not be counted as the last day of any period.

“(e) **VENUE.**—A civil action under subsection (b) shall be commenced only in the judicial district described in section 1402(a) (1) or (2) of title 28, United States Code.

“(f) **FINALITY OF DETERMINATION.**—Any determination made by a district court under this section shall be final and conclusive and shall not be reviewed by any other court.

“(g) **BURDEN OF PROOF.**—

“(1) **REASONABLENESS OF TERMINATION OR JEOPARDY ASSESSMENT.**—In an action under subsection (b) involving the issue of whether the making of an assessment under section 6851, 6861, or 6862 is reasonable under the circumstances, the burden of proof in respect to such issue shall be upon the Secretary.

“(2) **REASONABLENESS OF AMOUNT OF ASSESSMENT.**—In an action under subsection (b) involving the issue of whether an amount assessed or demanded as a result of action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, the Secretary shall provide a written statement which contains any information with respect to which his determination of the amount assessed was based, but the burden of proof in respect of such issue shall be upon the taxpayer.”

(b) **JEOPARDY ASSESSMENT OF INCOME TAX.**—

(1) **TERMINATION ASSESSMENTS.**—So much of section 6851 (relating to termination of taxable year) as precedes subsection (c) is amended to read as follows:

26 USC 6851.

“**SEC. 6851. TERMINATION ASSESSMENTS OF INCOME TAX.**

“(a) **AUTHORITY FOR MAKING.**—

“(1) **IN GENERAL.**—If the Secretary finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act (including in the case of a corporation distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect the income tax for the current or the immediately preceding taxable year unless such proceeding be brought without delay, the Secretary shall immediately make a determination of tax for the current taxable year or for the preceding taxable year, or both, as the case may be, and notwithstanding any other provision of law, such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of the tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current taxable year or such preceding taxable year, or both, as the case may be, and shall cause notice of such determination and assessment to be given the taxpayer, together with a demand for immediate payment of such tax.

“(2) **COMPUTATION OF TAX.**—In the case of a current taxable year, the Secretary shall determine the tax for the period beginning on the first day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the taxpayer, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

“(3) **TREATMENT OF AMOUNTS COLLECTED.**—Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of tax for such taxable year.

“(4) **THIS SECTION INAPPLICABLE WHERE SECTION 6861 APPLIES.**—This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the taxpayer's return for such taxable year (determined with regard to any extensions).

“(b) **NOTICE OF DEFICIENCY.**—If an assessment of tax is made under the authority of subsection (a), the Secretary shall mail a notice under section 6212(a) for the taxpayer's full taxable year (determined without regard to any action taken under subsection (a)) with respect to which such assessment was made within 60 days after the later of (i) the due date of the taxpayer's return for such taxable year (determined with regard to any extensions), or (ii) the date such taxpayer files such return. Such deficiency may be in an amount greater or less than the amount assessed under subsection (a).”

(2) **BONDS.**—Section 6851 is amended by striking out subsection 26 USC 6851.

(e) (relating to bonds) and inserting in lieu thereof the following:

“(e) **SECTIONS 6861 (f) AND (g) TO APPLY.**—The provisions of section 6861(f) (relating to collection of unpaid amounts) and 6861(g) (relating to abatement if jeopardy does not exist) shall apply with respect to any assessment made under subsection (a).

“(f) **CROSS REFERENCES.**—

“(1) **For provisions permitting immediate levy in case of jeopardy, see section 6331(a).**

“(2) **For provisions relating to the review of jeopardy, see section 7429.**” *Ante*, p. 1695.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) Section 1346(e) of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant) is amended by inserting “or section 7429” immediately after “section 7426”.

(2) Section 443(a)(3) (relating to returns for terminated period) is repealed. 26 USC 443.

(3) Section 6091(b) (relating to place for filing returns) is amended— 26 USC 6091.

(A) by striking out “and” at the end of paragraph (1) (B) (iii) thereof, and by striking out paragraph (1) (B) (iv) and the matter following such paragraph and inserting in lieu thereof the following:

“(iv) nonresident alien persons, and

Regulations.

“(v) persons with respect to whom an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year, shall be made at such place as the Secretary may by regulations designate.”; and

(B) by striking out “and” at the end of paragraph (2) (B) (ii), and by striking out paragraph (2) (B) (iii) and the

- matter following such paragraph and inserting in lieu thereof the following:
- Regulations.
- “(iii) foreign corporations, and
 “(iv) corporations with respect to which an assessment was made under section 6851(a) (relating to termination assessments) with respect to the taxable year, shall be made at such place as the Secretary may by regulations designate.”
- 26 USC 6211. (4) Section 6211(b) (1) (relating to rules for determining deficiencies) is amended by striking out “and” after “31,” and by inserting before the period at the end thereof the following: “, and without regard to any credits resulting from the collection of amounts assessed under section 6851 (relating to termination assessments)”.
- 26 USC 6212. (5) Section 6212(c) (relating to restrictions on further deficiency letters) is amended by inserting after “errors,” the following: “in section 6851 (relating to termination assessments),”.
- 26 USC 6213. (6) Section 6213(a) (relating to time for filing petition with the Tax Court) is amended by inserting “section 6851 or” before “section 6861”.
- 26 USC 6863. (7) Section 6863(a) (relating to bond to stay collection) is amended—
 (A) by striking out “6861” and inserting in lieu thereof “6851, 6861,”;
 (B) by striking out “a jeopardy assessment” in the first sentence thereof and inserting in lieu thereof “an assessment”; and
 (C) by striking out “the jeopardy assessment” each place it appears therein and inserting in lieu thereof “such assessment”.
- (8) Section 6863(b) (3) (A) (relating to stay of sale of seized property) is amended to read as follows:
 “(A) GENERAL RULE.—Where, notwithstanding the provisions of section 6213(a), an assessment has been made under section 6851 or 6861, the property seized for collection of the tax shall not be sold—
 “(i) before the expiration of the periods described in subsection (c) (1) (A) and (B),
 “(ii) before the issuance of the notice of deficiency described in section 6851(b) or 6861(b), and the expiration of the period provided in section 6213(a) for filing a petition with the Tax Court, and
 “(iii) if a petition is filed with the Tax Court (whether before or after the making of such assessment), before the expiration of the period during which the assessment of the deficiency would be prohibited if neither sections 6851(a) nor 6861(a) were applicable.
 Clauses (ii) and (iii) shall not apply in the case of a termination assessment under section 6851 if the taxpayer does not file a return for the taxable year by the due date (determined with regard to any extensions).”
- (9) Section 6863 (relating to stay of collection of jeopardy assessments) is amended by adding at the end thereof the following new subsection:
 “(c) STAY OF SALE OF SEIZED PROPERTY PENDING DISTRICT COURT DETERMINATION UNDER SECTION 7429.—

“(1) **GENERAL RULE.**—Where a jeopardy assessment has been made under section 6862(a), the property seized for the collection of the tax shall not be sold—

“(A) if a civil action is commenced in accordance with section 7429(b), on or before the day on which the district court judgment in such action becomes final, or *Ante*, p. 1695.

“(B) if subparagraph (A) does not apply, before the day after the expiration of the period provided in section 7429(a) for requesting an administrative review, and if such review is requested, before the day after the expiration of the period provided in section 7429(b), for commencing an action in the district court.

“(2) **EXCEPTIONS.**—With respect to any property described in paragraph (1), the exceptions provided by subsection (b)(3) (B) shall apply.”

(10) Section 7103(a)(4) (relating to a cross reference) is repealed. 26 USC 7103.

(11) Section 7421(a) (relating to prohibition of suits to restrain assessment or collection of taxes) is amended by striking out “and 7426 (a) and (b)(1)” and inserting in lieu thereof “7426 (a) and (b)(1), and 7429(b)”. 26 USC 7421.

(12) The table of sections for part I of subchapter A of chapter 70 is amended to read as follows:

“Sec. 6851. Termination assessments of income tax.”

(13) The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7428 the following:

“Sec. 7429. Review of jeopardy assessment procedures.”

(d) **EFFECTIVE DATE.**—The amendments made by this section apply with respect to action taken under section 6851, 6861, or 6862 of the Internal Revenue Code of 1954 where the notice and demand takes place after December 31, 1976. 26 USC 6851 note.

SEC. 1205. ADMINISTRATIVE SUMMONS.

(a) **REQUIREMENT THAT NOTICE BE SERVED ON PERSON WHOSE BOOKS, ETC., ARE BEING SUMMONED.**—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7609 as section 7611 and by inserting after section 7608 the following new sections:

“**SEC. 7609. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.** 26 USC 7609.

“(a) **NOTICE.**—

“(1) **IN GENERAL.**—If—

“(A) any summons described in subsection (c) is served on any person who is a third-party recordkeeper, and

“(B) the summons requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person summoned) who is identified in the description of the records contained in the summons,

then notice of the summons shall be given to any person so identified within 3 days of the day on which such service is made, but no later than the 14th day before the day fixed in the summons as the day upon which such records are to be examined. Such notice shall be accompanied by a copy of the summons which has been served and shall contain directions for staying compliance with the summons under subsection (b)(2).

26 USC 7603.

“(2) SUFFICIENCY OF NOTICE.—Such notice shall be sufficient if, on or before such third day, such notice is served in the manner provided in section 7603 (relating to service of summons) upon the person entitled to notice, or is mailed by certified or registered mail to the last known address of such person, or, in the absence of a last known address, is left with the person summoned. If such notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice or, in the case of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, to the last known address of the fiduciary of such person, even if such person or fiduciary is then deceased, under a legal disability, or no longer in existence.

“(3) THIRD-PARTY RECORDKEEPER DEFINED.—For purposes of this subsection, the term ‘third-party recordkeeper’ means—

“(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

“(B) any consumer reporting agency (as defined under section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

“(C) any person extending credit through the use of credit cards or similar devices;

“(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

“(E) any attorney; and

“(F) any accountant.

“(4) EXCEPTIONS.—Paragraph (1) shall not apply to any summons—

“(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person,

“(B) to determine whether or not records of the business transactions or affairs of an identified person have been made or kept, or

“(C) described in subsection (f).

“(5) NATURE OF SUMMONS.—Any summons to which this subsection applies (and any summons in aid of collection described in subsection (c)(2)(B)) shall identify the taxpayer to whom the summons relates or the other person to whom the records pertain and shall provide such other information as will enable the person summoned to locate the records required under the summons.

“(b) RIGHT TO INTERVENE; RIGHT TO STAY COMPLIANCE.—

“(1) INTERVENTION.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to intervene in any proceeding with respect to the enforcement of such summons under section 7604.

“(2) RIGHT TO STAY COMPLIANCE.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to stay compliance with the summons if, not later than the 14th day after the day such notice is given in the manner provided in subsection (a) (2)—

“(A) notice in writing is given to the person summoned not to comply with the summons, and

“(B) a copy of such notice not to comply with the summons is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in subsection (a) (1).

“(c) **SUMMONS TO WHICH SECTION APPLIES.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), a summons is described in this subsection if it is issued under paragraph (2) of section 7602 or under section 6420(e) (2), 6421(f) (2), 6424(d) (2), or 6427(e) (2) and requires the production of records.

26 USC 7602,
6420, 6421,
6424, 6427.

“(2) **EXCEPTIONS.**—A summons shall not be treated as described in this subsection if—

“(A) it is solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in subsection (a) (3) (A), or

“(B) it is in aid of the collection of—

“(i) the liability of any person against whom an assessment has been made or judgment rendered, or

“(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i).

“(3) **RECORDS; CERTAIN RELATED TESTIMONY.**—For purposes of this section—

“(A) the term ‘records’ includes books, papers, or other data, and

“Records.”

“(B) a summons requiring the giving of testimony relating to records shall be treated as a summons requiring the production of such records.

“(d) **RESTRICTION ON EXAMINATION OF RECORDS.**—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

“(1) before the expiration of the 14-day period allowed for the notice not to comply under subsection (b) (2), or

“(2) when the requirements of subsection (b) (2) have been met, except in accordance with an order issued by a court of competent jurisdiction authorizing examination of such records or with the consent of the person staying compliance.

“(e) **SUSPENSION OF STATUTE OF LIMITATIONS.**—If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

“(f) **ADDITIONAL REQUIREMENT IN THE CASE OF A JOHN DOE SUMMONS.**—Any summons described in subsection (c) which does not identify the person with respect to whose liability the summons is issued may be served only after a court proceeding in which the Secretary establishes that—

“(1) the summons relates to the investigation of a particular person or ascertainable group or class of persons,

“(2) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any provision of any internal revenue law, and

“(3) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources.

“(g) **SPECIAL EXCEPTION FOR CERTAIN SUMMONSES.**—In the case of any summons described in subsection (c), the provisions of subsections (a) (1) and (b) shall not apply if, upon petition by the Secretary, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

“(h) **JURISDICTION OF DISTRICT COURT.**—

“(1) The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine proceedings brought under subsections (f) or (g). The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely upon the petition and supporting affidavits. An order denying the petition shall be deemed a final order which may be appealed.

“(2) Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.

26 USC 7610.
Regulations.

“SEC. 7610. FEES AND COSTS FOR WITNESSES.

“(a) **IN GENERAL.**—The Secretary shall by regulations establish the rates and conditions under which payment may be made of—

“(1) fees and mileage to persons who are summoned to appear before the Secretary, and

“(2) reimbursement for such costs that are reasonably necessary which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by summons.

“(b) **EXCEPTIONS.**—No payment may be made under paragraph (2) of subsection (a) if—

“(1) the person with respect to whose liability the summons is issued has a proprietary interest in the books, papers, records or other data required to be produced, or

“(2) the person summoned is the person with respect to whose liability the summons is issued or an officer, employee, agent, accountant, or attorney of such person who, at the time the summons is served, is acting as such.

“(c) **SUMMONS TO WHICH SECTION APPLIES.**—This section applies with respect to any summons authorized under section 6420(e) (2), 6421(f) (2), 6424(d) (2), 6427(e) (2), or 7602.”

(b) **CLERICAL AMENDMENT.**—The table of sections for such subchapter A is amended by striking out the item relating to section 7609 and inserting in lieu thereof the following:

"Sec. 7609. Special procedures for third-party summonses.

"Sec. 7610. Fees and costs for witnesses.

"Sec. 7611. Cross references."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to any summons issued after December 31, 1976. 26 USC 7609 note.

SEC. 1206. ASSESSMENTS IN CASE OF MATHEMATICAL OR CLERICAL ERRORS.

(a) **IN GENERAL.**—Section 6213(b) (relating to exceptions to restrictions on assessment in certain cases) is amended— 26 USC 6213.

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) **ASSESSMENTS ARISING OUT OF MATHEMATICAL OR CLERICAL ERRORS.**—If the taxpayer is notified that, on account of a mathematical or clerical error appearing on the return, an amount of tax in excess of that shown on the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical or clerical error, such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6212(c)(1) (restricting further deficiency letters), or of section 6512(a) (prohibiting credits or refunds after petition to the Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section. Each notice under this paragraph shall set forth the error alleged and an explanation thereof.

"(2) **ABATEMENT OF ASSESSMENT OF MATHEMATICAL OR CLERICAL ERRORS.**—

"(A) **REQUEST FOR ABATEMENT.**—Notwithstanding section 6404(b), a taxpayer may file with the Secretary within 60 days after notice is sent under paragraph (1) a request for an abatement of any assessment specified in such notice, and upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by this subchapter.

"(B) **STAY OF COLLECTION.**—In the case of any assessment referred to in paragraph (1), notwithstanding paragraph (1), no levy or proceeding in court for the collection of such assessment shall be made, begun, or prosecuted during the period in which such assessment may be abated under this paragraph."

(b) **DEFINITIONS RELATING TO MATHEMATICAL OR CLERICAL ERRORS.**—Section 6213 is amended by redesignating subsection (f) as subsection (g), and by inserting immediately after subsection (e) the following new subsection: 26 USC 6213.

"(f) **DEFINITIONS.**—For purposes of this section—

"(1) **RETURN.**—The term 'return' includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by subtitle A or B, or chapter 42 or 43.

"(2) **MATHEMATICAL OR CLERICAL ERROR.**—The term 'mathematical or clerical error' means—

26 USC 1, 2001.
26 USC 4940,
4971.

“(A) an error in addition, subtraction, multiplication, or division shown on any return,

“(B) an incorrect use of any table provided by the Internal Revenue Service with respect to any return if such incorrect use is apparent from the existence of other information on the return,

“(C) an entry on a return of an item which is inconsistent with another entry of the same or another item on such return,

“(D) an omission of information which is required to be supplied on the return to substantiate an entry on the return, and

“(E) an entry on a return of a deduction or credit in an amount which exceeds a statutory limit imposed by subtitle A or B, or chapter 42 or 43, if such limit is expressed—

“(i) as a specified monetary amount, or

“(ii) as a percentage, ratio, or fraction,

and if the items entering into the application of such limit appear on such return.”

26 USC 1, 2001,
4940, 4971.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.—**

26 USC 6213.

(1) Section 6213(b)(3) (relating to assessments arising out of tentative carryback adjustments), as redesignated by subsection (a), is amended—

(A) by striking out “he may assess” and inserting in lieu thereof “he may assess without regard to the provisions of paragraph (2)”, and

(B) by striking out “mathematical error” and inserting in lieu thereof “mathematical or clerical error”.

26 USC 6201.

(2) Section 6201(a)(3) (relating to assessments regarding erroneous income tax prepayment credits) and section 6201(a)(4) (relating to assessments regarding erroneous credit under section 39 or 43) are each amended—

(A) by striking out “mathematical error” and inserting in lieu thereof “mathematical or clerical error”, and

(B) by inserting immediately before the period at the end thereof the following: “, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph”.

26 USC 6212.

(3) Section 6212(c)(1) (relating to deficiency letters) is amended by striking out “(relating to mathematical errors)” and inserting in lieu thereof “(relating to mathematical or clerical errors)”.

26 USC 6213
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to returns (within the meaning of section 6213(f)(1) of the Internal Revenue Code of 1954) filed after December 31, 1976.

SEC. 1207. WITHHOLDING.

(a) **WITHHOLDING STATE AND DISTRICT INCOME TAXES FROM COMPENSATION OF MEMBERS OF ARMED FORCES WHO ARE RESIDENTS OF THE STATE OR DISTRICT OF COLUMBIA.**—

(1) **WITHHOLDING OF STATE INCOME TAXES.**—The last sentence of section 5517(a) of title 5, United States Code, is amended to read as follows: “In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting ‘who are residents of the State with which the agree-

ment is made' for 'whose regular place of Federal employment is within the State with which the agreement is made'."

(2) **WITHHOLDING OF DISTRICT INCOME TAXES.**—Subsection (a) of section 5516 of title 5, United States Code, is amended—

(A) by striking out in the third sentence "pay for service as a member of the armed forces, or to"; and

(B) by adding after the third sentence the following new sentence: "In the case of pay for service as a member of the armed forces, the second sentence of this subsection shall be applied by substituting 'who are residents of the District of Columbia' for 'whose regular place of employment is within the District of Columbia'."

(b) **WITHHOLDING STATE AND CITY INCOME TAXES FROM THE COMPENSATION OF MEMBERS OF THE NATIONAL GUARD OR THE READY RESERVE.**—Section 5517 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For the purpose of this section and sections 5516 and 5520, the terms 'serve as a member of the armed forces' and 'service as a member of the Armed Forces' do not include—

Definitions.
5 USC 5516,
5520.

"(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

"(2) participation in scheduled drills or training periods, or service on active duty for training, under section 270(a) of title 10, United States Code, by a member of the Ready Reserve."

(c) **VOLUNTARY WITHHOLDING OF STATE INCOME TAXES FROM THE COMPENSATION OF FEDERAL EMPLOYEES.**—Paragraphs (1) and (2) of section 5517(a) of title 5, United States Code, are amended to read as follows:

"(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

"(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;".

(d) **WITHHOLDING TAX ON CERTAIN GAMBLING WINNINGS.**—Section 3402 (relating to income tax collected at source) is amended by adding at the end thereof the following new subsection:

26 USC 3402.

"(q) **EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.**—

"(1) **GENERAL RULE.**—Every person, including the Government of the United States, a State, or a political subdivision thereof, or any instrumentalities of the foregoing, making any payment of winnings which are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to 20 percent of such payment.

"(2) **EXEMPTION WHERE TAX OTHERWISE WITHHELD.**—In the case of any payment of winnings which are subject to withholding made to a nonresident alien individual or a foreign corporation, the tax imposed under paragraph (1) shall not apply to any such payment subject to tax under section 1441(a) (relating to withholding on nonresident aliens) or tax under section 1442(a) (relating to withholding on foreign corporations).

Definition.

“(3) WINNINGS WHICH ARE SUBJECT TO WITHHOLDING.—For purposes of this subsection, the term ‘winnings which are subject to withholding’ means proceeds from a wager determined in accordance with the following:

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), proceeds of more than \$1,000 from a wagering transaction, if the amount of such proceeds is at least 300 times as large as the amount wagered.

“(B) STATE-CONDUCTED LOTTERIES.—Proceeds of more than \$5,000 from a wager placed in a lottery conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such lottery, or with its authorized employees or agents.

“(C) SWEEPSTAKES, WAGERING POOLS, AND OTHER LOTTERIES.—Proceeds of more than \$1,000 from a wager placed in a sweepstakes, wagering pool, or lottery (other than a wager described in subparagraph (B)).

“(4) RULES FOR DETERMINING PROCEEDS FROM A WAGER.—For purposes of this subsection—

“(A) proceeds from a wager shall be determined by reducing the amount received by the amount of the wager, and

“(B) proceeds which are not money shall be taken into account at their fair market value.

“(5) EXEMPTION FOR BINGO, KENO, AND SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine, keno, and bingo.

“(6) STATEMENT BY RECIPIENT.—Every person who is to receive a payment of winnings which are subject to withholding shall furnish the person making such payment a statement, made under the penalties of perjury, containing the name, address, and taxpayer identification number of the person receiving the payment and of each person entitled to any portion of such payment.

“(7) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person of winnings which are subject to withholding shall be treated as if they were wages paid by an employer to an employee.”

(e) WITHHOLDING OF FEDERAL TAXES ON CERTAIN INDIVIDUALS ENGAGED IN FISHING.—

(1) IN GENERAL.—

(A) Section 3121(b) (defining employment) is amended by striking out “or” at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof “; or”, and by adding after paragraph (19) the following new paragraph:

“(20) service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

“(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

“(B) such individual receives a share of the boat’s (or the boats’) in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal

26 USC 3403,
3404.

26 USC 6001,
7205.

26 USC 3121.

life or a share of the proceeds from the sale of such catch, and

“(C) the amount of such individual’s share depends on the amount of the boat’s (or the boats’ in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.”

(B) Section 1402(c) (2) (defining trade or business) is amended by striking out “and” at the end of subparagraph (D), by striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof “, and”, and by adding after subparagraph (E) the following new subparagraph:

“(F) service described in section 3121(b) (20);”. *Ante*, p. 1706.

(C) Section 3401(a) (defining wages for purposes of withholding) is amended by striking out the period at the end of paragraph (16) and inserting in lieu thereof “; or”, and by adding after paragraph (16) the following new paragraph:

“(17) for service described in section 3121(b) (20).”

(2) CONFORMING AMENDMENTS.—

(A) Section 210(a) of the Social Security Act is amended by striking out “or” at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof “; or,” and by adding after paragraph (19) the following new paragraph:

“(20) Service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of such boat pursuant to which—

“(A) such individual does not receive any cash remuneration (other than as provided in subparagraph (B)),

“(B) such individual receives a share of the boat’s (or the boats’ in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and

“(C) the amount of such individual’s share depends on the amount of the boat’s (or boats’ in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life,

but only if the operating crew of such boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.”

(B) Section 211(c) (2) of such Act is amended by striking out “and” at the end of subparagraph (D), by striking out the semicolon at the end of subparagraph (E), and inserting in lieu thereof “, and” and by adding after subparagraph (E) the following new paragraph:

“(F) service described in section 210(a) (20);”.

(3) REPORTING REQUIREMENT.—

(A) Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other

persons) is amended by adding at the end thereof the following new section:

26 USC 6050A. **"SEC. 6050A. REPORTING REQUIREMENTS OF CERTAIN FISHING BOAT OPERATORS.**

Ante, p. 1706. **"(a) REPORTS.**—The operator of a boat on which one or more individuals, during a calendar year, perform services described in section 3121(b) (20) shall submit to the Secretary (at such time, and in such manner and form, as the Secretary shall by regulations prescribe) information respecting—

"(1) the identity of each individual performing such services;

"(2) the percentage of each such individual's share of the catches of fish or other forms of aquatic animal life, and the percentage of the operator's share of such catches;

"(3) if such individual receives his share in kind, the type and weight of such share, together with such other information as the Secretary may prescribe by regulations reasonably necessary to determine the value of such share; and

"(4) if such individual receives a share of the proceeds of such catches, the amount so received.

"(b) WRITTEN STATEMENT.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing the information relating to such person contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

26 USC 6652.

(B) Section 6652(b) (relating to failure to file certain information returns) is amended by inserting after "withheld)," the following: "in the case of each failure to make a return required by section 6050A(a) (relating to reporting requirements of certain fishing boat operators),".

Supra.

(C) Section 6652(b) is further amended by inserting after "tips)," the following: "or section 6050A(b) (relating to statements furnished by certain fishing boat operators),".

(f) EFFECTIVE DATES.—

5 USC 5516
note.

(1) **SUBSECTION (a).**—The amendments made by subsection (a) shall apply to wages withheld after the 120-day period following any request for an agreement after the date of the enactment of this Act.

5 USC 5517
note.

(2) **SUBSECTIONS (b) AND (c).**—The amendments made by subsections (b) and (c) shall apply to wages withheld after the 120-day period following the date of the enactment of this Act.

26 USC 3402
note.

(3) **SUBSECTION (d).**—The amendments made by subsection (d) shall apply to payments of winnings made after the 90th day after the date of the enactment of this Act.

26 USC 3121
note.

(4) SUBSECTION (e).—

(A) The amendments made by paragraphs (1)(A) and (2)(A) of subsection (e) shall apply to services performed after December 31, 1971. The amendments made by paragraphs (1)(B), (1)(C), and (2)(B) of such subsection shall apply to taxable years ending after December 31, 1971. The amendments made by paragraph (3) of such subsection shall apply to calendar years beginning after the date of the enactment of this Act.

(B) Notwithstanding subparagraph (A), if the owner or operator of any boat treated a share of the boat's catch of fish

or other aquatic animal life (or a share of the proceeds therefrom) received by an individual after December 31, 1971, and before the date of the enactment of this Act for services performed by such individual after December 31, 1971, on such boat as being subject to the tax under chapter 21 of the Internal Revenue Code of 1954, then the amendments made by paragraphs (1) (A) and (B) and (2) of subsection (e) shall not apply with respect to such services performed by such individual (and the share of the catch, or proceeds therefrom, received by him for such services).

26 USC 3101.

SEC. 1208. STATE-CONDUCTED LOTTERIES.

(a) **EXEMPTION FROM WAGERING TAX.**—Paragraph (3) of section 4402 (relating to State-conducted sweepstakes) is amended to read as follows:

26 USC 4402.

“(3) **STATE-CONDUCTED LOTTERIES, ETC.**—On any wager placed in a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents.”

(b) **EXEMPTION FROM OCCUPATIONAL TAX ON COIN-OPERATED DEVICES.**—Section 4462(b) (relating to exclusions from definition of coin-operated gaming devices) is amended—

26 USC 4462.

(1) by striking out “or” at the end of paragraph (1),
(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; or”, and

(3) by adding at the end thereof the following new paragraph:

“(3) a vending machine which—

“(A) dispenses tickets on a sweepstakes, wagering pool, or lottery which is conducted by an agency of a State acting under authority of State law, and

“(B) is maintained by the State agency conducting such sweepstakes, wagering pool, or lottery, or by its authorized employees or agents.”

(c) **EFFECTIVE DATES.**—

(1) The amendment made by subsection (a) shall apply with respect to wagers placed after March 10, 1964.

26 USC 4402
note.

(2) The amendments made by subsection (b) shall apply with respect to periods after March 10, 1964.

26 USC 4462
note.

SEC. 1209. MINIMUM EXEMPTION FROM LEVY FOR WAGES, SALARY, AND OTHER INCOME.

(a) **GENERAL RULE.**—Subsection (a) of section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

26 USC 6334.

“(9) **MINIMUM EXEMPTION FOR WAGES, SALARY, AND OTHER INCOME.**—Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d).”

(b) **DETERMINATION OF EXEMPT AMOUNT.**—Section 6334 is amended by adding at the end thereof the following new subsection:

“(d) **EXEMPT AMOUNT OF WAGES, SALARY, OR OTHER INCOME.**—

“(1) **INDIVIDUALS ON WEEKLY BASIS.**—In the case of an individual who is paid or receives all of his wages, salary, and other in-

come on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a) (9) shall be—

“(A) \$50, plus

“(B) \$15 for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Secretary shall prescribe by regulations and—

“(i) over half of whose support for the payroll period was received from the taxpayer,

“(ii) who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) through (9) of section 152(a) (relating to definition of dependents), and

“(iii) who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under subsection (a) (8) for the payroll period.

For purposes of subparagraph (B) (ii) of the preceding sentence, ‘payroll period’ shall be substituted for ‘taxable year’ each place it appears in paragraph (9) of section 152(a).

Regulations.

“(2) INDIVIDUALS ON BASIS OTHER THAN WEEKLY.—In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a) (9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis.”

(c) CONFORMING AMENDMENT.—The paragraph heading for paragraph (8) of section 6334(a) is amended to read as follows:

“(8) JUDGMENTS FOR SUPPORT OF MINOR CHILDREN.—”

(d) LEVY ON WAGES, ETC., TO BE CONTINUING.—

26 USC 6331.

(1) Subsection (d) of section 6331 (relating to levy on salaries and wages) is amended by adding at the end thereof the following new paragraph:

“(3) CONTINUING LEVY ON SALARY AND WAGES.—

“(A) EFFECT OF LEVY.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

“(B) RELEASE AND NOTICE OF RELEASE.—With respect to a levy described in subparagraph (A), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released.”

(2) The second sentence of section 6331(b) (relating to seizure and sale of property) is amended by striking out “A levy” and inserting in lieu thereof “Except as otherwise provided in subsection (d) (3), a levy”.

26 USC 6332.

(3) The first sentence of section 6332(c) (1) (relating to enforcement of levy) is amended by striking out “from the date of such levy” and inserting in lieu thereof “from the date of such levy

(or, in the case of a levy described in section 6331(d)(3), from the date such person would otherwise have been obligated to pay over such amounts to the taxpayer)". *Ante*, p. 1710.

(4) Paragraph (1) of section 6331(d) (relating to levy on salaries and wages) is amended by striking out the last sentence. 26 USC 6331.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply only with respect to levies made after December 31, 1976. 26 USC 6334 note.

SEC. 1210. JOINT COMMITTEE REFUND CASES.

(a) **IN GENERAL.**—Section 6405(a) (relating to reports of refunds and credits) is amended to read as follows: 26 USC 6405.

“(a) **BY TREASURY TO JOINT COMMITTEE.**—No refund or credit of any income, war profits, excess profits, estate, or gift tax, or any tax imposed with respect to private foundations and pension plans under chapters 42 and 43, in excess of \$200,000 shall be made until after the expiration of 30 days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Secretary, is submitted to the Joint Committee on Taxation.” 26 USC 4940, 4971.

(b) **TENTATIVE REFUNDS.**—Section 6405(c) is amended by striking out “\$100,000” and inserting in lieu thereof “\$200,000”.

(c) **AUDIT.**—Section 8023(a) (relating to powers to obtain information from the Internal Revenue Service) is amended by adding at the end thereof the following new sentence: “In the investigation by the Joint Committee on Taxation of the administration of the internal revenue taxes by the Internal Revenue Service, the Chief of Staff of the Joint Committee on Taxation is authorized to secure directly from the Internal Revenue Service such tax returns, or copies of tax returns, and other relevant information, as the Chief of Staff deems necessary for such investigation, and the Internal Revenue Service is authorized and directed to furnish such tax returns and information to the Chief of Staff together with a brief report, with respect to each return, as to any action taken or proposed to be taken by the Service as a result of any audit of the return.” 26 USC 8023.

(d) **EFFECTIVE DATES.**—

(1) The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any refund or credit with respect to which a report has been made before the date of the enactment of this Act under subsection (a) or (c) of section 6405 of the Internal Revenue Code of 1954. 26 USC 6405 note.

(2) The amendment made by subsection (c) shall take effect on January 1, 1977. 26 USC 8023 note.

SEC. 1211. SOCIAL SECURITY ACCOUNT NUMBERS.

(a) Section 208(g) of the Social Security Act is amended, in the matter preceding clause (1) thereof, by striking out “entitled—” and inserting in lieu thereof “entitled, or for any other purpose—”. 42 USC 408.

(b) Section 205(c)(2) of such Act is amended by adding at the end thereof the following new subparagraphs: 42 USC 405.

“(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver’s license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law, and may require any individ-

ual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Secretary.

“(ii) If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (i) of this subparagraph, such provision shall, on and after the date of the enactment of this subparagraph, be null, void, and of no effect.

“(iii) For purposes of clause (i) of this subparagraph, an agency of a State (or political subdivision thereof) charged with the administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from an agency operating pursuant to the provisions of part A or D of title IV of the Social Security Act.

“(iv) For purposes of this subparagraph, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.”

(c) Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

“(d) **USE OF SOCIAL SECURITY ACCOUNT NUMBER.**—The social security account number issued to an individual for purposes of section 205(c)(2)(A) of the Social Security Act shall, except as shall otherwise be specified under regulations of the Secretary, be used as the identifying number for such individual for purposes of this title.”

(d)(1) Section 208 of the Social Security Act is amended by inserting after subsection (g) the following new subsection:

“(h) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States;”

(2) section 208(g)(2) of such Act is amended by adding “or” at the end thereof.

SEC. 1212. ABATEMENT OF INTEREST WHEN RETURN IS PREPARED FOR TAXPAYER BY THE INTERNAL REVENUE SERVICE.

(a) **IN GENERAL.**—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

“(d) **ASSESSMENTS ATTRIBUTABLE TO CERTAIN MATHEMATICAL ERRORS BY INTERNAL REVENUE SERVICE.**—In the case of an assessment of any tax imposed by chapter 1 attributable in whole or in part to a mathematical error described in section 6213(f)(2)(A), if the return was prepared by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in the preparation of income tax returns, the Secretary is authorized to abate the assessment of all or any part of any interest on such deficiency for any period ending on or before the 30th day following the date of notice and demand by the Secretary for payment of the deficiency.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to returns filed for taxable years ending after the date of the enactment of this Act.

42 USC 601,
651.
“State.”

26 USC 6109.
Regulations.

42 USC 405.

42 USC 408.

26 USC 6404.

26 USC 6404
note.

TITLE XIII—TAX EXEMPT ORGANIZATIONS

SEC. 1301. DISPOSITION OF PRIVATE FOUNDATION PROPERTY UNDER TRANSITION RULES OF TAX REFORM ACT OF 1969.

(a) **IN GENERAL.**—Paragraph (2) of section 101(1) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended—

26 USC 4940
note.

- (1) by striking out “and” at the end of subparagraph (D);
- (2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof “; and”; and
- (3) by adding at the end thereof the following new subparagraph:

“(F) the sale, exchange, or other disposition (other than by lease) of property which is owned by a private foundation to a disqualified person if—

“(i) such foundation is leasing substantially all of such property under a lease to which subparagraph (C) applies.

“(ii) the disposition to such disqualified person occurs before January 1, 1978, and

“(iii) such foundation receives in return for the disposition to such disqualified person an amount which equals or exceeds the fair market value of such property at the time of the disposition or at the time (after June 30, 1976) a contract for the disposition was previously executed in a transaction which would not constitute a prohibited transaction (within the meaning of section 503(b) or any corresponding provision of prior law).”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to dispositions after the date of the enactment of this Act in taxable years ending after such date.

26 USC 4940
note.

SEC. 1302. NEW PRIVATE FOUNDATION SET-ASIDES.

(a) **IN GENERAL.**—Section 4942(g)(2) (relating to definition of qualifying distributions) is amended to read as follows:

26 USC 4942.

“(2) **CERTAIN SET-ASIDES.**—

“(A) **IN GENERAL.**—For all taxable years beginning on or after January 1, 1975, subject to such terms and conditions as may be prescribed by the Secretary, an amount set aside for a specific project which comes within one or more purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution if it meets the requirements of subparagraph (B).

Effective date.

“(B) **REQUIREMENTS.**—An amount set aside for a specific project shall meet the requirements of this subparagraph if at the time of the set-aside the foundation establishes to the satisfaction of the Secretary that the amount will be paid for the specific project within 5 years, and either—

“(i) at the time of the set-aside the private foundation establishes to the satisfaction of the Secretary that the project is one which can better be accomplished by such set-aside than by immediate payment of funds, or

“(ii) (I) the project will not be completed before the end of the taxable year of the foundation in which the set-aside is made,

“(II) the private foundation in each taxable year beginning after December 31, 1975 (or after the end of the fourth taxable year following the year of its creation, whichever is later), distributes amounts, in cash or its equivalent, equal to not less than the distributable amount determined under subsection (d) (without regard to subsection (i)) for purposes described in section 170(c)(2)(B) (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in one or more prior years), and

“(III) the private foundation has distributed (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in one or more prior years) during the four taxable years immediately preceding its first taxable year beginning after December 31, 1975, or the fifth taxable year following the year of its creation, whichever is later, an aggregate amount, in cash or its equivalent, of not less than the sum of the following: 80 percent of the first preceding taxable year's distributable amount; 60 percent of the second preceding taxable year's distributable amount; 40 percent of the third preceding taxable year's distributable amount; and 20 percent of the fourth preceding taxable year's distributable amount.

“(C) CERTAIN FAILURES TO DISTRIBUTE.—If, for any taxable year to which clause (ii) (II) of subparagraph (B) applies, the private foundation fails to distribute in cash or its equivalent amounts not less than those required by such clause and—

“(i) the failure to distribute such amounts was not willful and was due to reasonable cause, and

“(ii) the foundation distributes an amount in cash or its equivalent which is not less than the difference between the amounts required to be distributed under clause (ii) (II) of subparagraph (B) and the amounts actually distributed in cash or its equivalent during that taxable year within the initial correction period provided in subsection (j) (2), such distribution in cash or its equivalent shall be treated for the purposes of this subparagraph as made during such year.

“(D) REDUCTION IN DISTRIBUTION AMOUNT.—If, during the taxable years in the adjustment period for which the organization is a private foundation, the foundation distributes amounts in cash or its equivalent which exceed the amount required to be distributed under clause (ii) (II) of subparagraph (B) (including but not limited to payments with respect to set-asides which were treated as qualifying distributions in prior years), then for purposes of this subsection the distribution required under clause (ii) (II) of subparagraph (B) for the taxable year shall be reduced by an amount equal to such excess.

“(E) ADJUSTMENT PERIOD.—For purposes of subparagraph (D), with respect to any taxable year of a private foundation, the taxable years in the adjustment period are the taxable years (not exceeding 5) beginning after December 31, 1975, and immediately preceding the taxable year.

In the case of a set-aside which satisfies the requirements of clause (i) of subparagraph (B), for good cause shown, the period for paying the amount set aside may be extended by the Secretary.”

(b) STATUTE OF LIMITATIONS.—Subsection (n) of section 6501 (relating to limitations on assessments and collections) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN SET-ASIDES DESCRIBED IN SECTION 4942(g)(2).—In the case of a deficiency attributable to the failure of an amount set aside by a private foundation for a specific project to be treated as a qualifying distribution under the provisions of section 4942(g)(2)(B)(i)(II), such deficiency may be assessed at any time before the expiration of 2 years after the expiration of the period within which a deficiency may be assessed for the taxable year to which the amount set aside relates."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1974. 26 USC 4942 note.

SEC. 1303. MINIMUM DISTRIBUTION AMOUNT FOR PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subsection (e) of section 4942 (relating to minimum investment return) is amended to read as follows: 26 USC 4942.

"(e) MINIMUM INVESTMENT RETURN.—

"(1) IN GENERAL.—For purposes of subsection (d), the minimum investment return for any private foundation for any taxable year is 5 percent of the excess of—

"(A) the aggregate fair market value of all assets of the foundation other than those which are used (or held for use) directly in carrying out the foundation's exempt purpose, over

"(B) the acquisition indebtedness with respect to such assets (determined under section 514(c)(1) without regard to the taxable year in which the indebtedness was incurred).

"(2) VALUATION.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the fair market value of securities for which market quotations are readily available shall be determined on a monthly basis. For all other assets, the fair market value shall be determined at such times and in such manner as the Secretary shall by regulations prescribe.

Regulations.

"(B) REDUCTIONS IN VALUE FOR BLOCKAGE OR SIMILAR FACTORS.—In determining the value of any securities under this paragraph, the fair market value of such securities (determined without regard to any reduction in value) shall not be reduced unless, and only to the extent that, the private foundation establishes that as a result of—

"(i) the size of the block of such securities,

"(ii) the fact that the securities held are securities in a closely held corporation, or

"(iii) the fact that the sale of such securities would result in a forced or distress sale, the securities could not be liquidated within a reasonable period of time except at a price less than such fair market value. Any reduction in value allowable under this subparagraph shall not exceed 10 percent of such fair market value."

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1975. 26 USC 4942 note.

SEC. 1304. EXTENSION OF TIME TO AMEND CHARITABLE REMAINDER TRUST GOVERNING INSTRUMENT.

(a) EXTENSION OF TIME.—Section 2055(e)(3) (relating to the allowance of deductions in certain cases) is amended— 26 USC 2055.

(1) by striking out "September 21, 1974," and inserting in lieu thereof "December 31, 1977," and

(2) by striking out "December 31, 1975" each place it appears and inserting in lieu thereof "December 31, 1977".

26 USC 2055
note.

Post, p. 1846.
26 USC 2055.

26 USC 2055
note.

26 USC 513.

Definitions.

(b) **EXTENSION OF PERIOD FOR FILING CLAIM FOR REFUND OF ESTATE TAX PAID.**—A claim for refund or credit of an overpayment of the tax imposed by section 2001 of the Internal Revenue Code of 1954 allowable under section 2055(e) (3) of such Code (as amended by subsection (a)) shall not be denied because of the expiration of the time for filing such a claim under section 6511(a) if such claim is filed not later than June 30, 1978.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply in the case of decedents dying after December 31, 1969.

SEC. 1305. UNRELATED TRADE OR BUSINESS INCOME OF TRADE SHOWS, STATE FAIRS, ETC.

(a) **IN GENERAL.**—Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

“(d) **CERTAIN ACTIVITIES OF TRADE SHOWS, STATE FAIRS, ETC.**—

“(1) **GENERAL RULE.**—The term ‘unrelated trade or business’ does not include qualified public entertainment activities of an organization described in paragraph (2) (C), or qualified convention and trade show activities of an organization described in paragraph (3) (C).

“(2) **QUALIFIED PUBLIC ENTERTAINMENT ACTIVITIES.**—For purposes of this subsection—

“(A) **PUBLIC ENTERTAINMENT ACTIVITY.**—The term ‘public entertainment activity’ means any entertainment or recreational activity of a kind traditionally conducted at fairs or expositions promoting agricultural and educational purposes, including, but not limited to, any activity one of the purposes of which is to attract the public to fairs or expositions or to promote the breeding of animals or the development of products or equipment.

“(B) **QUALIFIED PUBLIC ENTERTAINMENT ACTIVITY.**—The term ‘qualified public entertainment activity’ means a public entertainment activity which is conducted by a qualifying organization described in subparagraph (C) in—

“(i) conjunction with an international, national, State, regional, or local fair or exposition,

“(ii) accordance with the provisions of State law which permit the activity to be operated or conducted solely by such an organization, or by an agency, instrumentality, or political subdivision of such State, or

“(iii) accordance with the provisions of State law which permit such an organization to be granted a license to conduct not more than 20 days of such activity on payment to the State of a lower percentage of the revenue from such licensed activity than the State requires from organizations not described in section 501(c) (3), (4), or (5).

“(C) **QUALIFYING ORGANIZATION.**—For purposes of this paragraph, the term ‘qualifying organization’ means an organization which is described in section 501(c) (3), (4), or (5) which regularly conducts, as one of its substantial exempt purposes, an agricultural and educational fair or exposition.

“(3) **QUALIFIED CONVENTION AND TRADE SHOW ACTIVITIES.**—

“(A) **CONVENTION AND TRADE SHOW ACTIVITY.**—The term ‘convention and trade show activity’ means any activity of a kind traditionally conducted at conventions, annual meetings, or trade shows, including, but not limited to, any activity one

of the purposes of which is to attract persons in an industry generally (without regard to membership in the sponsoring organization) as well as members of the public to the show for the purpose of displaying industry products or to stimulate interest in, and demand for, industry products or services, or to educate persons engaged in the industry in the development of new products and services or new rules and regulations affecting the industry.

“(B) **QUALIFIED CONVENTION AND TRADE SHOW ACTIVITY.**—The term ‘qualified convention and trade show activity’ means a convention and trade show activity carried out by a qualifying organization described in subparagraph (C) in conjunction with an international, national, State, regional, or local convention, annual meeting, or show conducted by an organization described in subparagraph (C) if one of the purposes of such organization in sponsoring the activity is the promotion and stimulation of interest in, and demand for, the products and services of that industry in general, and the show is designed to achieve such purpose through the character of the exhibits and the extent of the industry products displayed.

“(C) **QUALIFYING ORGANIZATION.**—For purposes of this paragraph, the term ‘qualifying organization’ means an organization described in section 501(c)(5) or (6) which regularly conducts as one of its substantial exempt purposes a show which stimulates interest in, and demand for, the products of a particular industry or segment of such industry.

“(4) **SUCH ACTIVITIES NOT TO AFFECT EXEMPT STATUS.**—An organization described in section 501(c)(3), (4), or (5) shall not be considered as not entitled to the exemption allowed under section 501(a) solely because of qualified public entertainment activities conducted by it.”

(b) **EFFECTIVE DATES.**—The amendments made by subsection (a) apply to qualified public entertainment activities in taxable years beginning after December 31, 1962, and to qualified convention and trade show activities in taxable years beginning after the date of enactment of this Act.

26 USC 513
note.

SEC. 1306. DECLARATORY JUDGMENTS WITH RESPECT TO SECTION 501(c)(3) STATUS AND CLASSIFICATION.

(a) **GENERAL RULE.**—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7428 as 7430, and by inserting after section 7427 the following new section:

“SEC. 7428. DECLARATORY JUDGMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.

26 USC 7428.

“(a) **CREATION OF REMEDY.**—In a case of actual controversy involving—

“(1) a determination by the Secretary—

“(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

“(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)), or

26 USC 4942.

“(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), or

“(2) a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1), upon the filing of an appropriate pleading, the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Claims, as the case may be, and shall be reviewable as such.

“(b) LIMITATIONS.—

“(1) PETITIONER.—A pleading may be filed under this section only by the organization the qualification or classification of which is at issue.

“(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service. An organization requesting the determination of an issue referred to in subsection (a)(1) shall be deemed to have exhausted its administrative remedies with respect to a failure by the Secretary to make a determination with respect to such issue at the expiration of 270 days after the date on which the request for such determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

“(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination with respect to an issue referred to in subsection (a)(1) to the organization referred to in paragraph (1), no proceeding may be initiated under this section by such organization unless the pleading is filed before the 91st day after the date of such mailing.

“(c) VALIDATION OF CERTAIN CONTRIBUTIONS MADE DURING PENDENCY OF PROCEEDINGS.—

“(1) IN GENERAL.—If—

“(A) the issue referred to in subsection (a)(1) involves the revocation of a determination that the organization is described in section 170(c)(2),

“(B) a proceeding under this section is initiated within the time provided by subsection (b)(3), and

“(C) either—

“(i) a decision of the Tax Court has become final (within the meaning of section 7481), or

“(ii) a judgment of the district court of the United States for the District of Columbia has been entered, or

“(iii) a judgment of the Court of Claims has been entered,”

and such decision or judgment, as the case may be, determines that the organization was not described in section 170(c)(2),

then, notwithstanding such decision or judgment, such organization shall be treated as having been described in section 170(c)(2) for purposes of section 170 for the period beginning on the date on which the notice of the revocation was published and ending on the date on which the court first determined in such proceeding that the organization was not described in section 170(c)(2).

“(2) LIMITATION.—Paragraph (1) shall apply only—

“(A) with respect to individuals, and only to the extent that the aggregate of the contributions made by any individual to or for the use of the organization during the period specified in paragraph (1) does not exceed \$1,000 (for this purpose treating a husband and wife as one contributor), and

“(B) with respect to organizations described in section 170(c)(2) which are exempt from tax under section 501(a) (for this purpose excluding any such organization with respect to which there is pending a proceeding to revoke the determination under section 170(c)(2)).

“(3) EXCEPTION.—This subsection shall not apply to any individual who was responsible, in whole or in part, for the activities (or failures to act) on the part of the organization which were the basis for the revocation.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7451 (relating to fee for filing petition) is amended by inserting before the period at the end thereof the following: “or under section 7428”. 26 USC 7451.

(2) Section 7459(c) (relating to date of decision) is amended by inserting after “under part IV of this subchapter” the following: “or under section 7428”. *Ante*, p. 1717. 26 USC 7459.

(3) Section 7476(c) (relating to use of Tax Court commissioners) is amended by striking out “this section” and inserting in lieu thereof “this section or section 7428”. 26 USC 7476.

(4) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out “or” at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof “, or”, and by inserting after subparagraph (D) the following new subparagraph: 26 USC 7482.

“(E) in the case of an organization seeking a declaratory decision under section 7428, the principal office or agency of the organization.”.

(5) Section 7482(b)(1) is further amended by striking out “section 7476” in the last sentence and inserting in lieu thereof “section 7428, 7476,”.

(6) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7428 and inserting in lieu thereof the following:

“Sec. 7428. Declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.

“Sec. 7430. Cross references.”

(7) Section 1346(e) of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant), is amended by inserting “or section 7428 (in the case of the United States district court for the District of Columbia)” immediately after “section 7426”.

(8) Section 2201 of title 28, United States Code (relating to creation of declaratory judgment remedy), is amended by striking out “taxes” and inserting in lieu thereof “taxes other than

Ante, p. 1717. actions brought under section 7428 of the Internal Revenue Code of 1954”.

(9) (A) Chapter 92 of title 28, United States Code, is amended by adding at the end thereof the following new section:

28 USC 1507. “§ 1507. Jurisdiction for certain declaratory judgments

“The Court of Claims shall have jurisdiction to hear any suit for and issue a declaratory judgment under section 7428 of the Internal Revenue Code of 1954.”.

(B) The table of sections for such chapter is amended by adding at the end thereof the following new item:

“1507. Jurisdiction for certain declaratory judgments.”

26 USC 7428
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pleadings filed with the United States Tax Court, the district court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after the date of the enactment of this Act but only with respect to determinations (or requests for determinations) made after January 1, 1976.

SEC. 1307. LOBBYING BY PUBLIC CHARITIES.

(a) LOSS OF EXEMPT STATUS.—

26 USC 501.

(1) LOSS OF EXEMPT STATUS BECAUSE OF SUBSTANTIAL LOBBYING.—Section 501 (relating to exemption from income tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) EXPENDITURES BY PUBLIC CHARITIES TO INFLUENCE LEGISLATION.—

“(1) GENERAL RULE.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally—

“(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

“(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) LOBBYING EXPENDITURES.—The term ‘lobbying expenditures’ means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

“(B) LOBBYING CEILING AMOUNT.—The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

“(C) GRASS ROOTS EXPENDITURES.—The term ‘grass roots expenditures’ means expenditures for the purpose of influencing legislation (as defined in section 4911(d)) without regard to paragraph (1)(B) thereof.

“(D) GRASS ROOTS CEILING AMOUNT.—The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

“(3) ORGANIZATIONS TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary may prescribe) to have the provisions of this subsection apply to such organiza-

Post, p.1723.

tion and which, for the taxable year which includes the date the election is made, is described in subsection (c)(3) and—

“(A) is described in paragraph (4), and

“(B) is not a disqualified organization under paragraph (5).

“(4) ORGANIZATIONS PERMITTED TO ELECT TO HAVE THIS SUBSECTION APPLY.—An organization is described in this paragraph if it is described in—

“(A) section 170(b)(1)(A)(ii) (relating to educational institutions),

“(B) section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),

“(C) section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),

“(D) section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),

“(E) section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or

“(F) section 509(a)(3) (relating to organizations supporting certain types of public charities) except that for purposes of this subparagraph, section 509(a)(3) shall be applied without regard to the last sentence of section 509(a).

“(5) DISQUALIFIED ORGANIZATIONS.—For purposes of paragraph (3) an organization is a disqualified organization if it is—

“(A) described in section 170(b)(1)(A)(i) (relating to churches),

“(B) an integrated auxiliary of a church or of a convention or association of churches, or

“(C) a member of an affiliated group of organizations (within the meaning of section 4911(f)(2)) if one or more members of such group is described in subparagraph (A) or (B).

Post, p.1723.

“(6) YEARS FOR WHICH ELECTION IS EFFECTIVE.—An election by an organization under this subsection shall be effective for all taxable years of such organization which—

“(A) end after the date the election is made, and

“(B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary).

Regulations.

“(7) NO EFFECT ON CERTAIN ORGANIZATIONS.—With respect to any organization for a taxable year for which—

“(A) such organization is a disqualified organization (within the meaning of paragraph (5)), or

“(B) an election under this subsection is not in effect for such organization.

nothing in this subsection or in section 4911 shall be construed to affect the interpretation of the phrase, ‘no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,’ under subsection (c)(3).

“(8) AFFILIATED ORGANIZATIONS.—

“For rules regarding affiliated organizations, see section 4911(f).”

(2) STATUS OF ORGANIZATION WHICH CEASES TO QUALIFY FOR EXEMPTION UNDER SECTION 501(C)(3) BECAUSE OF SUBSTANTIAL LOBBYING.—Part I of subchapter F of chapter 1 (relating to general rules as to exempt organizations) is amended by adding at the end thereof the following new section:

26 USC 504.

26 USC 504. "SEC. 504. STATUS AFTER ORGANIZATION CEASES TO QUALIFY FOR EXEMPTION UNDER SECTION 501(c)(3) BECAUSE OF SUBSTANTIAL LOBBYING.

"(a) GENERAL RULE.—An organization which—

"(1) was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

"(2) is not an organization described in section 501(c)(3) by reason of carrying on propaganda, or otherwise attempting, to influence legislation,

shall not at any time thereafter be treated as an organization described in section 501(c)(4).

"(b) REGULATIONS TO PREVENT AVOIDANCE.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

"(c) CHURCHES, ETC.—Subsection (a) shall not apply to any organization which is a disqualified organization within the meaning of section 501(h)(5) (relating to churches, etc.) for the taxable year immediately preceding the first taxable year for which such organization is described in paragraph (2) of subsection (a)."

26 USC 504
note.

(3) RULES OF INTERPRETATION.—It is the intent of Congress that enactment of this section is not to be regarded in any way as an approval or disapproval of the decision of the Court of Appeals for the Tenth Circuit in *Christian Echoes National Ministry, Inc. versus United States*, 470 F.2d 849 (1972), or of the reasoning in any of the opinions leading to that decision.

26 USC 6033.

(4) DISCLOSURE.—Section 6033(b) (relating to information required to be furnished annually by certain exempt organizations) is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

Ante, p. 1720.

"(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year, the following amounts for such organization for such taxable year:

Post, p.1723.

"(A) the lobbying expenditures (as defined in section 4911

(c)(1)),

"(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

"(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

"(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)).

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization."

(b) TAXES ON EXCESS EXPENDITURES TO INFLUENCE LEGISLATION.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 42 the following new chapter:

"CHAPTER 41—PUBLIC CHARITIES

"Sec. 4911. Tax on excess expenditures to influence legislation.

"SEC. 4911. TAX ON EXCESS EXPENDITURES TO INFLUENCE LEGISLATION. 26 USC 4911.

"(a) **TAX IMPOSED.**—

"(1) **IN GENERAL.**—There is hereby imposed on the excess lobbying expenditures of any organization to which this section applies a tax equal to 25 percent of the amount of the excess lobbying expenditures for the taxable year.

"(2) **ORGANIZATIONS TO WHICH THIS SECTION APPLIES.**—This section applies to any organization with respect to which an election under section 501(h) (relating to lobbying expenditures by public charities) is in effect for the taxable year.

Ante, p. 1720.

"(b) **EXCESS LOBBYING EXPENDITURES.**—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the greater of—

"Excess lobbying expenditures."

"(1) the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year, or

"(2) the amount by which the grass roots expenditures made by the organization during the taxable year exceed the grass roots nontaxable amount for such organization for such taxable year.

"(c) **DEFINITIONS.**—For purposes of this section—

"(1) **LOBBYING EXPENDITURES.**—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d)).

"(2) **LOBBYING NONTAXABLE AMOUNT.**—The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) \$1,000,000 or (B) the amount determined under the following table:

"If the proposed expenditures are—	The lobbying nontaxable amount is—
Not over \$500,000-----	20 percent of the exempt purpose expenditures.
Over \$500,000 but not over \$1,000,000--	\$100,000, plus 15 percent of the excess of the exempt purpose expenditures over \$500,000.
Over \$1,000,000 but not over \$1,500,000--	\$175,000 plus 10 percent of the excess of the exempt purpose expenditures over \$1,000,000.
Over \$1,500,000-----	\$225,000 plus 5 percent of the excess of the exempt purpose expenditures over \$1,500,000.

"(3) **GRASS ROOTS EXPENDITURES.**—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d) without regard to paragraph (1) (B) thereof).

"(4) **GRASS ROOTS NONTAXABLE AMOUNT.**—The grass roots nontaxable amount for any organization for any taxable year is 25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.

"(d) **INFLUENCING LEGISLATION.**—

"(1) **GENERAL RULE.**—Except as otherwise provided in paragraph (2), for purposes of this section, the term 'influencing legislation' means—

"Influencing legislation."

"(A) any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof, and

"Influencing legislation."

"(B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation.

"(2) EXCEPTIONS.—For purposes of this section, the term 'influencing legislation', with respect to an organization, does not include—

"(A) making available the results of nonpartisan analysis, study, or research;

"(B) providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;

"(C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, tax-exempt status, or the deduction of contributions to the organization;

"(D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications described in paragraph (3); and

"(E) any communication with a government official or employee, other than—

"(i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

"(ii) a communication the principal purpose of which is to influence legislation.

"(3) COMMUNICATIONS WITH MEMBERS.—

"(A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate as provided in paragraph (1) (B) shall be treated as a communication described in paragraph (1) (B).

"(B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B) of paragraph (1) shall be treated as a communication described in paragraph (1) (A).

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EXEMPT PURPOSE EXPENDITURES.—

"(A) IN GENERAL.—The term 'exempt purpose expenditures' means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in section 170(c) (2) (B) (relating to religious, charitable, educational, etc., purposes).

"(B) CERTAIN AMOUNTS INCLUDED.—The term 'exempt purpose expenditures' includes—

"(i) administrative expenses paid or incurred for purposes described in section 170(c) (2) (B), and

“(ii) amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in section 170(c)(2)(B)).

26 USC 170.

“(C) CERTAIN AMOUNTS EXCLUDED.—The term ‘exempt purpose expenditures’ does not include amounts paid or incurred to or for—

“(i) a separate fundraising unit of such organization, or

“(ii) one or more other organizations, if such amounts are paid or incurred primarily for fundraising.

“(2) LEGISLATION.—The term ‘legislation’ includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

“(3) ACTION.—The term ‘action’ is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

“(4) DEPRECIATION, ETC., TREATED AS EXPENDITURES.—In computing expenditures paid or incurred for the purpose of influencing legislation (within the meaning of subsection (b)(1) or (b)(2)) or exempt purpose expenditures (as defined in paragraph (1)), amounts properly chargeable to capital account shall not be taken into account. There shall be taken into account a reasonable allowance for exhaustion, wear and tear, obsolescence, or amortization. Such allowance shall be computed only on the basis of the straight-line method of depreciation. For purposes of this section, a determination of whether an amount is properly chargeable to capital account shall be made on the basis of the principles that apply under subtitle A to amounts which are paid or incurred in a trade or business.

26 USC 1.

“(f) AFFILIATED ORGANIZATIONS.—

“(1) IN GENERAL.—Except as otherwise provided in paragraph (4), if for a taxable year two or more organizations described in section 501(c)(3) are members of an affiliated group of organizations as defined in paragraph (2), and an election under section 501(h) is effective for at least one such organization for such year, then—

Ante, p. 1720.

“(A) the determination as to whether excess lobbying expenditures have been made and the determination as to whether the expenditure limits of section 501(h)(1) have been exceeded shall be made as though such affiliated group is one organization,

“(B) if such group has excess lobbying expenditures, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which has excess lobbying expenditures in an amount which equals such organization’s proportionate share of such group’s excess lobbying expenditures,

“(C) if the expenditure limits of section 501(h)(1) are exceeded, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which is not described in section 501(c)(3) by reason of the application of 501(h), and

“(D) subparagraphs (C) and (D) of subsection (d)(2), paragraph (3) of subsection (d), and clause (i) of subsec-

tion (e) (1) (C) shall be applied as if such affiliated group were one organization.

“(2) DEFINITION OF AFFILIATION.—For purposes of paragraph (1), two organizations are members of an affiliated group of organizations but only if—

“(A) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

“(B) the governing board of one such organization includes persons who—

“(i) are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

“(ii) by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

Regulations.

“(3) DIFFERENT TAXABLE YEARS.—If members of an affiliated group of organizations have different taxable years, their expenditures shall be computed for purposes of this section in a manner to be prescribed by regulations promulgated by the Secretary.

“(4) LIMITED CONTROL.—If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), no two members of such affiliated group are affiliated (as defined in paragraph (2) without regard to subparagraph (A) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to Acts, bills, resolutions, or similar items by the Congress, then—

“(A) in the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h) (1) shall be made as though such organization has paid or incurred those amounts paid or incurred by such members of such affiliated group to influence legislation with respect to Acts, bills, resolutions, or similar items by the Congress, and

“(B) in the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h) (1) shall be made as though such organization is not a member of such affiliated group.”

Ante, p. 1720.

26 USC 170.

(c) DISALLOWING OF DEDUCTION FOR CONTRIBUTION TO INFLUENCE LEGISLATION.—Section 170(f) (relating to disallowance of charitable contribution deductions in certain cases) is amended by striking out paragraph (6) and inserting in lieu thereof the following:

“(6) DEDUCTIONS FOR OUT-OF-POCKET EXPENDITURES.—No deduction shall be allowed under this section for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) (other than an organization described in section 501(h) (5) (relating to churches, etc.)) if the expendi-

ture is made for the purpose of influencing legislation (within the meaning of section 501(c)(3)).”.

(d) TECHNICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO NEW SECTION 501(h).—

Ante, p. 1720.

26 USC 501.

(A) Section 501(c)(3) is amended by striking out “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,” and inserting in lieu thereof “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)).”.

(B) The following sections are amended by striking out “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,” each place it appears and inserting in lieu thereof in each such place “which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,”:

(i) section 170(c)(2)(D) (relating to the definition of charitable contributions); 26 USC 170.

(ii) section 2055(a)(2) (relating to transfers for public, charitable, and religious uses); 26 USC 2055.

(iii) section 2106(a)(2)(A)(ii) (relating to transfers for public, charitable, and religious uses); 26 USC 2106.

(iv) section 2522(a)(2) (relating to charitable and similar gifts of citizens or residents); and 26 USC 2522.

(v) section 2522(b)(2) (relating to charitable and similar gifts of nonresidents).

(C) Sections 2055(a)(3) and 2106(a)(2)(A)(iii) (relating to transfers for public, charitable, and religious uses) are amended by striking out “no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation,” each place it appears and inserting in lieu thereof in each such place “such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,”.

26 USC 2055,
2106.

(2) AMENDMENTS CONFORMING TO NEW CHAPTER 41.—

(A) Paragraph (6) of section 275(a) (denying deductions for certain taxes), as amended by this Act, is amended to read as follows: 26 USC 275.

“(6) Taxes imposed by chapters 41, 42, 43, and 44.” 26 USC 4911,
4940, 4971.

(B) Section 6104(c)(1)(B) (relating to notification of state officers regarding taxes imposed on certain exempt organizations), is amended by striking out “chapter 42” and inserting in lieu thereof “chapter 41 or 42”. *Post*, p. 1754.
26 USC 6104.

(C) Section 6161(b) (relating to extensions of time for paying tax) is amended— 26 USC 6161.

(i) in paragraph (1) by striking out “12” and inserting in lieu thereof “12, 41”; and

(ii) in the second sentence by striking out “42,” and inserting in lieu thereof “41, 42,”.

(D) Section 6201(d) (relating to assessment authority) is amended by striking out “chapter 42, and chapter 43 taxes” and inserting in lieu thereof “and certain excise taxes”. 26 USC 6201.

26 USC 6211.

(E) Section 6211(a) (defining deficiency) is amended by striking out "chapters 42" and inserting in lieu thereof "chapters 41, 42,".

(F) The following sections are amended by striking out "chapter 42" each place it appears and inserting in lieu thereof in each such place "chapter 41, 42,";

26 USC 6212.

(i) subsections (a) and (b) (2) of section 6211 (defining deficiency);

26 USC 6213.

(ii) section 6212(a) (relating to notice of deficiency);

(iii) section 6213(a) (relating to restrictions applicable to deficiencies and petitions to Tax Court);

26 USC 6214.

(iv) subsections (c) and (d) of section 6214 (relating to determinations by Tax Court);

26 USC 6344.

(v) section 6344(a) (1) (relating to cross references);

26 USC 6501.

(vi) section 6501(e) (3) (relating to limitations on assessment and collection);

26 USC 6512.

(vii) subsections (a) and (b) (1) of section 6512 (relating to limitations in case of petition to Tax Court); and

26 USC 7422.

(viii) section 7422(e) (relating to civil actions for refund).

26 USC 6212.

(G) Section 6212 (relating to notice of deficiency) is amended—

(i) in subsection (b) (1) by striking out "chapter 42" each place it appears and inserting in lieu thereof in each place "chapter 41, chapter 42"; and

(ii) in subsection (c) (1) by striking out "of chapter 43 tax for the same taxable years," and inserting in lieu thereof "of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable year,".

(H) The headings of section 6214(c) (relating to determinations by Tax Court) and 6601(c) (relating to interest on underpayments, etc.) are amended by striking out "Chapter 42" and inserting in lieu thereof in each such place "Chapter 41, 42,".

(3) AMENDMENTS TO TABLES OF CHAPTERS AND SECTIONS.—

(A) The table of chapters for subtitle D is amended by inserting before the item relating to chapter 42 the following:

"Chapter 41. Public charities."

(B) The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following:

"Sec. 504. Status after organization ceases to qualify for exemption under section 501(c) (3) because of substantial lobbying."

26 USC 501
note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply—

26 USC 1.

(1) except as otherwise specified in paragraph (2), in the case of amendments to subtitle A, to taxable years beginning after December 31, 1976;

(2) in the case of the amendments made by subsection (a) (2), to activities occurring after the date of the enactment of this Act;

26 USC 2001.

(3) in the case of amendments to chapter 11, to the estates of decedents dying after December 31, 1976;

26 USC 2501.

(4) in the case of amendments to chapter 12, to gifts in calendar years beginning after December 31, 1976;

(5) in the case of amendments to subtitle D, to taxable years beginning after December 31, 1976; and 26 USC 4001.

(6) in the case of amendments to subtitle F, on and after the date of the enactment of this Act. 26 USC 6001.

SEC. 1308. TAX LIENS, ETC., NOT TO CONSTITUTE ACQUISITION INDEBTEDNESS.

(a) **GENERAL RULE.**—Section 514(c)(2) (relating to property acquired subject to mortgages, etc.) is amended by adding at the end thereof the following new subparagraph: 26 USC 514.

“(C) **LIENS FOR TAXES OR ASSESSMENTS.**—Where State law provides that—

“(i) a lien for taxes, or

“(ii) a lien for assessments,

made by a State or a political subdivision thereof attaches to property prior to the time when such taxes or assessments become due and payable, then such lien shall be treated as similar to a mortgage (within the meaning of subparagraph (A)) but only after such taxes or assessments become due and payable and the organization has had an opportunity to pay such taxes or assessments in accordance with State law.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years ending after December 31, 1969. 26 USC 514 note.

SEC. 1309. EXTENSION OF SELF-DEALING TRANSITION RULES FOR PRIVATE FOUNDATIONS.

(a) **EXTENSION OF RULE.**—Section 101(1)(2)(B) of the Tax Reform Act of 1969 is amended by striking out “January 1, 1975” and inserting in lieu thereof “January 1, 1977”. 26 USC 4940 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to dispositions made after the date of the enactment of this Act.

SEC. 1310. IMPUTED INTEREST.

(a) **GENERAL RULE.**—Section 4942(f)(2) (relating to income modifications) is amended— 26 USC 4942.

(1) by striking out “and” at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “; and”, and

(3) by adding at the end thereof the following new subparagraph:

“(D) section 483 (relating to imputed interest) shall not apply in the case of a binding contract made in a taxable year beginning before January 1, 1970.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 4942 note.

SEC. 1311. CERTAIN HOSPITAL SERVICES.

(a) **IN GENERAL.**—Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection: 26 USC 513.

“(e) **CERTAIN HOSPITAL SERVICES.**—In the case of a hospital described in section 170(b)(1)(A)(iii), the term ‘unrelated trade or business’ does not include the furnishing of one or more of the services described in section 501(e)(1)(A) to one or more hospitals described in section 170(b)(1)(A)(iii) if— “Unrelated trade or business.”

“(1) such services are furnished solely to such hospitals which have facilities to serve not more than 100 inpatients;

“(2) such services, if performed on its own behalf by the recipient hospital, would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption; and

“(3) such services are provided at a fee or cost which does not exceed the actual cost of providing such services, such cost including straight line depreciation and a reasonable amount for return on capital goods used to provide such services.”

26 USC 513
note.
26 USC 1.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to all taxable years to which the Internal Revenue Code of 1954 applies.

SEC. 1312. CLINICAL SERVICES OF COOPERATIVE HOSPITALS.

26 USC 501.

(a) **IN GENERAL.**—Section 501(e)(1)(A) (relating to cooperative hospital service organizations) is amended by inserting “clinical,” after “food,”.

26 USC 501
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years ending after December 31, 1976.

SEC. 1313. EXEMPTION OF CERTAIN AMATEUR ATHLETIC ORGANIZATIONS FROM TAX.

26 USC 501.

(a) **IN GENERAL.**—Paragraph (3) of section 501(c) (relating to exempt religious, charitable, etc., organizations) is amended by inserting after “or educational purposes,” the following: “or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),”.

(b) **TREATMENT OF GIFTS TO SUCH ORGANIZATIONS FOR INCOME, ESTATE AND GIFT TAX PURPOSES.**—

26 USC 170.

(1) Subparagraph (B) of section 170(c)(2) (relating to definition of charitable contribution) is amended by inserting after “or educational purposes” the following: “, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),”.

26 USC 2055.

(2) Paragraph (2) of section 2055(a) (relating to transfers for public, charitable, and religious uses) is amended by inserting after “the encouragement of art” the following: “, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),”.

26 USC 2522.

(3) Paragraph (2) of section 2522(a) (relating to charitable and similar gifts) is amended by inserting after “or educational purposes” the following: “, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),”.

26 USC 501
note.

(c) An organization which (without regard to the amendments made by this section) is an organization described in section 170(c)(2)(B), 501(c)(3), 2055(a)(2), or 2522(a)(2) of the Internal Revenue Code of 1954 shall not be treated as an organization not so described as a result of the amendments made by this section.

26 USC 501
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply on the day following the date of the enactment of this Act.

TITLE XIV—TREATMENT OF CERTAIN CAPITAL LOSSES; HOLDING PERIOD FOR CAPITAL GAINS AND LOSSES

SEC. 1401. INCREASE IN AMOUNT OF ORDINARY INCOME AGAINST WHICH CAPITAL LOSS MAY BE OFFSET.

(a) **GENERAL RULE.**—Subparagraph (B) of section 1211(b)(1) (relating to limitation on capital losses for taxpayers other than corporations) is amended by striking out “\$1,000” and inserting in lieu thereof “the applicable amount”. 26 USC 1211.

(b) **APPLICABLE AMOUNT DEFINED.**—Paragraph (2) of section 1211(b) (relating to limitation on capital losses for taxpayers other than corporations) is amended to read as follows:

“(2) **APPLICABLE AMOUNT.**—For purposes of paragraph (1) (B), the term ‘applicable amount’ means—

“(A) \$2,000 in the case of any taxable year beginning in 1977; and

“(B) \$3,000 in the case of any taxable year beginning after 1977.

In the case of a separate return by a husband or wife, the applicable amount shall be one-half of the amount determined under the preceding sentence.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1976. 26 USC 1211 note.

SEC. 1402. INCREASE IN HOLDING PERIOD REQUIRED FOR CAPITAL GAIN OR LOSS TO BE LONG TERM.

(a) **INCREASE IN TWO STEPS FROM 6 MONTHS TO 1 YEAR.**—

(1) **TAXABLE YEARS BEGINNING IN 1977.**—Effective with respect to taxable years beginning in 1977, paragraphs (1), (2), (3), and (4) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out “6 months” and inserting in lieu thereof “9 months”. 26 USC 1222.

(2) **TAXABLE YEARS BEGINNING AFTER 1977.**—Effective with respect to taxable years beginning after December 31, 1977, paragraphs (1), (2), (3), and (4) of section 1222 are each amended by striking out “9 months” and inserting in lieu thereof “1 year”.

(b) **CONFORMING AMENDMENTS.**—

(1) **TAXABLE YEARS BEGINNING IN 1977.**—Effective with respect to taxable years beginning in 1977, the following provisions are each amended by striking out “6 months” each place it appears and inserting in lieu thereof “9 months”:

(A) Paragraph (1) (B) of section 166(d) (relating to non-business debts). 26 USC 166.

(B) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations). 26 USC 341.

(C) Paragraph (2) of subsection (a) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees’ trust) and subparagraph (L) of paragraph (4) of section 402(e) (relating to election to treat pre-1974 participation as post-1973 participation). 26 USC 402.

(D) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan). 26 USC 403.

- 26 USC 423. (E) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).
- 26 USC 424. (F) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).
- 26 USC 582. (G) Paragraph (2) of section 582(c) (relating to capital gains of banks).
- 26 USC 584. (H) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).
- 26 USC 631. (I) Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore).
- 26 USC 642. (J) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).
- 26 USC 644. (K) Section 644 (relating to special holding period rules for gain on property transferred to trust at less than fair market value).
- 26 USC 702. (L) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).
- 26 USC 817. (M) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).
- 26 USC 852. (N) Subparagraph (B) of paragraph (3), and paragraph (4), of section 852(b) (relating to taxation of shareholders of regulated investment companies).
- 26 USC 856. (O) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).
- 26 USC 857. (P) Subparagraph (B) of paragraph (3), and paragraph (5), of section 857(b) (relating to taxation of shareholders of real estate investment trusts).
- 26 USC 1223. (Q) Paragraph (11) of section 1223 (relating to holding period of property).
- 26 USC 1231. (R) Section 1231 (relating to property used in the trade or business and involuntary conversions).
- 26 USC 1232. (S) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).
- 26 USC 1233. (T) Subsections (b), (d), and (e) of section 1233 (relating to gains and losses from short sales).
- Post*, p. 1929. (U) Paragraph (1) of section 1234(b) (relating to special rule for gain on lapse of an option granted as part of a straddle), as amended by this Act.
- 26 USC 1235. (V) Subsection (a) of section 1235 (relating to sale or exchange of patents).
- 26 USC 1246. (W) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).
- 26 USC 1247. (X) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).
- 26 USC 1248. (Y) Subsection (b), and subparagraph (C) of subsection (f)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).
- 26 USC 1251. (Z) Paragraph (1) of section 1251(e) (defining farm recapture property).

(2) TAXABLE YEARS BEGINNING AFTER 1977.—Effective with respect to taxable years beginning after December 31, 1977, each

provision referred to in paragraph (1) is amended by striking out "9 months" each place it appears and inserting in lieu thereof "1 year". *Ante*, p. 1731.

(3) **TECHNICAL AMENDMENT.**—Effective with respect to taxable years beginning after December 31, 1976, section 631(a) (relating to gain or loss in the case of timber) is amended by striking out "before the beginning of such year". 26 USC 631.

(c) **TRANSITIONAL RULE FOR CERTAIN INSTALLMENT OBLIGATIONS.**—In the case of amounts received from sales or other dispositions of capital assets pursuant to binding contracts, including sales or other dispositions the income from which is returned on the basis and in the manner prescribed in section 453(a)(1) of the Internal Revenue Code of 1954, if the gain or loss was treated as long-term for the taxable year for which the amount was realized, such gain or loss shall be treated as long-term for the taxable year for which the gain or loss is returned or otherwise recognized. 26 USC 453 note.

(d) **RETENTION OF 6-MONTH PERIOD FOR FUTURES TRANSACTIONS IN COMMODITIES.**—Section 1222 (relating to other terms relating to capital gains and losses) is amended by adding at the end thereof the following new sentence: 26 USC 1222.

"For purposes of this subtitle, in the case of futures transactions in any commodity subject to the rules of a board of trade or commodity exchange, the length of the holding period taken into account under this section or under any other section amended by section 1402 of the Tax Reform Act of 1976 shall be determined without regard to the amendments made by subsections (a) and (b) of such section 1402."

SEC. 1403. ALLOWANCE OF 8-YEAR CAPITAL LOSS CARRYOVER IN CASE OF REGULATED INVESTMENT COMPANIES.

(a) **GENERAL RULE.**—Paragraph (1) of section 1212(a) (relating to capital loss carrybacks and carryovers for corporations) is amended by striking out "and" at the end of subparagraph (A) and by striking out subparagraph (B) and inserting in lieu thereof the following: 26 USC 1212.

"(B) except as provided in subparagraph (C), a capital loss carryover to each of the 5 taxable years succeeding the loss year; and

"(C) a capital loss carryover—

"(i) in the case of a regulated investment company (as defined in section 851) to each of the 8 taxable years succeeding the loss year, and

"(ii) to the extent such loss is attributable to a foreign expropriation capital loss, to each of the 10 taxable years exceeding the loss year."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to loss years (within the meaning of section 1212(a)(1) of the Internal Revenue Code of 1954) ending on or after January 1, 1970. 26 USC 1212 note.

SEC. 1404. SALE OF RESIDENCE BY ELDERLY.

(a) **IN GENERAL.**—Section 121(b)(1) (relating to gain from sale or exchange of residence of individual who has attained age 65) is amended by striking out "\$20,000" each place it appears therein and inserting in lieu thereof "\$35,000". 26 USC 121.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976. 26 USC 121 note.

TITLE XV—PENSION AND INSURANCE TAXATION

SEC. 1501. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS.

(a) ALLOWANCE OF DEDUCTION.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as 221 and by inserting after section 219 the following new section:

26 USC 220.

“SEC. 220. RETIREMENT SAVINGS FOR CERTAIN MARRIED INDIVIDUALS.

“(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction amounts paid in cash for a taxable year by or on behalf of such individual for the benefit of himself and his spouse—

“(1) to an individual retirement account described in section 408(a),

“(2) for an individual retirement annuity described in section 408(b), or

“(3) for a retirement bond described in section 409 (but only if the bond is not redeemed within 12 months of the date of its issuance).

For purposes of this title, any amount paid by an employer to such a retirement account or for such a retirement annuity or retirement bond constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

“(b) LIMITATIONS AND RESTRICTIONS.—

“(1) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) to an individual for any taxable year may not exceed—

“(A) twice the amount paid to the account or annuity, or for the bond, established for the individual or for his spouse to or for which the lesser amount was paid for the taxable year,

“(B) an amount equal to 15 percent of the compensation includible in the individual's gross income for the taxable year, or

“(C) \$1,750,

whichever is the smallest amount.

“(2) ALTERNATIVE DEDUCTION.—No deduction is allowed under subsection (a) for the taxable year if the individual claims the deduction allowed by section 219 for the taxable year.

“(3) COVERAGE UNDER CERTAIN OTHER PLANS.—No deduction is allowed under subsection (a) for an individual for the taxable year if for any part of such year—

“(A) he or his spouse was an active participant in—

“(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

“(ii) an annuity plan described in section 408(a),

“(iii) a qualified bond purchase plan described in section 405(a), or

“(iv) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or
 “(B) amounts were contributed by his employer, or his spouse’s employer, for an annuity contract described in section 403(b) (whether or not his, or his spouse’s, rights in such contract are nonforfeitable).

26 USC 403.

“(4) CONTRIBUTIONS AFTER AGE 70½.—No deduction is allowed under subsection (a) with respect to any payment which is made for a taxable year of an individual if either the individual or his spouse has attained age 70½ before the close of such taxable year.

“(5) RECONTRIBUTED AMOUNTS.—No deduction is allowed under this section with respect to a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C).

“(6) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no deduction is allowed under subsection (a) for that portion of the amounts paid under the contract for the taxable year properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

“(7) EMPLOYED SPOUSES.—No deduction is allowed under subsection (a) with respect to a payment described in subsection (a) made for any taxable year of the individual if the spouse of the individual has any compensation (determined without regard to section 911) for the taxable year of such spouse ending with or within such taxable year.

“(c) DEFINITIONS AND SPECIAL RULES.—

“(1) COMPENSATION.—For purposes of this section, the term ‘compensation’ includes earned income as defined in section 401(c)(2).

“(2) MARRIED INDIVIDUALS.—This section shall be applied without regard to any community property laws.

“(3) DETERMINATION OF MARITAL STATUS.—The determination of whether an individual is married for purposes of this section shall be made in accordance with the provisions of section 143(a).

“(4) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than 45 days after the end of such taxable year.

“(5) PARTICIPATION IN GOVERNMENTAL PLANS BY CERTAIN INDIVIDUALS.—A member of a reserve component of the armed forces or a volunteer firefighter is not considered to be an active participant in a plan described in subsection (b)(3)(A)(iv) if, under section 219(c)(4), he is not considered to be an active participant in such a plan.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (10) of section 62 (relating to retirement savings) is amended by inserting before the period the following: “and the deduction allowed by section 220 (relating to retirement savings for certain married individuals)”. 26 USC 62.

(2) Paragraph (2) of section 408(c) is amended by inserting “(or spouse of an employee or member)” after “member”. 26 USC 408.

(3) Subsection (a) of section 415 (relating to limitations on benefits and contributions under qualified plans) is amended— 26 USC 415.

(A) by striking out “In the case” in paragraph (2) and inserting in lieu thereof “Except as provided in paragraph (3), in the case”, and

(B) by adding at the end thereof the following new paragraph:

“(3) ACCOUNTS, ETC., ESTABLISHED FOR NON-EMPLOYED SPOUSE.—Paragraph (2) shall not apply for any year to an account, annuity, or bond described in section 408(a), 408(b), or 409, respectively, established for the benefit of the spouse of the individual contributing to such account, or for such annuity or bond, if a deduction is allowed under section 220 to such individual with respect to such contribution for such year.”

Ante, p. 1734.

26 USC 219.

(4) Section 219 (relating to retirement savings) is amended—

(A) by striking out “during” in subsection (a) and inserting in lieu thereof “for”,

(B) by adding at the end of subsection (b) the following new paragraph:

“(6) ALTERNATIVE DEDUCTION.—No deduction is allowed under subsection (a) for the taxable year if the individual claims the deduction allowed by section 220 for the taxable year.”

(C) by adding at the end of subsection (c) (2) the following new sentence: “For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a).”, and

(D) by adding at the end of subsection (c) the following new paragraph:

“(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than 45 days after the end of such taxable year.”

26 USC 408.

(5) Paragraph (4) of section 408(d) (relating to excess contributions returned before due date of return) is amended—

(A) by inserting “or 220” after “219”, and

(B) by striking out the last sentence and inserting in lieu thereof the following: “In the case of such a distribution, for purposes of section 61, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such excess contribution is made.”

26 USC 409.

(6) Paragraph (4) of section 409(a) (relating to retirement bonds) is amended by striking out “in any taxable year” and inserting in lieu thereof “for any taxable year”.

26 USC 3401.

(7) Paragraph (12) of section 3401(a) (relating to definition of wages) is amended by inserting “or 220(a)” after “219(a)”.

26 USC 4973.

(8) Section 4973 (relating to tax on excess contributions to individual retirement accounts, etc.) is amended—

(A) by striking out “such individual” in the last sentence of subsection (a) and inserting in lieu thereof the following: “the individual to whom a deduction is allowed for the taxable year under section 219 (determined without regard to subsection (b) (1) thereof or section 220 (determined without regard to subsection (b) (1) thereof), whichever is appropriate”;

(B) by inserting “or 220” after “219” in subsection (b) (1) (B); and

(C) by striking out paragraph (2) of subsection (b) and inserting in lieu thereof the following:

“(2) the amount determined under this subsection for the preceding taxable year, reduced by the excess (if any) of the maximum amount allowable as a deduction under section 219

or 220 for the taxable year over the amount contributed to the accounts or for the annuities or bonds for the taxable year and reduced by the sum of the distributions out of the account (for the taxable year and all prior taxable years) which were included in the gross income of the payee under section 408(d)(1). *Ante*, p. 1734.

For purposes of this subsection, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed if such distribution consists of an excess contribution solely because of employer contributions to a plan or contract described in section 219(b)(2) or by reason of the application of section 219(b)(1) (without regard to the \$1,500 limitation) or section 220(b)(1) (without regard to the \$1,750 limitation) and only if such distribution does not exceed the excess of \$1,500 or \$1,750 if applicable, over the amount described in paragraph (1)(B)."

(9) Subsection (d) of section 6047 (relating to other programs) is amended by inserting "or 220(a)" after "219(a)". 26 USC 6047.

(10) Paragraph (1) of section 408(d) (relating to tax treatment of distributions) is amended by striking out the second sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title (including chapters 11 and 12), the basis any person in such an account or annuity is zero." 26 USC 408.

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 220 and inserting in lieu thereof the following:

"Sec. 220. Retirement savings for certain married individuals.

"Sec. 221. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section, other than the amendment made by subsection (b)(3), shall apply to taxable years beginning after December 31, 1976. The amendment made by subsection (b)(3) shall apply to years beginning after December 31, 1976. 26 USC 220 note.

SEC. 1502. LIMITATION ON CONTRIBUTIONS TO CERTAIN PENSION, ETC., PLANS.

(a) IN GENERAL.—

(1) LIMIT ON CONTRIBUTIONS.—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding at the end thereof the following new paragraph: 26 USC 415.

"(5) APPLICATION WITH SECTION 404(e)(4).—In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1), the amount determined under paragraph (1)(B) with respect to any participant shall not be less than the amount deductible under section 404(e) with respect to any individual who is an employee within the meaning of section 401(c)(1)."

(2) MINIMUM DEDUCTION LIMITATION.—Section 404(e)(4) of such Code (relating to minimum deductible amount for pension plan contributions by self-employed individuals) is amended by adding after subparagraph (B) the following: "This paragraph does not apply for any taxable year to any employee whose adjusted gross income for such taxable year (determined separately for each individual, without regard to any community property laws, and without regard to the deduction allowable under subsection (a)) exceeds \$15,000." 26 USC 404.

26 USC 415
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) (1) shall apply to years beginning after December 31, 1975. The amendment made by subsection (a) (2) shall apply to taxable years beginning after December 31, 1975.

SEC. 1503. PARTICIPATION BY MEMBERS OF RESERVES OR NATIONAL GUARD, AND VOLUNTEER FIREFIGHTERS IN INDIVIDUAL RETIREMENT ACCOUNTS, ETC.

26 USC 219.

(a) **GENERAL RULE.**—Section 219(c) (relating to definitions and special rules for retirement savings deduction) is amended by adding at the end thereof the following new paragraph:

“(4) **PARTICIPATION IN GOVERNMENTAL PLANS BY CERTAIN INDIVIDUALS.**—

“(A) **MEMBERS OF RESERVE COMPONENTS.**—A member of a reserve component of the armed forces (as defined in section 261(a) of title 10) is not considered to be an active participant in a plan described in subsection (b) (3) (A) (iv) for a taxable year solely because he is a member of a reserve component unless he has served in excess of 90 days on active duty (other than active duty for training) during the year.

“(B) **VOLUNTEER FIREFIGHTERS.**—An individual whose participation in a plan described in subsection (b) (3) (A) (iv) is based solely upon his activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of \$1,800 (when expressed as a single life annuity commencing at age 65) is not considered to be an active participant in such a plan for the taxable year.”

26 USC 219
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 1504. CERTAIN INVESTMENTS BY ANNUITY PLANS.

26 USC 403.

(a) **IN GENERAL.**—Paragraph (7) of section 403(b) (relating to custodial accounts for regulated investment company stock) is amended by striking out “, and which issues only redeemable stock” in subparagraph (C).

26 USC 403
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section applies to taxable years beginning after December 31, 1975.

SEC. 1505. SEGREGATED ASSET ACCOUNTS.

26 USC 801.

(a) **SEGREGATED ASSET ACCOUNTS OF LIFE INSURANCE COMPANIES.**—Paragraph (1) (B) of section 801(g) is amended—

(1) by striking out clause (ii) and inserting in lieu thereof the following:

“(ii) which is described in subparagraph (A), (B), (C), (D), or (E) of section 805(d)(1) (other than a life, health or accident, property, casualty, or liability insurance contract) or which provides for the payment of annuities, and”, and

(2) by striking out “as annuities” in clause (iii) and inserting in lieu thereof “out”.

26 USC 401.

(b) **CONFORMING AMENDMENT.**—Section 401 (relating to qualified pension, etc. plans) is amended by striking out subsection (f) and inserting in lieu thereof the following:

“(f) **CERTAIN CUSTODIAL ACCOUNTS AND CONTRACTS.**—For purposes of this title, a custodial account, an annuity contract, or a contract (other than a life, health or accident, property, casualty, or liability insurance contract) issued by an insurance company qualified to do

business in a State shall be treated as a qualified trust under this section if—

“(1) the custodial account or contract would, except for the fact that it is not a trust, constitute a qualified trust under this section, and

“(2) in the case of a custodial account the assets thereof are held by a bank (as defined in subsection (d) (1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will hold the assets will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or contract treated as a qualified trust under this section by reason of this subsection, the person holding the assets of such account or holding such contract shall be treated as the trustee thereof.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section apply for taxable years beginning after December 31, 1975.

26 USC 801
note.

SEC. 1506. STUDY OF SALARY REDUCTION PENSION PLANS.

Section 2006 of the Employee Retirement Income Security Act of 1974 is amended—

26 USC 401
note.

(1) by striking out “January 1, 1977” each place it appears and inserting in lieu thereof “January 1, 1978”, and

(2) by striking out “December 31, 1976” in subsection (d) and inserting in lieu thereof “December 31, 1977”.

SEC. 1507. CONSOLIDATED RETURNS FOR LIFE AND OTHER INSURANCE COMPANIES.

(a) **IN GENERAL.**—Section 1504(c) (relating to the definition of includible insurance companies) is amended to read as follows:

26 USC 1504.

“(c) **INCLUDIBLE INSURANCE COMPANIES.**—Notwithstanding the provisions of paragraph (2) of subsection (b)—

“(1) Two or more domestic insurance companies each of which is subject to tax under section 802 shall be treated as includible corporations for purposes of applying subsection (a) to such insurance companies alone.

“(2) (A) If an affiliated group (determined without regard to subsection (b) (2) includes one or more domestic insurance companies taxed under section 802 or 821, the common parent of such group may elect (pursuant to regulations prescribed by the Secretary) to treat all such companies as includible corporations for purposes of applying subsection (a) except that no such company shall be so treated until it has been a member of the affiliated group for the 5 taxable years immediately preceding the taxable year for which the consolidated return is filed.

“(B) If an election under this paragraph is in effect for a taxable year—

“(i) section 243(b) (6) and the exception provided under section 243(b) (5) with respect to subsections (b) (2) and (c) of this section,

“(ii) section 542(b) (5), and

“(iii) subsection (a) (4) and (b) (2) (D) of section 1563, and the reference to section 1563(b) (2) (D) contained in section 1563(b) (3) (C),

shall not be effective for such taxable year.

(b) **SPECIAL RULES AND CONFORMING AMENDMENTS.**—

(1) Section 821 (relating to tax on mutual insurance companies to which part II applies, as amended by section 1901(a) (104) (C) of this Act,) is amended by redesignating subsection (e) as sub-

26 USC 821.
Post, p. 1764.

section (f), and by adding after subsection (d) the following new subsection:

“(e) **TAX APPLICABLE TO MEMBER OF GROUP FILING CONSOLIDATED RETURN.**—Notwithstanding any other provision of this section, if a mutual insurance company to which this section applies joins in the filing of a consolidated return (or is required to so file), the applicable tax shall consist of a normal tax and a surtax computed as provided in section 11 as though the mutual insurance company taxable income of such company were the taxable income referred to in section 11.”.

Ante, p. 1606.

26 USC 843.

(2) Section 843 (relating to annual accounting period) is amended by adding at the end thereof the following sentence: “Under regulations prescribed by the Secretary, an insurance company which joins in the filing of a consolidated return (or is required to so file) may adopt the taxable year of the common parent corporation even though such year is not a calendar year.”

26 USC 1503.

(3) Section 1503 (relating to computation and payment of tax) is amended by adding the following new subsection:

“(c) **SPECIAL RULE FOR APPLICATION OF CERTAIN LOSSES AGAINST INCOME OF INSURANCE COMPANIES TAXED UNDER SECTION 802.**—

“(1) **IN GENERAL.**—If an election under section 1504(c) (2) is in effect for the taxable year and the consolidated taxable income of the members of the group not taxed under section 802 results in a consolidated net operating loss for such taxable year, then under regulations prescribed by the Secretary, the amount of such loss which cannot be absorbed in the applicable carryback periods against the taxable income of such members not taxed under section 802 shall be taken into account in determining the consolidated taxable income of the affiliated group for such taxable year to the extent of 35 percent of such loss or 35 percent of the taxable income of the members taxed under section 802, whichever is less. The unused portion of such loss shall be available as a carryover, subject to the same limitations (applicable to the sum of the loss for the carryover year and the loss (or losses) carried over to such year), in applicable carryover years. For purposes of this subsection, in determining the taxable income of each insurance company subject to tax under section 802, section 802(b) (3) shall not be taken into account. For taxable years ending with or within calendar year 1981, ‘25 percent’ shall be substituted for ‘35 percent’ each place it appears in the first sentence of this subsection. For taxable years ending with or within calendar year 1982, ‘30 percent’ shall be substituted for ‘35 percent’ each place it appears in that sentence.

“(2) **LOSSES OF RECENT NONLIFE AFFILIATES.**—Notwithstanding the provisions of paragraph (1), a net operating loss for a taxable year of a member of the group not taxed under section 802 shall not be taken into account in determining the taxable income of a member taxed under section 802 (either for the taxable year or as a carryover or carryback) if such taxable year precedes the sixth taxable year such members have been members of the same affiliated group (determined without regard to section 1504(b) (2)).”

26 USC 1504
note.

(c) **EFFECTIVE DATE AND TRANSITIONAL RULES.**—

(1) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1980.

(2) **TRANSITION RULES WITH RESPECT TO CARRYOVERS OR CARRYBACKS RELATING TO PRE-ELECTION TAXABLE YEARS AND NONTERMINATION OF GROUP.**—

(A) LIMITATIONS ON CARRYOVERS OR CARRYBACKS FOR GROUPS ELECTING UNDER SECTION 1504(C)(2).—If an affiliated group elects to file a consolidated return pursuant to section 1504(c)(2) of the Internal Revenue Code of 1954, a carryover of a loss or credit from a taxable year ending before January 1, 1981, and losses or credits which may be carried back to taxable years ending before such date, shall be taken into account as if this section had not been enacted.

(B) NONTERMINATION OF AFFILIATED GROUP.—The mere election to file a consolidated return pursuant to such section 1504(c)(2) shall not cause the termination of an affiliated group filing consolidated returns.

SEC. 1508. TREATMENT OF CERTAIN LIFE INSURANCE CONTRACTS GUARANTEED RENEWABLE.

(a) IN GENERAL.—Paragraph (d)(5) of section 809 (relating to certain nonparticipating contracts) is amended by adding at the end thereof the following sentence: "For purposes of this paragraph, the period for which any contract is issued or renewed includes the period for which such contract is guaranteed renewable." 26 USC 809.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1957. 26 USC 809 note.

SEC. 1509. STUDY OF EXPANDED PARTICIPATION IN INDIVIDUAL RETIREMENT ACCOUNTS. 26 USC 8022 note.

The Joint Committee on Taxation shall carry out a study with respect to broadening the class of individuals who are eligible to claim a deduction for retirement savings under section 219 or 220 of the Internal Revenue Code of 1954 to include individuals who are participants in pension plans described in section 401(a) of such Code (relating to qualified pension, profit-sharing, and stock bonus plans) or similar plans established for its employees by the United States, by a State or political division thereof, or by an agency or instrumentality of the United States or a State or political division thereof. The Joint Committee shall report its findings to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. 26 USC 219. Ante, p. 1734. Report to congressional committees.

SEC. 1510. TAXABLE STATUS OF PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Section 4002(g)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(f)(1)) is amended by inserting "by the United States (other than taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to Federal Insurance Contributions Act, and chapter 23 of such Code, relating to Federal Unemployment Tax Act), or" immediately after "imposed". 26 USC 3101. 26 USC 3301.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 2, 1974. 29 USC 1302 note.

SEC. 1511. LEVEL PREMIUM PLANS COVERING OWNER-EMPLOYEES.

(a) IN GENERAL.—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding after paragraph (6) the following new paragraph: 26 USC 415.

"(7) CERTAIN LEVEL PREMIUM ANNUITY CONTRACTS UNDER PLANS BENEFITING OWNER-EMPLOYEES.—Paragraph (1)(B) shall not apply to a contribution described in section 401(e) which is made on behalf of a participant for a year to a plan which benefits an owner-employee (within the meaning of section 401(c)(3)), if—

“(A) the annual addition determined under this section with respect to the participant for such year consists solely of such contribution, and

“(B) the participant is not an active participant at any time during such year in a defined benefit plan maintained by the employer.

26 USC 401.

For purposes of this section and section 401(e), in the case of a plan which provides contributions or benefits for employees who are not owner-employees, such plan will not be treated as failing to satisfy section 401(a)(4) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the limitations of paragraph (1)(B).”

26 USC 415
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply for years beginning after December 31, 1975.

SEC. 1512. LUMP-SUM DISTRIBUTIONS FROM QUALIFIED PENSION, ETC., PLANS.

26 USC 402.

(a) **IN GENERAL.**—Section 402(e)(4) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

“(L) **ELECTION TO TREAT PRE-1974 PARTICIPATION AS POST-1973 PARTICIPATION.**—For purposes of subparagraph (E), subsection (a)(2), and section 403(a)(2), if a taxpayer elects (at the time and in the manner provided under regulations prescribed by the Secretary), all calendar years of an employee’s active participation in all plans in which the employee has been an active participant shall be considered years of active participation by such employee after December 31, 1973. An election made under this subparagraph, once made, shall be irrevocable and shall apply to all lump-sum distributions received by the taxpayer with respect to the employee. This subparagraph shall not apply if the taxpayer received a lump-sum distribution in a previous taxable year of the employee beginning after December 31, 1975, unless no portion of such lump-sum distribution was treated under subsection (a)(2) or section 403(a)(2) as gain from the sale or exchange of a capital asset held for more than 6 months.”

26 USC 402
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to distributions and payments made after December 31, 1975, in taxable years beginning after such date.

TITLE XVI—REAL ESTATE INVESTMENT TRUSTS

SEC. 1601. DEFICIENCY DIVIDEND PROCEDURE.

(a) **IN GENERAL.**—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

26 USC 859.

“SEC. 859. DEDUCTION FOR DEFICIENCY DIVIDENDS.

“(a) **GENERAL RULE.**—If a determination (as defined in subsection (c)) with respect to a real estate investment trust results in any adjustment (as defined in subsection (b)(1)) for any taxable year, a deduction shall be allowed to such trust for the amount of deficiency dividends (as defined in subsection (d)) for purposes of determining

the deduction for dividends paid (for purposes of section 857) for such year. 26 USC 857.

“(b) RULES FOR APPLICATION OF SECTION.—

“(1) ADJUSTMENT.—For purposes of this section, the term ‘adjustment’ means—

“(A) any increase in the sum of—

“(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain), and

“(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A),

“(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net capital gain over the deduction for capital gains dividends paid), and *Post*, p. 1756.

“(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

“(2) INTEREST AND ADDITIONS TO TAX DETERMINED WITH RESPECT TO THE AMOUNT OF DEFICIENCY DIVIDEND DEDUCTION ALLOWED.—For purposes of determining interest, additions to tax, and additional amounts—

“(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the real estate investment trust for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year,

“(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(c)) for the taxable year with respect to which the determination is made, and

“(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

“(3) CREDIT OR REFUND.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

“(c) DETERMINATION.—For purposes of this section, the term ‘determination’ means— *“Determination.”*

“(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

“(2) a closing agreement made under section 7121; or

“(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the real estate investment trust relating to the liability of such trust for tax. *Regulations.*

26 USC 561.

“(d) DEFICIENCY DIVIDENDS.—

“(1) DEFINITION.—For purposes of this section, the term ‘deficiency dividends’ means a distribution of property made by the real estate investment trust on or after the date of the determination and before filing claim under subsection (e), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists, if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (e).

“(2) LIMITATIONS.—

“(A) ORDINARY DIVIDENDS.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain dividends) paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

“(i) the excess of the amount of increase referred to in subparagraph (A) of subsection (b)(1) over the amount of any increase in the deduction for dividends paid (computed without regard to capital gain dividends) for such taxable year which results from such determination, and

“(ii) the amount of decrease referred to in subparagraph (C) of subsection (b)(1).

“(B) CAPITAL GAIN DIVIDENDS.—The amount of deficiency dividends qualifying as capital gain dividends paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of subsection (b)(1) exceeds (ii) the amount of any dividends paid during such taxable year which are designated as capital gain dividends after such determination.

“(3) EFFECT ON DIVIDENDS PAID DEDUCTION.—

“(A) FOR TAXABLE YEAR IN WHICH PAID.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

“(B) FOR PRIOR TAXABLE YEAR.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

“(e) CLAIM REQUIRED.—No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefor is filed within 120 days after the date of the determination.

“(f) SUSPENSION OF STATUTE OF LIMITATIONS AND STAY OF COLLECTION.—

“(1) SUSPENSION OF RUNNING OF STATUTE.—If the real estate investment trust files a claim as provided in subsection (e), the

running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

“(2) **STAY OF COLLECTION.**—In the case of any deficiency established by a determination under this section—

“(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

“(B) if claim for a deficiency dividend deduction is filed under subsection (e), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

“(g) **DEDUCTION DENIED IN CASE OF FRAUD.**—No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

“(h) **PENALTY.**—

“For assessable penalty with respect to liability for tax of real estate investment trust which is allowed a deduction under subsection (a), see section 6697.”

(2) The table of sections for such part II is amended by adding at the end thereof the following new item:

“Sec. 859. Deduction for deficiency dividends.”

(b) **PENALTY.**—

(1) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

“**SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF REAL ESTATE INVESTMENT TRUSTS.** 26 USC 6697.

“(a) **CIVIL PENALTY.**—In addition to any other penalty provided by law, any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase.

Ante, p. 1742.

“(b) **50-PERCENT LIMITATION.**—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a) for such taxable year.

- 26 USC 6211. “(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).”
- (2) The table of sections for such subchapter B is amended by adding at the end thereof the following:
- “Sec. 6697. Assessable penalties with respect to liability for tax of real estate investment trusts.”
- 26 USC 857. (c) LATE DESIGNATION AND PAYMENT OF CAPITAL GAIN DIVIDEND.—The first sentence of subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: “; except that, if there is an increase in the excess described in subparagraph (A)(ii) of this paragraph for such year which results from a determination (as defined in section 859(c)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination”.
- 26 USC 316. (d) DEFINITION OF DIVIDEND.—Subsection (b) of section 316 (relating to the definition of dividend) is amended by adding a new paragraph (3) at the end thereof, to read as follows:
- “(3) DEFICIENCY DIVIDEND DISTRIBUTIONS BY A REAL ESTATE INVESTMENT TRUST.—The term ‘dividend’ also means any distribution of property (whether or not a dividend as defined in subsection (a)) which constitutes a ‘deficiency dividend’ as defined in section 859(d).”
- 26 USC 381. (e) CARRYOVER OF DEFICIENCY DIVIDEND.—Section 381(c) (relating to carryovers in certain corporate acquisitions) is amended by adding a new paragraph (25) at the end thereof, to read as follows:
- “(25) DEFICIENCY DIVIDEND OF REAL ESTATE INVESTMENT TRUST.—If the acquiring corporation pays a deficiency dividend (as defined in section 859(d)) with respect to the distributor or transferor corporation, such distributor or transferor corporation shall, with respect to such payments, be entitled to the deficiency dividend deduction provided in section 859.”
- Ante*, p. 1742.
- 26 USC 6422. (f) TECHNICAL AMENDMENTS.—
- (1) Section 6422 (relating to certain cross references) is amended by adding a new paragraph (14) at the end thereof to read as follows:
- “(14) for credit or refund in case of deficiency dividends paid by a real estate investment trust, see section 859.”
- 26 USC 6503. (2) Section 6503(i) (relating to certain cross references) is amended by adding a new paragraph (5) at the end thereof, to read as follows:
- “(5) Deficiency dividends of a real estate investment trust, see section 859(f).”
- 26 USC 6515. (3) Section 6515 (relating to certain cross references) is amended by adding a new paragraph (8) at the end thereof, to read as follows:
- “(8) Deficiency dividends of a real estate investment trust, see section 859.”
- SEC. 1602. TRUST NOT DISQUALIFIED IN CERTAIN CASES WHERE INCOME TESTS WERE NOT MET.
- 26 USC 856. (a) DISQUALIFICATION NOT APPLIED.—Section 856(c) (relating to limitations) is amended by adding at the end thereof the following new paragraph:

“(7) A corporation, trust, or association which fails to meet the requirements of paragraph (2) or (3), or of both such paragraphs, for any taxable year shall nevertheless be considered to have satisfied the requirements of such paragraphs for such taxable year if—

“(A) the nature and amount of each item of its gross income described in such paragraphs is set forth in a schedule attached to its income tax return for such taxable year;

“(B) the inclusion of any incorrect information in the schedule referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

“(C) the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, is due to reasonable cause and not due to willful neglect.”.

(b) IMPOSITION OF SPECIAL TAXES.—

(1) Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph: 26 USC 857.

“(5) IMPOSITION OF TAX IN CASE OF FAILURE TO MEET CERTAIN REQUIREMENTS.—If section 856(c)(7) applies to a real estate investment trust for any taxable year, there is hereby imposed on such trust a tax in an amount equal to the greater of— *Ante*, p. 1742.

“(A) the excess of—

“(i) 95 percent (90 percent in the case of taxable years beginning before January 1, 1980) of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

“(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(2); or

“(B) the excess of—

“(i) 75 percent of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

“(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(3), multiplied by a fraction the numerator of which is the real estate investment trust taxable income for the taxable year (determined without regard to the deductions provided in paragraphs (2)(B) and (2)(E), without regard to any net operating loss deduction, and by excluding any net capital gain) and the denominator of which is the gross income for the taxable year (excluding gross income from prohibited transactions; gross income and gain from foreclosure property (as defined in section 856(e), but only to the extent such gross income and gain is not described in subparagraph (A), (B), (C), (D), (E), or (G) of section 856(c)(3)); long-term capital gain; and short-term capital gain to the extent of any short-term capital loss).” 26 USC 856. *Post*, p. 1750.

(2) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by inserting after subparagraph (D) (as redesignated by section 1606(a) of this Act) the following new subparagraph: 26 USC 857.

“(E) There shall be deducted an amount equal to the tax imposed by paragraph (5) for the taxable year.”.

SEC. 1603. TREATMENT OF PROPERTY HELD FOR SALE TO CUSTOMERS.

26 USC 856. (a) **ELIMINATION OF HOLDING FOR SALE RULE AS QUALIFICATION REQUIREMENT.**—Section 856(a) (defining real estate investment trust) is amended by striking out paragraph (4).

26 USC 857. (b) **TAX ON INCOME FROM PROPERTY DESCRIBED IN SECTION 1221(1) THAT IS NOT FORECLOSURE PROPERTY.**—Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by inserting after paragraph (5) (as added by section 1602(b)(1) of this Act) the following new paragraph:

“(6) **INCOME FROM PROHIBITED TRANSACTIONS.**—

“(A) **IMPOSITION OF TAX.**—There is hereby imposed for each taxable year of every real estate investment trust a tax equal to 100 percent of the net income derived from prohibited transactions.

“(B) **DEFINITIONS.**—For purposes of this part—

“(i) the term ‘net income derived from prohibited transactions’ means the excess of the gain from prohibited transactions over the deductions allowed by this chapter which are directly connected with prohibited transactions;

“(ii) the term ‘net loss derived from prohibited transactions’ means the excess of the deductions allowed by this chapter which are directly connected with prohibited transactions over the gain from prohibited transactions; and

“(iii) the term ‘prohibited transaction’ means a sale or other disposition of property described in section 1221(1) which is not foreclosure property.”

(c) **TECHNICAL AMENDMENTS.**—

26 USC 856. (1) So much of paragraph (3) of section 856(c) (relating to limitations) as precedes subparagraph (A) thereof is amended to read as follows:

“(3) at least 75 percent of its gross income (excluding gross income from prohibited transactions) is derived from—”

(2) Section 856(c)(2) (relating to limitations) is amended by inserting before the semicolon in subparagraph (D) thereof “which is not property described in section 1221(1)”.

(3) Section 856(c)(3) (relating to limitations) is amended by inserting before the semicolon in subparagraph (C) thereof “which is not property described in section 1221(1)”.

(4) Section 856(e)(1) (defining foreclosure property) is amended by adding at the end thereof the following sentence: “Such term does not include property acquired by the real estate investment trust as a result of indebtedness arising from the sale or other disposition of property of the trust described in section 1221(1) which was not originally acquired as foreclosure property.”

26 USC 857. (5) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by adding a new subparagraph (F) immediately after subparagraph (E) (as added by section 1602(b)(2) of this Act), to read as follows:

“(F) There shall be excluded an amount equal to any net income derived from prohibited transactions and there shall be included an amount equal to any net loss derived from prohibited transactions.”

SEC. 1604. OTHER CHANGES IN LIMITATIONS AND REQUIREMENTS.

(a) INCREASE IN 90-PERCENT GROSS INCOME REQUIREMENT TO 95 PERCENT.—Section 856(c) (2) (relating to limitations) is amended by striking out “90 percent of its gross income” and inserting in lieu thereof “95 percent (90 percent for taxable years beginning before January 1, 1980) of its gross income (excluding gross income from prohibited transactions)”. 26 USC 856.

(b) APPORTIONMENT OF RENTAL INCOME AND CHARGES FOR CUSTOMARY SERVICES; CHANGE IN DEFINITION OF INDEPENDENT CONTRACTOR.—Subsection (d) of section 856 (defining rents from real property) is amended to read as follows:

“(d) RENTS FROM REAL PROPERTY DEFINED.—

“(1) AMOUNTS INCLUDED.—For purposes of paragraphs (2) and (3) of subsection (c), the term ‘rents from real property’ includes (subject to paragraph (2))—

“(A) rents from interests in real property,

“(B) charges for services customarily furnished or rendered in connection with the rental of real property, whether or not such charges are separately stated, and

“(C) rent attributable to personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

For purposes of subparagraph (C), with respect to each lease of real property, rent attributable to personal property for the taxable year is that amount which bears the same ratio to total rent for the taxable year as the average of the adjusted bases of the personal property at the beginning and at the end of the taxable year bears to the average of the aggregate adjusted bases of both the real property and the personal property at the beginning and at the end of such taxable year.

“(2) AMOUNTS EXCLUDED.—For purposes of paragraphs (2) and (3) of subsection (c), the term ‘rents from real property’ does not include—

“(A) except as provided in paragraph (4), any amount received or accrued, directly or indirectly, with respect to any real or personal property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term ‘rents from real property’ solely by reason of being based on a fixed percentage or percentages of receipts or sales);

“(B) any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

“(i) in the case of any person which is a corporation, stock of such person possessing 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stock of such person; or

“(ii) in the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

“(C) any amount received or accrued, directly or indirectly, with respect to any real or personal property if the real

estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income.

“(3) **INDEPENDENT CONTRACTOR DEFINED.**—For purposes of this subsection and subsection (e), the term ‘independent contractor’ means any person—

“(A) who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust; and

“(B) if such person is a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if such person is not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

“(4) **SPECIAL RULE FOR CERTAIN CONTINGENT RENTS.**—Where a real estate investment trust receives or accrues, with respect to real or personal property, any amount which would be excluded from the term ‘rents from real property’ solely because the tenant of the real estate investment trust receives or accrues, directly or indirectly, from subtenants any amount the determination of which depends in whole or in part on the income or profits derived by any person from such property, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from that tenant will be excluded from the term ‘rents from real property’.

“(5) **CONSTRUCTIVE OWNERSHIP OF STOCK.**—For purposes of this subsection, the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that ‘10 percent’ shall be substituted for ‘50 percent’ in subparagraph (C) of section 318(a) (2) and 318(a) (3).”

(c) **COMMITMENT FEES.**—

26 USC 856.

(1) **IN GENERAL.**—Paragraphs (2) and (3) of section 856(c) (relating to limitations) are each amended by striking out “and” after the semicolon at the end of subparagraph (E), by inserting “and” after the semicolon at the end of subparagraph (F), and by adding at the end thereof the following new subparagraph:

“(G) amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase or lease real property (including interests in real property and interests in mortgages on real property);”

26 USC 857.

(2) **CONFORMING AMENDMENT.**—Section 857(b) (4) (B) (relating to net income from foreclosure property) is amended by striking out “(D), or (E)” in subdivision (i) and inserting in lieu thereof “(D), (E), or (G)”.

(d) **INCOME FROM SALE OF MORTGAGES HELD LESS THAN 4 YEARS.**—Section 856(c) (4) (relating to limitations) is amended to read as follows:

“(4) less than 30 percent of its gross income is derived from the sale or other disposition of—

- “(A) stock or securities held for less than 6 months;
- “(B) section 1221(1) property (other than foreclosure property); and
- “(C) real property (including interests in real property and interests in mortgages on real property) held for less than 4 years other than—

- “(i) property compulsorily or involuntarily converted within the meaning of section 1033, and
 - “(ii) property which is foreclosure property within the definition of section 856(e); and”.

(e) **OPTIONS TO PURCHASE REAL PROPERTY TREATED AS INTERESTS IN REAL PROPERTY.**—Section 856(c) (6) (C) (relating to limitations) is amended to read as follows: 26 USC 856.

“(C) The term ‘interests in real property’ includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon, but does not include mineral, oil, or gas royalty interests.” “Interests in real property.”

(f) **REAL ESTATE INVESTMENT TRUSTS MAY BE INCORPORATED.**—

(1) **IN GENERAL.**—So much of subsection (a) of section 856 (defining real estate investment trust) as precedes paragraph (3) thereof is amended to read as follows:

“(a) **IN GENERAL.**—For purposes of this title, the term ‘real estate investment trust’ means a corporation, trust, or association— “Real estate investment trust.”

- “(1) which is managed by one or more trustees or directors;
- “(2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;”.

(2) **EXCEPTION FOR FINANCIAL INSTITUTIONS AND INSURANCE COMPANIES.**—Section 856(a) (defining real estate investment trust) is amended by inserting after paragraph (3) the following new paragraph:

Ante, p. 1748.

“(4) which is neither (A) a financial institution to which section 585, 586, or 593 applies, nor (B) an insurance company to which subchapter L applies;”.

26 USC 801.

(3) **CONFORMING AMENDMENTS.**—

(A) So much of section 856(c) (relating to limitations) as precedes paragraph (1) thereof is amended by striking out “A trust or association” and inserting in lieu thereof “A corporation, trust, or association”.

(B) The second sentence of section 857(d) (relating to earnings and profits) is amended by striking out “a domestic unincorporated trust” and inserting in lieu thereof “a domestic corporation, trust,”.

26 USC 857.

(g) **INTEREST.**—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (e) the following new subsection:

“(f) **INTEREST.**—For purposes of paragraphs (2) (B) and (3) (B) of subsection (c), the term ‘interest’ does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that: “Interest.”

“(1) any amount so received or accrued shall not be excluded from the term ‘interest’ solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

“(2) where a real estate investment trust receives or accrues any amount which would be excluded from the term ‘interest’

solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from such debtor will be excluded from the term 'interest'.

The provisions of this subsection shall apply only with respect to amounts received or accrued pursuant to loans made after May 27, 1976. For purposes of the preceding sentence, a loan is considered to be made before May 28, 1976, if such loan is made pursuant to a binding commitment entered into before May 28, 1976."

26 USC 858.

(h) CERTAIN DIVIDENDS.—The first sentence of section 858(a) (relating to dividends paid by real estate investment trust after close of taxable year) is amended—

(1) by inserting "(and specifies in dollar amounts)" after "to the extent the trust elects in such return", and

(2) by striking out "paid during such taxable year" and inserting in lieu thereof "paid only during such taxable year".

(i) ADOPTION OF ANNUAL ACCOUNTING PERIOD.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

26 USC 860.

"SEC. 860. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle, a real estate investment trust shall not change to or adopt any annual accounting period other than the calendar year."

(2) The table of sections for such part II is amended by adding at the end thereof the following:

"Sec. 860. Adoption of annual accounting period."

26 USC 857.

(j) CHANGE IN DISTRIBUTION REQUIREMENTS.—Section 857(a) (1) (relating to requirements applicable to real estate investment trusts) is amended to read as follows:

"(1) the deduction for dividends paid during the taxable year (as defined in section 561, but determined without regard to capital gains dividends) equals or exceeds—

"(A) the sum of—

"(i) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the real estate investment trust taxable income for the taxable year (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain); and

"(ii) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the excess of the net income from foreclosure property over the tax imposed on such income by subsection (b) (4) (A); minus

"(B) the sum of—

"(i) the amount of any penalty imposed on the real estate investment trust by section 6697 which is paid by such trust during the taxable year; and

"(ii) the net loss derived from prohibited transactions, and".

Ante, p. 1745.

(k) MANNER AND EFFECT OF TERMINATION OR REVOCATION OF ELECTION.—

(1) **IN GENERAL.**—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (f) (as added by section 1604(g) of this Act) the following new subsection:

26 USC 856.

“(g) **TERMINATION OF ELECTION.**—

“(1) **FAILURE TO QUALIFY.**—An election under subsection (c) (1) made by a corporation, trust, or association shall terminate if the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply for the taxable year with respect to which the election is made, or for any succeeding taxable year. Such termination shall be effective for the taxable year for which the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply, and for all succeeding taxable years.

“(2) **REVOCATION.**—An election under subsection (c) (1) made by a corporation, trust, or association may be revoked by it for any taxable year after the first taxable year for which the election is effective. A revocation under this paragraph shall be effective for the taxable year in which made and for all succeeding taxable years. Such revocation must be made on or before the 90th day after the first day of the first taxable year for which the revocation is to be effective. Such revocation shall be made in such manner as the Secretary shall prescribe by regulations.

Regulations.

“(3) **ELECTION AFTER TERMINATION OR REVOCATION.**—Except as provided in paragraph (4), if a corporation, trust, or association has made an election under subsection (c) (1) and such election has been terminated or revoked under paragraph (1) or paragraph (2), such corporation, trust, or association (and any successor corporation, trust, or association) shall not be eligible to make an election under subsection (c) (1) for any taxable year prior to the fifth taxable year which begins after the first taxable year for which such termination or revocation is effective.

“(4) **EXCEPTION.**—If the election of a corporation, trust, or association has been terminated under paragraph (1), paragraph (3) shall not apply if—

“(A) the corporation, trust, or association does not willfully fail to file within the time prescribed by law an income tax return for the taxable year with respect to which the termination of the election under subsection (c) (1) occurs;

“(B) the inclusion of any incorrect information in the return referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

“(C) the corporation, trust, or association establishes to the satisfaction of the Secretary that its failure to qualify as a real estate investment trust to which the provisions of this part apply is due to reasonable cause and not due to willful neglect.”

(2) **CONFORMING AMENDMENTS.**—

(A) Section 856(c) (1) (relating to limitations) is amended by striking out the semicolon at the end and inserting in lieu thereof “, and such election has not been terminated or revoked under subsection (g);”.

(B) Section 857(a) (relating to requirements applicable to real estate investment trust) is amended by striking out “(other than subsection (d) of this section)” and inserting in lieu thereof “(other than subsection (d) of this section and subsection (g) of section 856)”.

26 USC 857.

SEC. 1605. EXCISE TAX.

(a) **IMPOSITION OF TAX.**—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

“CHAPTER 44—REAL ESTATE INVESTMENT TRUSTS

“Sec. 4981. Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year.

26 USC 4981. **“SEC. 4981. EXCISE TAX BASED ON CERTAIN REAL ESTATE INVESTMENT TRUST TAXABLE INCOME NOT DISTRIBUTED DURING THE TAXABLE YEAR.**

“Effective with respect to taxable years beginning after December 31, 1979, there is hereby imposed on each real estate investment trust for the taxable year a tax equal to 3 percent of the amount (if any) by which 75 percent of the real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(B), and by excluding any net capital gain for the taxable year) exceeds the amount of the dividends paid deduction (as defined in section 561, but computed without regard to capital gains dividends as defined in section 857(b)(3)(C) and without regard to any dividend paid after the close of the taxable year) for the taxable year. For purposes of the preceding sentence, the determination of the real estate investment trust taxable income shall be made by taking into account only the amount and character of the items of income and deduction as reported by such trust in its return for the taxable year.”

(b) **TECHNICAL AMENDMENTS.**—

26 USC 275. (1) Paragraph (6) of section 275(a) (relating to denial of deduction for certain taxes) is amended by striking out “and chapter 43.” and inserting in lieu thereof “, chapter 43, and chapter 44.”

26 USC 857. (2) Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by adding at the end thereof the following new subsection:

“(e) **CROSS REFERENCE.**—

“For provisions relating to excise tax based on certain real estate investment trust taxable income not distributed during the taxable year, see section 4981.”

26 USC 6161. (3) Section 6161(b)(1) relating to extensions of time for payment of tax), as amended by this Act, is amended by striking out “42 or 43” and inserting in lieu thereof “42, 43, or 44”. The second sentence of section 6161(b) is amended by striking out “or chapter 43” and inserting in lieu thereof “43, or 44”.

26 USC 6211. (4) Section 6211 (defining deficiency) is amended—
 (A) by striking out “and 43” in subsection (a) and inserting in lieu thereof “43, and 44”,
 (B) by striking out “or 43” in subsection (a) and inserting in lieu thereof “43, or 44”, and
 (C) by striking out “or 43” in subsection (b)(2) and inserting in lieu thereof “43, or 44”.

26 USC 6212. (5) Section 6212 (relating to notice of deficiency) is amended—
 (A) by striking out “or 43” in subsection (a) and inserting in lieu thereof “43, or 44”,

(B) by striking out “or chapter 43” in subsection (b) (1) and inserting in lieu thereof “chapter 43, or chapter 44”, 26 USC 4971.

(C) by striking out “chapter 43, and this chapter” in subsection (b) (1) and inserting in lieu thereof “chapter 43, chapter 44, and this chapter”, and *Ante*, p. 1754.

(D) by striking out “of chapter 43 tax for the same taxable years,” in subsection (c) (1) and inserting in lieu thereof “of chapter 43 tax for the same taxable years, of chapter 44 tax for the same taxable years,”.

(6) Section 6213(a) (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended by striking out “or 43” and inserting in lieu thereof “43, or 44”. 26 USC 6213.

(7) Section 6214 (relating to determinations by Tax Court) is amended— 26 USC 6214.

(A) by striking out “or 43” in the heading of subsection (c) and inserting in lieu thereof “43, or 44”, and

(B) by striking out “or 43” each place it appears in subsection (c) and inserting in lieu thereof “43, or 44”, and

(C) by striking out “or 43” in subsection (d) and inserting in lieu thereof “43, or 44”.

(8) Section 6344(a) (1) (relating to cross references) is amended by striking out “or 43” and inserting in lieu thereof “43, or 44”. 26 USC 6344.

(9) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out “or 43” each place it appears and inserting in lieu thereof “43, or 44”. 26 USC 6512.

(10) Section 6601(c) (relating to suspension of interest in certain income, etc. tax cases) is amended by striking out in the heading thereof “or 43” and inserting in lieu thereof “43, or 44”. 26 USC 6601.

(11) Section 7422 (relating to civil actions for refund) is amended by striking out “or 43” in subsection (e) and inserting in lieu thereof “43, or 44”. 26 USC 7422.

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following:

“Chapter 44. Real estate investment trusts.”

SEC. 1606. ALLOWANCE OF NET OPERATING LOSS CARRYOVER.

(a) ALLOWANCE OF DEDUCTION.—Section 857(b) (2) (relating to real estate investment trust taxable income) is amended by striking out subparagraph (E) and by redesignating subparagraph (F) as subparagraph (D). 26 USC 857.

(b) YEARS TO WHICH LOSS MAY BE CARRIED.—Section 172(b) (1) (relating to years to which a net operating loss may be carried) is amended by inserting after subparagraph (D) thereof the following: 26 USC 172.

“(E) In the case of a taxpayer which has a net operating loss for any taxable year for which the provisions of part II of subchapter M (relating to real estate investment trusts) apply to such taxpayer, such loss shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss, except, in the case of a net operating loss for a taxable year ending before January 1, 1976, such loss shall not be carried to the 6th, 7th, or 8th taxable year following the taxable year of such loss unless part II of subchapter M applied to the taxpayer for the taxable year to which the loss is carried and for all intervening taxable years following the year of loss.

26 USC 856.

26 USC 856. A net operating loss shall not be carried back to a taxable year for which part II of subchapter M applied to the taxpayer."

26 USC 172. (c) DETERMINATION OF THE AMOUNT OF THE NET OPERATING LOSS AND THE CARRYOVER.—Section 172(d) (relating to modifications in computing net operating loss) is amended by adding a new paragraph (7) at the end thereof, to read as follows:

"(7) In the case of any taxable year for which part II of subchapter M (relating to real estate investment trusts) applies to the taxpayer—

"(A) the net operating loss for such taxable year shall be computed by taking into account the adjustments described in section 857(b)(2) (other than the deduction for dividends paid described in section 857(b)(2)(B)); and

"(B) where such taxable year is a 'prior taxable year' referred to in paragraph (2) of subsection (b), the term 'taxable income' in such paragraph shall mean 'real estate investment trust taxable income' (as defined in section 857(b)(2))."

26 USC 857. (d) CONFORMING AMENDMENT.—Subparagraph (B) of section 857(b)(2) (relating to real estate investment trust taxable income), as redesignated by section 1607(b) of this Act, is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (D)".

SEC. 1607. ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.

26 USC 857. (a) ALTERNATIVE TAX.—Section 857(b)(3)(A) (relating to imposition of tax on capital gain) is amended to read as follows:

"(A) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year a real estate investment trust has a net capital gain, then, in lieu of the tax imposed by subsection (b)(1), there is hereby imposed a tax (if such tax is less than the tax imposed by such subsection) which shall consist of the sum of—

"(i) a tax, computed as provided in subsection (b)(1), on the real estate investment trust taxable income (determined by excluding such net capital gain and by computing the deduction for dividends paid without regard to capital gain dividends), and

"(ii) a tax of 30 percent of the excess of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only."

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 857(b)(2) (relating to method of taxation of real estate investment trust taxable income) is amended by deleting subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

26 USC 46. (B) Subsection (e)(2) of section 46 (relating to investment credit) is amended—

(i) by striking out "857(b)(2)(C)" in subparagraph (B) and inserting in lieu thereof "857(b)(2)(B)", and

(ii) by inserting "determined without regard to any deduction for capital gains dividends (as defined in section 857(b)(3)(C)) and by excluding any net capital gain" immediately before the period at the end of the last sentence thereof.

(C) Section 443(e) (5) (relating to cross references) is amended by striking out “857(b) (2) (D)” and inserting in lieu thereof “857(b) (2) (C)”. 26 USC 443.

(2) Subparagraph (B) of section 857(b) (2) (relating to real estate investment trust taxable income), as redesignated by paragraph (1) of this subsection, is amended by striking out “shall be computed without regard to capital gains dividends and”. 26 USC 857.

(3) Section 857(b) (3) (C) (relating to definition of capital gain dividend) is amended by inserting after the second sentence thereof the following: “For purposes of this subparagraph, the net capital gain shall be deemed not to exceed the real estate investment trust taxable income (determined without regard to the deduction for dividends paid (as defined in section 561) for the taxable year).”

SEC. 1608. EFFECTIVE DATE FOR TITLE.

(a) DEFICIENCY DIVIDEND PROCEDURES.—The amendments made by section 1601 shall apply with respect to determinations (as defined in section 859(c) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act. If the amendments made by section 1601 apply to a taxable year ending on or before the date of enactment of this Act: 26 USC 859 note. *Ante*, p. 1742.

(1) the reference to section 857(b) (3) (A) (ii) in sections 857(b) (3) (C) and 859(b) (1) (B) of such Code, as amended, shall be considered to be a reference to section 857(b) (3) (A) of such Code, as in effect immediately before the enactment of this Act, and

(2) the reference to section 857(b) (2) (B) in section 859(a) of such Code, as amended, shall be considered to be a reference to section 857(b) (2) (C) of such Code, as in effect immediately before the enactment of this Act.

(b) TRUST NOT DISQUALIFIED IN CERTAIN CASES WHERE INCOME TESTS NOT MET.—The amendment made by section 1602 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act. In addition, the amendments made by section 1602 shall apply to a taxable year of a real estate investment trust beginning before the date of the enactment of this Act if, as the result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954) with respect to such trust occurring after the date of the enactment of this Act, such trust for such taxable years does not meet the requirements of section 856(c) (2) or section 856(c) (3), or of both such sections, of such Code as in effect for such taxable year. In any case, the amendment made by section 1602(a) requiring a schedule to be attached to the income tax return of certain real estate investment trusts shall apply only to taxable years of such trusts beginning after the date of the enactment of this Act. If the amendments made by section 1602 apply to a taxable year ending on or before the date of enactment of this Act, the reference to paragraph (2) (B) in section 857(b) (5) of such Code, as amended, shall be considered to be a reference to paragraph (2) (C) of section 857(b) of such Code, as in effect immediately before the enactment of this Act. 26 USC 856 note. *Ante*, p. 1747.

(c) ALTERNATIVE TAX AND NET OPERATING LOSS.—The amendments made by sections 1606 and 1607 shall apply to taxable years ending after the date of the enactment of this Act, except that in the case of a taxpayer which has a net operating loss (as defined in section 172(c) of the Internal Revenue Code of 1954) for any taxable year ending after the date of enactment of this Act for which the provisions of 26 USC 857 note.

26 USC 856.

part II of subchapter M of chapter 1 of subtitle A of such Code apply to such taxpayer, such loss shall not be a net operating loss carryback under section 172 of such Code to any taxable year ending on or before the date of enactment of this Act.

26 USC 856
note.

(d) OTHER AMENDMENTS.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by sections 1603, 1604, and 1605 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act.

Ante, p. 1742.

(2) If, as a result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954), occurring after the date of enactment of this Act, with respect to the real estate investment trust, such trust does not meet the requirement of section 856(a) (4) of the Internal Revenue Code of 1954 (as in effect before the amendment of such section by this Act) for any taxable year beginning on or before the date of the enactment of this Act, such trust may elect, within 60 days after such determination in the manner provided in regulations prescribed by the Secretary of the Treasury or his delegate, to have the provisions of section 1603 (other than paragraphs (1), (2), (3), and (4) of section 1603(c)) apply with respect to such taxable year. Where the provisions of section 1603 apply to a real estate investment trust with respect to any taxable year beginning on or before the date of the enactment of this Act—

Ante, p. 1751.

(A) credit or refund of any overpayment of tax which results from the application of section 1603 to such taxable year shall be made as if on the date of the determination (as defined in section 859(c) of the Internal Revenue Code of 1954) 2 years remained before the expiration of the period of limitation prescribed by section 6511 of such Code on the filing of claim for refund for the taxable year to which the overpayment relates,

(B) the running of the statute of limitations provided in section 6501 of such Code on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of any deficiency (as defined in section 6211 of such Code) established by such a determination, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of such determination, and

(C) the collection of any deficiency (as defined in section 6211 of such Code) established by such determination and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof shall, except in cases of jeopardy, be stayed until the expiration of 60 days after the date of such determination.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (C) during the period for which the collection of such amount is stayed.

(3) Section 856(g) (3) of the Internal Revenue Code of 1954, as added by section 1604 of this Act, shall not apply with respect to a termination of an election, filed by a taxpayer under section 856(c) (1) of such Code on or before the date of the enactment of this Act, unless the provisions of part II of subchapter M of chapter 1 of subtitle A of such Code apply to such taxpayer for a taxable year ending after the date of the enactment of this Act for which such election is in effect.

TITLE XVII—RAILROAD AND AIRLINE PROVISIONS

SEC. 1701. CERTAIN PROVISIONS RELATING TO RAILROADS.

(a) **TREATMENT OF CERTAIN RAILROAD TIES.**—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

26 USC 263.

“(g) **RAILROAD TIES.**—In the case of a domestic common carrier by rail (including a railroad switching or terminal company) which uses the retirement-replacement method of accounting for depreciation of its railroad track, expenditures for acquiring and installing replacement ties of any material (and fastenings related to such ties) shall be accorded the same tax accounting treatment as expenditures for replacement ties of wood (and fastenings related to such ties).”

(b) **INCREASE IN 50-PERCENT LIMITATION.**—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof the following new paragraph:

26 USC 46.

“(8) **ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN RAILROADS.**—

“(A) **IN GENERAL.**—If, for a taxable year ending after calendar year 1976, and before calendar year 1983, the amount of the qualified investment of the taxpayer which is attributable to railroad property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (3) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

“(B) **APPLICABLE PERCENTAGE.**—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

“(i) 50 percent, plus

“(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is railroad property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

“(C) **TENTATIVE PERCENTAGE.**—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

“If the taxable year ends in:	The tentative percentage is:
1977 or 1978.....	50
1979	40
1980	30
1981	20
1982	10

“(D) **RAILROAD PROPERTY DEFINED.**—For purposes of this paragraph, the term ‘railroad property’ means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of operating a railroad (including a railroad switching or terminal company).”

SEC. 1702. AMORTIZATION OVER 50-YEAR PERIOD OF RAILROAD GRADING AND TUNNEL BORES PLACED IN SERVICE BEFORE 1969.

26 USC 185.

(a) **IN GENERAL.**—Section 185 (relating to amortization of railroad grading and tunnel bores) is amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (f), (g), (h), (i), and (j), respectively, and by inserting after subsection (c) the following new subsections:

**Filing
requirement.**

“(d) **ELECTION WITH RESPECT TO PRE-1969 PROPERTY.**—A taxpayer may, for any taxable year beginning after December 31, 1974, elect for purposes of this section to treat the term ‘qualified railroad grading and tunnel bores’ as including pre-1969 railroad grading and tunnel bores. An election under this subsection shall be made by filing with the Secretary, in such manner, in such form, and within such time, as the Secretary may by regulations prescribe, a statement of such election. The election under this subsection shall remain in effect for all taxable years, after the first year for which it is effective, for which an election under subsection (c) is effective. The election under this subsection shall apply to all pre-1969 railroad grading and tunnel bores of the taxpayer, unless, on application by the taxpayer, the Secretary permits him, subject to such conditions as the Secretary deems necessary, to revoke such election.

“(e) **ADJUSTED BASIS FOR PRE-1969 RAILROAD GRADING AND TUNNEL BORES.**—

“(1) **IN GENERAL.**—The adjusted basis of any pre-1969 railroad grading and tunnel bore shall be determined under this subsection.

“(2) **PROPERTY ACQUIRED OR CONSTRUCTED AFTER FEBRUARY 28, 1913.**—

“(A) In the case of pre-1969 railroad grading and tunnel bores—

“(i) acquired by the taxpayer after February 28, 1913, or

“(ii) the construction of which was completed by the taxpayer after February 28, 1913, the adjusted basis of such property shall be equal to the adjusted basis (for determining gain) of such property in the hands of the taxpayer.

“(B) In the case of property described in subparagraph (A) (i)—

“(i) which was in existence on February 28, 1913,

“(ii) for which the taxpayer has a substituted basis, and

“(iii) such substituted basis for which would, but for the provisions of this section, be determined under section 1053,

then the adjusted basis of such property shall be determined as if such property were property described in paragraph

(3) (A).

“(3) **PROPERTY ACQUIRED OR CONSTRUCTED BEFORE MARCH 1, 1913.**—

“(A) In the case of pre-1969 railroad grading and tunnel bores—

“(i) acquired by the taxpayer before March 1, 1913, or

“(ii) the construction of which was completed by the taxpayer before March 1, 1913,

the adjusted basis of such property shall be determined under the provisions of subparagraph (B), (C), or (D) of this paragraph.

“(B) In the case of any property valued under an original valuation made by the Interstate Commerce Commission pursuant to section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a), the adjusted basis of such property shall be equal to the amount ascertained by the Interstate Commerce Commission as of the date of such valuation to be such property's cost of reproduction new (as the term ‘cost of reproduction new’ is used in such section 19a).

“(C) In the case of property which was not valued by the Interstate Commerce Commission in the manner described in subparagraph (B), but which was valued under an original valuation made by a comparable State regulatory body, the adjusted basis of such property shall be equal to the amount ascertained by such State regulatory body as of the date of its original valuation to be such property's value.

“(D) If, in the case of any property to which this paragraph applies—

“(i) neither subparagraph (B) nor (C) applies, or

“(ii) notwithstanding subparagraphs (B) and (C), either the taxpayer or the Secretary can establish the adjusted basis (for purposes of determining gain) of such property in the hands of the taxpayer, then the adjusted basis of such property shall be equal to its adjusted basis (for purposes of determining gain) in the hands of the taxpayer.”

(b) **DEFINITION OF PRE-1969 RAILROAD GRADING AND TUNNEL BORES.**—Subsection (f) of section 185 (as redesignated by subsection (a) of this section) is amended by adding at the end thereof the following new paragraph:

26 USC 185.

“(3) **PRE-1969 RAILROAD GRADING AND TUNNEL BORES.**—The term ‘pre-1969 railroad grading and tunnel bores’ means railroad grading and tunnel bores the original use of which commences before January 1, 1969.”

SEC. 1703. CERTAIN PROVISIONS RELATING TO AIRLINES.

Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof the following new paragraph:

26 USC 46.

“(9) **ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN AIRLINES.**—

“(A) **IN GENERAL.**—If, for a taxable year ending after calendar year 1976 and before calendar year 1983, the amount of the qualified investment of the taxpayer which is attributable to airline property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (3) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

“(B) **APPLICABLE PERCENTAGE.**—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

“(i) 50 percent, plus

“(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified

investment which is airline property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

“(C) **TENTATIVE PERCENTAGE.**—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

“If the taxable year ends in:	The tentative percentage is:
1977 or 1978-----	50
1979 -----	40
1980 -----	30
1981 -----	20
1982 -----	10

“(D) **AIRLINE PROPERTY DEFINED.**—For purposes of this paragraph, the term ‘airline property’ means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of the furnishing or sale of transportation as a common carrier by air subject to the jurisdiction of the Civil Aeronautics Board or the Federal Aviation Administration.”

TITLE XVIII—INTERNATIONAL TRADE AMENDMENTS

SEC. 1801. UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) **TERMS OF OFFICE.**—The last sentence of section 330(b) of the Tariff Act of 1930 (19 U.S.C. 1330(b)) is amended to read as follows: “The term of office of each commissioner appointed after such date shall expire 9 years from the date of the expiration of the term for which his predecessor was appointed, except that—

“(1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and

“(2) any commissioner may continue to serve as a commissioner after an expiration of his term of office until his successor is appointed and qualified.”

19 USC 1330.

(b) **VOTING PROCEDURES.**—Section 330(d) of the Tariff Act of 1930 is amended by—

(1) redesignating paragraph (2) as paragraph (5); and

(2) striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

“(1) In a proceeding in which the Commission is required to determine—

19 USC 2251.

“(A) under section 201 of the Trade Act of 1974, whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, as described in subsection (b)(1) of that section (hereafter in this subsection referred to as ‘serious injury’), or

19 USC 2436.

“(B) under section 406 of such Act, whether market disruption exists,

and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by

either group of commissioners may be considered by the President as the determination of the Commission.

“(2) If under section 201 or 406 of the Trade Act of 1974 there is an affirmative determination of the Commission, or a determination of the Commission which the President may consider an affirmative determination under paragraph (1), that serious injury or market disruption exists, respectively, and a majority of the commissioners voting are unable to agree on a finding or recommendation described in section 201(d)(1) of such Act or the finding described in section 406(a)(3) of such Act, as the case may be (hereafter in this subsection referred to as a ‘remedy finding’), then—

19 USC 2251,
2436.

“(A) if a plurality of not less than three commissioners so voting agree on a remedy finding, such remedy finding shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

19 USC 2252,
2253.

“(B) if two groups, both of which include not less than 3 commissioners, each agree upon a remedy finding and the President reports under section 203(b) of such Act that—

“(i) he is taking the action agreed upon by one such group, then the remedy finding agreed upon by the other group shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission, or

“(ii) he is taking action which differs from the action agreed upon by both such groups, or that he will not take any action, then the remedy finding agreed upon by either such group may be considered by the Congress as the remedy finding of the Commission and shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission.

Congressional
consideration.

“(3) In any proceeding to which paragraph (1) applies in which the commissioners voting are equally divided on a determination that serious injury exists, or that market disruption exists, the Commission shall report to the President the determination of each group of commissioners. In any proceeding to which paragraph (2) applies, the Commission shall report to the President the remedy finding of each group of commissioners voting.

Report to
President.

“(4) In a case to which paragraph (2)(B)(ii) applies, for purposes of section 203(c)(1) of the Trade Act of 1974, notwithstanding section 152(a)(1)(A) of such Act, the second blank space in the concurrent resolution described in such section 152 shall be filled with the appropriate date and the following: ‘The action which shall take effect under section 203(c)(1) of the Trade Act of 1974 is the finding or recommendation agreed upon by Commissioners _____, _____, and _____.’ The three blank spaces shall be filled with the names of the appropriate Commissioners.”

19 USC 2253.
19 USC 2192.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (b) shall apply to determinations, findings, and recommendations made under sections 201 and 406 of the Trade Act of 1974 after the date of the enactment of this Act.

19 USC 1330
note.

SEC. 1802. TRADE ACT OF 1974 AMENDMENTS.

Section 502(b) of the Trade Act of 1974 (Public Law 93-618; 88 Stat. 1978) is amended—

19 USC 2462.

(1) by striking out “and” at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof “; and”;

(3) by inserting immediately after paragraph (6) the following new paragraph:

“(7) if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.”; and

(4) by striking out “and (6)” in the unnumbered paragraph at the end of such section and inserting in lieu thereof “(6), and (7)”.

TITLE XIX—REPEAL AND REVISION OF OBSOLETE, RARELY USED, ETC., PROVI- SIONS OF INTERNAL REVENUE CODE OF 1954

SUBTITLE A—AMENDMENTS OF INTERNAL REVENUE CODE GENERALLY

SEC. 1901. AMENDMENTS OF SUBTITLE A; INCOME TAXES.

(a) IN GENERAL.—

26 USC 2.

(1) **AMENDMENT OF SECTION 2.**—Subsection (c) of section 2 (relating to certain married individuals living apart) is amended to read as follows:

“(c) **CERTAIN MARRIED INDIVIDUALS LIVING APART.**—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 143(b).”

26 USC 35.

(2) **REPEAL OF SECTION 35.**—Section 35 (relating to partially tax-exempt interest received by individuals) is repealed.

26 USC 39.

(3) **AMENDMENT OF SECTION 39.**—Section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out subsections (b) and (c) and inserting after subsection (a) the following new subsection:

“(b) **EXCEPTION.**—Credit shall not be allowed under subsection (a) for any amount payable under section 6421, 6424, or 6427, if a claim for such amount is timely filed and, under section 6421(i), 6424(f), or 6427(f), is payable under such section.”

(4) AMENDMENTS OF SECTION 46.—

26 USC 46.

(A) The second sentence of section 46(a)(4), as redesignated by this Act, is amended by striking out “section 408(e)” and inserting in lieu thereof “section 408(f)”.

(B) Clause (iii) of section 46(c)(3)(B) (relating to public utility property) is amended by striking out “47 U.S.C., sec. 222(a)(5)” and inserting in lieu thereof “47 U.S.C. 222(a)(5)”.

(5) AMENDMENTS OF SECTION 48.—

26 USC 48.

(A) Section 48(a)(2)(B)(vi) (relating to section 38 property used outside the United States) is amended by striking out “; 43 U.S.C., sec. 1331)” and inserting in lieu thereof “(43 U.S.C. 1331))”.

(B) Section 48(a)(2)(B)(viii) is amended by striking out “47 U.S.C., sec. 702” and inserting in lieu thereof “47 U.S.C. 702”.

(6) AMENDMENT OF SECTION 50A.—The second sentence of section 50A(a)(3) (relating to liability for tax) is amended by striking out “section 408(e)” and inserting in lieu thereof “section 408(f)”.

26 USC 50A.

(7) REPEAL OF SECTION 51.—Subchapter A of chapter 1 is amended by striking out part V (relating to tax surcharge).

26 USC 51.

(8) AMENDMENTS OF SECTION 62.—Section 62 (relating to definition of adjusted gross income) is amended by redesignating paragraph (11), as added by the Act of October 26, 1974 (Public Law 93-483), as paragraph (12).

26 USC 62.

(9) ADDITIONAL AMENDMENT OF SECTION 62.—Section 62(12), as redesignated by subparagraph (A) of this paragraph, is amended by striking out “trade or business to the extent” and inserting in lieu thereof “trade or business, to the extent”.

(10) DEFINITION OF ORDINARY INCOME.—Part I of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income, and taxable income) is amended by adding at the end thereof the following new section:

26 USC 61.

“SEC. 64. ORDINARY INCOME DEFINED.

26 USC 64.

“For purposes of this subtitle, the term ‘ordinary income’ includes any gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b). Any gain from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as ‘ordinary income’ shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b).”

(11) DEFINITION OF ORDINARY LOSS.—Part I of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income, and taxable income) is amended by adding at the end thereof the following new section:

26 USC 61.

“SEC. 65. ORDINARY LOSS DEFINED.

26 USC 65.

“For purposes of this subtitle, the term ‘ordinary loss’ includes any loss from the sale or exchange of property which is not a capital asset. Any loss from the sale or exchange of property which is treated or considered, under other provisions of this subtitle, as ‘ordinary loss’ shall be treated as loss from the sale or exchange of property which is not a capital asset.”

(12) AMENDMENT OF SECTION 72.—Section 72(d)(1) (relating to employees’ annuities) is amended by striking out “(whether or not before January 1, 1954)” and by striking out “(under this paragraph and prior income tax laws)”.

26 USC 72.

(13) ADDITIONAL AMENDMENT OF SECTION 72.—Section 72(m)(4)(A) (relating to assignments or pledges) is amended by striking out “an individual retirement amount” and inserting in lieu thereof “an individual retirement account”.

26 USC 76.

(14) REPEAL OF SECTION 76.—Section 76 (relating to mortgages made or obligations issued by joint stock land banks) is repealed.

26 USC 83.

(15) AMENDMENT OF SECTION 83.—Section 83(b)(2) (relating to election to include the value of restricted property in gross income) is amended by striking out “(or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969)”.

26 USC 1 note.

(16) AMENDMENT OF SECTION 101.—Section 101 is amended by striking out subsection (f) (relating to effective date of section).

26 USC 101.

(17) AMENDMENTS OF SECTION 103.—

(A) Section 103(a) (relating to tax-exempt interest), as amended by this Act, is amended by inserting “and” at the

26 USC 103.

end of paragraph (1), by striking out paragraphs (2) and (3), and by redesignating paragraph (4) as paragraph (2).

26 USC 103.

(B) Section 103 is amended by striking out subsection (b) (relating to certain exceptions) and by redesignating subsections (c), (d), (e), (f), and (g) (as added by this Act) as subsections (b), (c), (d), (e), and (f) respectively.

(C) Section 103(b)(1) (relating to industrial development bonds), as redesignated by subparagraph (B) of this paragraph, is amended by inserting "or (2)" after "(a)(1)".

(D) Section 103(c)(2)(A) (relating to definition of arbitrage bonds), as redesignated by subparagraph (B) of this paragraph, is amended by inserting "or (2)" after "(a)(1)".

(E) Section 103(e) (relating to certain cross references) as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(e) CROSS REFERENCES.—

"For provisions relating to the taxable status of—

"(1) Puerto Rican bonds, see section 3 of the Act of March 2, 1917, as amended (48 U.S.C. 745).

"(2) Virgin Islands insular and municipal bonds, see section 1 of the Act of October 27, 1919 (48 U.S.C. 1403).

"(3) Certain obligations issued under title I of the Housing Act of 1949, see section 102(g) of title I of such Act (42 U.S.C. 1452(g))."

(18) AMENDMENTS OF SECTION 104.—

26 USC 104.

(A) Section 104(a)(4) (relating to exclusion of compensation for injuries or sickness) is amended by striking out "; 60 Stat. 1021".

Ante, p. 1567.

(B) Section 104(c)(2) as redesignated by section 505 of this Act, is amended to read as follows:

"(2) For exclusion of part of disability retirement pay from the application of subsection (a)(4) of this section, see section 1403 of title 10, United States Code (relating to career compensation laws)."

26 USC 115.

(19) AMENDMENT OF SECTION 115.—Section 115 (relating to income of States, municipalities, etc.) is amended to read as follows:

"SEC. 115. INCOME OF STATES, MUNICIPALITIES, ETC.

"Gross income does not include—

"(1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia; or

"(2) income accruing to the government of any possession of the United States, or any political subdivision thereof."

26 USC 116.

(20) AMENDMENT OF SECTION 116.—Subsection (a) of section 116 (relating to partial exclusion of dividends received by individuals) is amended by striking out "Effective with respect to any taxable year ending after July 31, 1954, gross income" and inserting in lieu thereof "Gross income".

26 USC 124.

(21) AMENDMENT OF SECTION 124.—Section 124 (relating to cross references to other Acts) is amended to read as follows:

"SEC. 124. CROSS REFERENCES TO OTHER ACTS.

"(a) For exemption of—

"(1) Adjustments of indebtedness under wage earners' plans, see section 679 of the Bankruptcy Act (11 U.S.C. 1079).

"(2) Allowances and expenditures to meet losses sustained by persons serving the United States abroad, due to appreciation of foreign currencies, see section 5943 of title 5, United States Code.

"(3) Amounts credited to the Maritime Administration under section 9(b)(6) of the Merchant Ship Sales Act of 1946, see section 9(c)(1) of that Act (50 U.S.C. App. 1742).

"(4) Benefits under laws administered by the Veterans' Administration, see section 3101 of title 38, United States Code.

"(5) Earnings of ship contractors deposited in special reserve funds, see section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177).

"(6) Income derived from Federal Reserve banks, including capital stock and surplus, see section 7 of the Federal Reserve Act (12 U.S.C. 531).

"(7) Railroad retirement annuities and pensions, see section 12 of the Railroad Retirement Act of 1935 (45 U.S.C. 2281).

"(8) Railroad unemployment benefits, see section 2(e) of the Railroad Unemployment Insurance Act (45 U.S.C. 352).

"(9) Special pensions of persons on Army and Navy medal of honor roll, see 38 U.S.C. 562(a)-(c).

"(b) For extension of military income-tax-exemption benefits to commissioned officers of Public Health Service in certain circumstances, see section 212 of the Public Health Service Act (42 U.S.C. 213)."

(22) AMENDMENT OF SECTION 143.—Section 143 (relating to determination of marital status) is amended by striking out "this part" each place it appears and inserting in lieu thereof "this part and part V". 26 USC 143.

(23) AMENDMENT OF SECTION 151.—Section 151(e) (4) (defining student and educational institution) is amended to read as follows: 26 USC 151.

"(4) STUDENT DEFINED.—For purposes of paragraph (1)(B) (ii), the term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b) (1) (A) (ii); or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b) (1) (A) (ii) or of a State or political subdivision of a State."

(24) AMENDMENTS OF SECTION 152.—

(A) Section 152(a) (defining dependent) is amended— 26 USC 152.

(i) by inserting "or" at the end of paragraph (8),

(ii) by striking out "or" at the end of paragraph (9) and inserting in lieu thereof a period, and

(iii) by striking out paragraph (10).

(B) Section 152(b) (3) (relating to rules concerning the definition of dependent) is amended to read as follows:

"(3) The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer legally adopted by him, if, for the taxable year of the taxpayer, the child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States." "Dependent."

(25) AMENDMENTS OF SECTION 164.—Section 164(d) (2) (relating to apportionment of taxes on real property between the seller and purchaser) is amended by striking out subparagraphs (B) and (C), and by redesignating subparagraph (D) as subparagraph (B). 26 USC 164.

(26) AMENDMENTS OF SECTION 165.—Section 165 (relating to deduction of losses) is amended by striking out subsection (i) 26 USC 165.

(relating to property confiscated by Cuba), and by redesignating subsection (j) as subsection (i).

26 USC 167.

(27) AMENDMENTS OF SECTION 167.—

(A) Section 167(d) (relating to agreement as to useful life for depreciation) is amended by striking out “after the date of enactment of this title” and inserting in lieu thereof “after August 16, 1954”.

(B) Section 167(f)(2) (defining personal property) is amended by striking out “the date of the enactment of the Revenue Act of 1962” and inserting in lieu thereof “October 16, 1962”.

(C) Section 167(l)(4)(A) (relating to election as to increased-capacity property) is amended by striking out “within 180 days after the date of the enactment of this subparagraph” and inserting in lieu thereof “before June 29, 1970.”

26 USC 170.

(28) AMENDMENTS OF SECTION 170.—

(A)(i) Section 170 (relating to charitable deductions) is amended by striking out subsections (f)(6) and (g) (relating to unlimited charitable deductions allowed for taxable years beginning before January 1, 1975), and by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively.

(ii) Section 170(b)(1) (relating to percentage limitations on deductions for individuals) is amended by striking out subparagraph (C) (relating to unlimited deductions), and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(iii) Section 170(b)(1)(A)(vii) is amended by striking out “subparagraph (E)” and inserting in lieu thereof “subparagraph (D)”.

(iv) Section 170(b)(1)(B)(ii) is amended by striking out “subparagraph (D)” and inserting in lieu thereof “subparagraph (C)”.

(v) Section 170(c) (relating to definition of charitable contribution) is amended by striking out in the last sentence “subsection (h)” and inserting in lieu thereof “subsection (g)”.

(vi) Section 170(e)(1)(B)(ii) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out “subsection (b)(1)(E)” and inserting in lieu thereof “subsection (b)(1)(D)”.

(B) Section 170(d)(1)(A) (relating to carryover of excess charitable contributions) is amended by striking out “(30 percent, in the case of a contribution year beginning before January 1, 1970)”.

(C) Section 170(h) (relating to disallowance of deductions in certain cases), as redesignated by subparagraph (A)(i) of this paragraph, is amended by striking out “64 Stat. 996;”.

(D) Section 170(i) (relating to cross references), as redesignated by subparagraph (A)(i) of this paragraph, is amended to read as follows:

“(i) OTHER CROSS REFERENCES.—

“(1) For charitable contributions of estates and trusts, see section 642(c).

"(2) For nondeductibility of contributions by common trust funds, see section 584.

"(3) For charitable contributions of partners, see section 702.

"(4) For charitable contributions of nonresident aliens, see section 873.

"(5) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for use of the United States, see section 6973 of title 10, United States Code.

"(6) For treatment of gifts accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(7) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)."

(29) AMENDMENTS OF SECTION 172.—

(A) (i) Section 172(b) (1) (relating to years to which loss may be carried) is amended by striking out subparagraph (E). *Ante*, p. 1755.

(ii) Section 172(b) (3) is amended by striking out subparagraphs (E) and (F). 26 USC 172.

(B) Section 172(c) (relating to definition of net operating loss) is amended by striking out "(for any taxable year ending after December 31, 1953)".

(C) (i) Section 172 (relating to net operating loss deduction) is amended by striking out subsections (f), (g), and (i), and by redesignating subsections (h), (j), (k), and (l) as subsections (f), (g), (h), and (i), respectively.

(ii) Section 172(b) (1) (C) (relating to regulated transportation corporations) is amended by striking out "subsection (j) (1)" and "subsection (j)", and inserting in lieu thereof "subsection (g) (1)" and "subsection (g)", respectively.

(iii) Paragraphs (1) (D) and (3) (C) (i) of section 172 (b) (relating to net operating loss carryovers and carrybacks) are each amended by striking out "subsection (k)" and inserting in lieu thereof "subsection (h)". *Post*, p. 1920.

(iv) Section 172(b) (2) (relating to amount of carrybacks and carryovers) is amended by striking out "subsections (i) and (j)" and inserting in lieu thereof "subsection (g)".

(D) Section 172(e) (relating to law applicable to computations) is amended by striking out the last sentence.

(E) Section 172(g) (2) (relating to certain regulated transportation corporations), as redesignated by subparagraph (C) of this paragraph, is amended by striking out paragraph (4).

(30) AMENDMENTS OF SECTIONS 174 AND 175.—Section 174(a) (2) 26 USC 174, 175.

(A) (i) (relating to research and development expenditures) and section 175(d) (1) (A) (relating to soil and water conservation expenditures) are each amended by striking out "the date on which this title is enacted," and inserting in lieu thereof "August 16, 1954."

(31) REPEAL OF SECTION 187.—Section 187 (relating to rapid amortization for certain coal mine safety equipment) is repealed. 26 USC 187.

(32) AMENDMENT OF SECTION 219.—Section 219(b) (2) (A) (iv) (disqualifying governmental plan participants from contributing to individual retirement accounts, etc.) is amended by striking out "division" and inserting in lieu thereof "subdivision". 26 USC 219.

(33) REPEAL OF SECTION 242.—Section 242 (relating to partially tax-exempt interest received by corporations) is repealed. 26 USC 242.

(34) AMENDMENTS OF SECTION 243.—

26 USC 243.

(A) Section 243(a)(2) (relating to the dividends received deduction) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(B) Section 243(b)(2)(A) (relating to dividends received by a member of an affiliated group) is amended by striking out "(except that in the case of a taxable year of a member beginning in 1963 and ending in 1964, if the election is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, such election shall be effective for such taxable year of such member, if such member consents to such election with respect to such taxable year)".

26 USC 247.

(35) AMENDMENT OF SECTION 247.—Section 247(b)(2) (relating to preferred stock) is amended to read as follows:

"(2) PREFERRED STOCK.—

Definition.

"(A) IN GENERAL.—The term 'preferred stock' means stock issued before October 1, 1942, which during the whole of the taxable year (or the part of the taxable year after its issue) was stock the dividends in respect of which were cumulative, limited to the same amount, and payable in preference to the payment of dividends on other stock.

"(B) CERTAIN STOCK ISSUED ON OR AFTER OCTOBER 1, 1942.—Stock issued on or after October 1, 1942, shall be deemed for purposes of this paragraph to have been issued before October 1, 1942, if it was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock (including stock which is preferred stock by reason of this subparagraph or subparagraph (D)), but only to the extent that the par or stated value of the new stock does not exceed the par, stated, or face value of the bonds or debentures issued before October 1, 1942, or the other preferred stock, which such new stock is issued to refund or replace.

Regulations.

"(C) DETERMINATION UNDER REGULATIONS.—The determination of whether stock was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock, shall be made under regulations prescribed by the Secretary.

"(D) ISSUANCE OF STOCK.—For purposes of subparagraph (B), issuance of stock includes issuance either by the same or another corporation in a transaction which is a reorganization (as defined in section 368(a)), a transaction to which section 371 (relating to insolvency reorganizations) applies, or a transaction subject to part VI of subchapter O (relating to exchanges in SEC obedience orders), or the respectively corresponding provisions of the Internal Revenue Code of 1939."

26 USC 1081.

53 Stat. 1.

26 USC 248.

(36) AMENDMENT OF SECTION 248.—Section 248(c) (relating to organizational expenditures) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

26 USC 265.

(37) AMENDMENT OF SECTION 265.—Section 265(2) (relating to tax-exempt interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(38) AMENDMENT OF SECTION 269.—Section 269 (relating to acquisitions made to evade or avoid income tax) is amended by striking out subsection (c) (relating to presumption in the case of disproportionate purchase price). 26 USC 269.

(39) AMENDMENT OF SECTION 275.—Section 275(a)(1)(C) (relating to nondeductible taxes) is amended by striking out (“, and corresponding provisions of prior revenue laws”). 26 USC 275.

(40) AMENDMENTS OF SECTION 281.—

(A) Section 281(d)(1)(A) (relating to definition of terminal railroad corporation) is amended by inserting after “Interstate Commerce Act” the following: “(49 U.S.C. 1 and following)”. 26 USC 281.

(B) Section 281 (relating to terminal railroad corporations and their shareholders) is amended by striking out subsection (e) (relating to taxable years ending before October 23, 1962) and by redesignating subsection (f) as subsection (e).

(41) AMENDMENT OF SECTION 301.—Section 301 (relating to distributions of property) is amended by striking out subsection (e) (relating to certain distributions by personal service corporations). 26 USC 301.

(42) AMENDMENTS OF SECTION 311.—

(A) Section 311(d)(1) (relating to appreciated property used to redeem stock) is amended by striking out “then again shall be recognized” and inserting in lieu thereof “then a gain shall be recognized”. 26 USC 311.

(B)(i) Section 311(d)(2) (relating to exceptions and limitations) is amended by striking out subparagraph (C) (relating to certain distributions before December 1, 1974) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(ii) The amendments made by clause (i) shall apply only with respect to distributions after November 30, 1974. 26 USC 311 note.

(C) Section 311(d)(2)(C), as redesignated by subparagraph (B) of this paragraph, is amended by striking out “26 Stat. 209;” and “38 Stat. 730;”.

(43) AMENDMENTS OF SECTION 312.—

(A) Section 312(d)(1) (relating to certain distributions of stock and securities) is amended by striking out “this Code” each place it appears and inserting in lieu thereof “this title”. 26 USC 312.

(B) Section 312 (relating to earnings and profits) is amended by striking out subsection (h) (relating to personal service corporations) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(C) Subsection (i) of section 312 (relating to distribution of proceeds of certain loans), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

“(i) DISTRIBUTION OF PROCEEDS OF LOAN INSURED BY THE UNITED STATES.—If a corporation distributes property with respect to its stock and if, at the time of distribution—

“(1) there is outstanding a loan to such corporation which was made, guaranteed, or insured by the United States (or by any agency or instrumentality thereof), and

“(2) the amount of such loan so outstanding exceeds the adjusted basis of the property constituting security for such loan, then the earnings and profits of the corporation shall be increased by

the amount of such excess, and (immediately after the distribution) shall be decreased by the amount of such excess. For purposes of paragraph (2), the adjusted basis of the property at the time of distribution shall be determined without regard to any adjustment under section 1016(a)(2) (relating to adjustment for depreciation, etc.). For purposes of this subsection, a commitment to make, guarantee, or insure a loan shall be treated as the making, guaranteeing, or insuring of a loan."

26 USC 312. (D) Section 312(j)(3) (relating to foreign investment companies), as redesignated by subsection (b)(32)(B)(i), is amended to read as follows:

"(3) PARTIAL LIQUIDATIONS AND REDEMPTIONS.—If a foreign investment company (as defined in section 1246) distributes amounts in partial liquidation or in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of the company accumulated after February 28, 1913, attributable to the stock so redeemed."

26 USC 333. (44) AMENDMENT OF SECTION 333.—Section 333(a)(1) (relating to election as to recognition of gain in certain liquidations) is amended by striking out "on or after June 22, 1954".

26 USC 334. (45) AMENDMENT OF SECTION 334.—Section 334(b)(2)(A) (relating to liquidation of subsidiary) is amended to read as follows:

"(A) the distribution is pursuant to a plan of liquidation adopted not more than 2 years after the date of the transaction described in subparagraph (B) (or, in the case of a series of transactions, the date of the last such transaction); and".

26 USC 337. (46) AMENDMENTS OF SECTION 337.—

(A) Section 337(a) (relating to nonrecognition of gain or loss on certain liquidations) is amended to read as follows:

"(a) GENERAL RULE.—If, within the 12-month period beginning on the date on which a corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims, then no gain or loss shall be recognized to such corporation from the sale or exchange by it of property within such 12-month period."

(B) The first sentence of section 337(d) (relating to certain minority stockholders) is amended by striking out "on or after January 1, 1958".

26 USC 342. (47) REPEAL OF SECTION 342.—Section 342 (relating to the liquidation of certain foreign personal holding companies) is repealed.

26 USC 351. (48) AMENDMENTS OF SECTION 351.—

(A) Section 351(a) (relating to transfer to corporation controlled by transferor) is amended by striking out "(including, in the case of transfers made on or before June 30, 1967, an investment company)".

(B) Section 351(d) (relating to application of June 30, 1967, date) is amended to read as follows:

"(d) EXCEPTION.—This section shall not apply to a transfer of property to an investment company."

26 USC 351
note.

(C) The amendments made by this paragraph shall take effect with respect to transfers of property occurring after the date of the enactment of this Act.

(49) REPEAL OF SECTION 363.—Section 363 (a cross reference to other sections) is repealed. 26 USC 363.

(50) AMENDMENTS OF SECTION 371.—Section 371(a)(1) (relating to certain reorganization exchanges by corporations) is amended— 26 USC 371.

(A) by striking out “49 Stat. 922;” and

(B) by striking out “(52 Stat. 883–905; 11 U.S.C., chapter 10) or the corresponding provisions of prior law” and inserting in lieu thereof “(11 U.S.C. 501 and following)”.

(51) AMENDMENT OF SECTION 372.—Section 372(a) (relating to basis in connection with bankruptcy proceedings) is amended by striking out “54 Stat. 709;” 26 USC 372.

(52) REPEAL OF SECTION 373.—Section 373 (relating to nonrecognition of loss in certain railroad reorganizations) is repealed. 26 USC 373.

(53) AMENDMENT OF SECTION 374.—Section 374(a)(1) (relating to nonrecognition of gain or loss in certain railroad reorganizations) is amended by striking out “49 Stat. 922;” 26 USC 374.

(54) AMENDMENT OF SECTION 381.—Section 381(c) (relating to items carried over in certain corporate acquisitions) is amended by striking out paragraph (20). 26 USC 381.

(55) REPEAL OF SECTIONS 391 THROUGH 395.—Subchapter C of chapter 1 (relating to corporate distributions and adjustments) is amended by striking out part VII (relating to effective dates of subchapter C). 26 USC 391–395.

(56) AMENDMENTS OF SECTION 401.—

(A) Paragraphs (12) and (13) of section 401(a) (relating to requirements for qualification) are each amended by striking out “the date of the enactment of the Employee Retirement Income Security Act of 1974” and inserting in lieu thereof “September 2, 1974”. 26 USC 401.

(B) Paragraph (15) of section 401(a) is amended by striking out “the date of the enactment of the Employee Retirement Income Security Act of 1974” and inserting in lieu thereof “September 2, 1974”.

(C) Paragraph (19) of section 401(a) is amended by striking out “enactment of the Employee Retirement Income Security Act of 1974” and inserting in lieu thereof “September 2, 1974”.

(D) The last sentence of section 401(a) is amended to read as follows:

“Paragraphs (11), (12), (13), (14), (15), (19), and (20) shall apply only in the case of a plan to which section 411 (relating to minimum vesting standards) applies without regard to subsection (e)(2) of such section.”

(57) AMENDMENTS OF SECTION 402.—

(A) Section 402(a)(4) (relating to distributions made to non-resident alien individuals) is amended by striking out “basic salary” each place it appears therein and inserting in lieu thereof “basic pay”, and by amending the last sentence in such paragraph to read as follows: 26 USC 402.

“In the case of distributions under the civil service retirement laws, the term ‘basic pay’ shall have the meaning provided in section 8331(3) of title 5, United States Code.”

(B) Section 402 (relating to taxability of beneficiary of employees’ trusts) is amended by striking out subsection (d) (relating to certain trust agreements made before October 21, 1942).

29 USC 1001 note.

- (C) (i) So much of the third sentence of section 402(e) (4) (A) (relating to definition of lump sum distributions) as precedes "a distribution of an annuity contract" is amended to read as follows: "Except for purposes of subsection (a) (2) and section 403(a) (2),".
- (ii) The amendment made by clause (i) shall apply with respect to distributions or payments made after December 31, 1973, in taxable years beginning after such date.
- (58) AMENDMENT OF SECTION 403.—The last two sentences of section 403(a) (4) (relating to taxation of employee annuities) are amended to read as follows: "For purposes of this title, a transfer described in subparagraph (B) (i) shall be treated as a rollover contribution described in section 408(d) (3). Subparagraph (B) (ii) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of a payment described in subparagraph (A) is attributable to an annuity plan under which the employee was an employee within the meaning of section 401(c) (1) at the time contributions were made on his behalf under the plan."
- (59) AMENDMENT OF SECTION 404.—Section 404 (relating to deduction for contributions to pension plans, etc.) is amended by striking out subsection (d) (relating to carryover of pre-1954 unused deductions).
- (60) AMENDMENT OF SECTION 409.—Section 409(b) (3) (C) (relating to tax-free rollovers of individual retirement bonds) is amended by striking out "section 403(d) (3)." and inserting in lieu thereof "section 408(d) (3)."
- (61) AMENDMENTS OF SECTION 410.—
- (A) Subparagraphs (C) and (D) of section 410(a) (5) (relating to breaks in service) are each amended by striking out "purposes of subsection (a) (1)" and inserting in lieu thereof "purposes of paragraph (1)".
- (B) Paragraph (1) (C) of section 410(c) (relating to application of minimum participation standards) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".
- (C) Paragraph (2) of section 410(c) is amended by striking out "the day before the date of the enactment of this section" and inserting in lieu thereof "September 1, 1974".
- (62) AMENDMENTS OF SECTION 411.—
- (A) Subsection (a) of section 411 (relating to minimum vesting standards) is amended by striking out "subsection (a) (8)" and inserting in lieu thereof "paragraph (8)".
- (B) Subsection (a) (3) (D) (iii) of section 411 is amended—
- (i) by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and "the date of the enactment of such Act" and inserting in lieu thereof in both such places "September 2, 1974", and
- (ii) by striking out "the date of the enactment of the Act" and inserting in lieu thereof "September 2, 1974".
- (C) The heading for subparagraph (C) of section 411 (a) (7) is amended to read as follows:
- "(C) REPAYMENT OF SUBPARAGRAPH (B) DISTRIBUTIONS.—"
- (D) Subsection (b) (1) (D) (i) and (e) (1) (C) of section 411 are each amended by striking out "the date of the

enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

29 USC 1001
note.

(E) Subsection (e) (2) of section 411 is amended by striking out "the date before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

26 USC 411.

(63) AMENDMENTS OF SECTION 412.—

(A) Subsection (h) of section 412 (relating to minimum funding standards) is amended by striking out "the day before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

26 USC 412.

(B) Subsection (h) (5) of section 412 is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(64) AMENDMENTS OF SECTION 414.—

(A) The heading for section 414(f) (relating to multi-employer plans) is amended to read as follows:

26 USC 414.

"(f) MULTEMPLOYER PLAN.—"

(B) Section 414(l) (relating to mergers and consolidations of plans or transfers of plan assets) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(65) AMENDMENTS OF SECTION 415.—

(A) Section 415(b) (2) (A) (relating to adjustments for certain forms of benefits) is amended by striking out "and 409(b) (3) (C)" and inserting in lieu thereof "and 409(b) (3) (C)".

26 USC 415.

(B) Section 415(b) (2) (B) is amended by striking out "(as defined in section 401(a) (11) (II) (iii))" and inserting in lieu thereof "(as defined in section 401(a) (11) (G) (iii))".

(66) AMENDMENTS OF SECTION 453.—

(A) Section 453(c) (3) (relating to adjustment in tax for amounts previously taxed) is amended by striking out "corresponding provisions of the Internal Revenue Code of 1939" and inserting in lieu thereof "corresponding provisions of the Internal Revenue Code of 1954".

26 USC 453.

(B) Section 453(d) (4) (B) (relating to liquidations to which section 337 applies) is amended by striking out "or section 617(d) (1)" and inserting in lieu thereof "617(d) (1)".

(67) AMENDMENT OF SECTION 455.—Section 455(c) (3) (B) (relating to prepaid subscription income) is amended by striking out "for his first taxable year (i) which begins after December 31, 1957, and (ii) in which he receives prepaid subscription income in the trade or business" and inserting in lieu thereof "for his first taxable year in which he receives prepaid subscription income in the trade or business".

26 USC 455.

(68) AMENDMENT OF SECTION 456.—Section 456(c) (3) (B) (relating to election without consent with respect to treatment of prepaid dues) is amended by striking out "for its first taxable year (i) which begins after December 31, 1960, and (ii)" and inserting in lieu thereof "for its first taxable year".

26 USC 456.

(69) AMENDMENTS OF SECTION 461.—

26 USC 461.

(A) Section 461(c) (relating to accrual of real property taxes) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 461(c)(2) (relating to elections without consent), as redesignated by subparagraph (A), is amended by striking out "his first taxable year which begins after December 31, 1953, and ends after the date of enactment of this title in which the taxpayer" and inserting in lieu thereof "his first taxable year in which he".

(70) AMENDMENTS OF SECTION 481.—

26 USC 481.

(A) Section 481(b) (relating to limitation on tax where substantial adjustments are required by a change in accounting method) is amended by striking out paragraphs (4), (5), and (6) (relating to pre-1954 adjustments).

(B) Section 481(b) (1) and (2) are each amended by striking out "other than the amount of such adjustments to which paragraph (4) or (5) applies," each place it appears.

(71) AMENDMENTS OF SECTION 508.—

26 USC 508.

(A) Subsections (a) and (b) of section 508 (relating to special rules relating to 501(c)(3) organizations) are each amended by striking out the last sentence therein.

(B) Section 508(e)(2) (relating to special rules for existing private foundations) is amended by striking out subparagraph (A) (relating to taxable years beginning before 1972), by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and by striking out "(B)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "(A)".

(C) Section 508(d)(2)(A) (relating to disallowance of deductions for certain charitable gifts or bequests) is amended by striking out "(e)(2) (B) and (C)" and inserting in lieu thereof "(e)(2)".

(72) AMENDMENTS OF SECTION 514.—

26 USC 514.

(A) Section 514(c)(1) (relating to definition of acquisition indebtedness) is amended by striking out the comma at the end of subparagraph (C) and all that follows, and inserting in lieu thereof a period.

(B) Section 514 (relating to unrelated debt-financed income) is amended by striking out subsection (f) (relating to definition of business lease), by striking out subsection (g) (relating to definition of business lease indebtedness), and by redesignating subsection (h) as subsection (f).

(C) Section 514(b)(3)(C)(iii) (relating to definition of debt-financed property) is amended to read as follows:

"(iii) shall not apply to property subject to a lease which is a business lease (as defined in this section immediately before the enactment of the Tax Reform Act of 1976)."

(D) Section 514(f) (relating to personal property leased with real property), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "and the term 'premises' include" and inserting in lieu thereof "includes".

(73) AMENDMENTS OF SECTION 534.—

26 USC 534.

(A) Section 534(b) (relating to mailing notices of deficiency) is amended by striking out the last sentence.

(B) Subsection (e) of section 534 (relating to effective date of section) is repealed.

(74) AMENDMENT OF SECTION 535.—Section 535(b) (1) (relating to adjustments in computing accumulated taxable income) is amended by striking out “(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)”.

26 USC 535.

(75) AMENDMENTS OF SECTION 537.—

(A) Section 537(b) (2) (relating to definition of excess business holdings redemption needs) is amended by striking out “, with respect to taxable years of the corporation ending after May 26, 1969,”.

26 USC 537.

(B) Section 537(b) (4) (relating to inferences as to prior years) is amended by striking out “or (2)”.

(76) AMENDMENTS OF SECTION 542.—

(A) Section 542(a) (2) (relating to definition of personal holding company) is amended by striking out the last sentence.

26 USC 542.

(B) Section 542(b) (2) (relating to ineligible affiliated group) is amended by striking out “, other than an affiliated group of railroad corporations the common parent of which would be eligible to file a consolidated return under section 141 of the Internal Revenue Code of 1939 prior to its amendment by the Revenue Act of 1942,”.

(C) Section 542(c) (2) (relating to financial institutions) is amended by striking out “without regard to subparagraphs (D) and (E) thereof”.

(D) Section 542(c) (8) (relating to small business investment companies) is amended by inserting after “Small Business Investment Act of 1958” the following: “(15 U.S.C. 661 and following)”.

(77) AMENDMENTS OF SECTION 545.—

(A) Section 545(b) (1) (relating to deduction of taxes in computing undistributed personal holding company income) is amended—

26 USC 545.

(i) in the first sentence, by striking out “(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)”;

(ii) by striking out the last two sentences (relating to deduction of taxes).

(B) Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (7) (relating to payment of indebtedness incurred before 1934).

(C) Section 545(c) (2) (A) (relating to corporations to which special adjustment applies) is amended by striking out “the date of enactment of this subsection” and inserting in lieu thereof “February 26, 1964”.

(78) AMENDMENT OF SECTION 547.—Section 547 (relating to the deduction of deficiency dividends) is amended by striking out subsection (h) (relating to the effective date).

26 USC 547.

(79) AMENDMENT OF SECTION 551.—Section 551(c) (relating to foreign personal holding company income tax returns), as redesignated by subsection (b) (1) (F) of this section, is amended by striking out “taxable income, foreign personal holding com-

26 USC 551.

pany,” and inserting in lieu thereof “taxable income, foreign personal holding company income,”.

26 USC 556. (80) AMENDMENT OF SECTION 556.—The first sentence of section 556(b)(1) (relating to deduction of taxes in computing undistributed foreign personal holding company income) is amended by striking out “(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 1, 1940)”.

26 USC 564. (81) AMENDMENT OF SECTION 564.—Section 564 (relating to dividend carryovers) is amended by striking out subsection (c) (relating to carryovers from pre-1954 years).

26 USC 583. (82) REPEAL OF SECTION 583.—Section 583 (relating to deduction of dividends paid on certain preferred stock by banks or trust companies) is repealed.

26 USC 592. (83) REPEAL OF SECTION 592.—Section 592 (relating to the deduction by mutual savings banks for repayment of certain loans) is repealed.

26 USC 593. (84) AMENDMENTS OF SECTION 593.—
(A) Section 593(b)(2) (relating to additions to bad debt reserves for mutual savings banks, etc.) is amended by striking out, in the table in subparagraph (A), the following:

“1969 -----	60 percent.
1970 -----	57 percent.
1971 -----	54 percent.
1972 -----	51 percent.
1973 -----	49 percent.
1974 -----	47 percent.
1975 -----	45 percent.”

(B) Section 593(c) (relating to reserves for mutual savings banks) is amended by striking out paragraphs (2), (3), (4), and (5), by redesignating paragraph (6) as paragraph (3), and by inserting immediately after paragraph (1) the following:

“(2) CERTAIN PRE-1963 RESERVES.—Notwithstanding the second sentence of paragraph (1), any amount allocated pursuant to paragraph (5) (as in effect immediately before the enactment of the Tax Reform Act of 1976) during a taxable year beginning before January 1, 1977, to the reserve for losses on qualifying real property loans out of the surplus, undivided profits, and bad debt reserves (determined as of December 31, 1962) attributable to the period before the first taxable year beginning after December 31, 1951, shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in subsection (b)(1)(B), and for such purpose such amount shall be treated as remaining in such reserve.”

(C) Section 593 is amended by striking out subsection (d) (relating to taxable years beginning in 1962 and ending in 1963), and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(D) Section 593(b)(2)(E)(i) is amended by striking out “subsection (f)” and inserting in lieu thereof “subsection (e)”.

26 USC 601. (85) REPEAL OF SECTION 601.—Subchapter H of chapter 1 relating to banking institutions) is amended by striking out part III (relating to special deduction for bank affiliates).

(86) AMENDMENTS OF SECTION 613A.—

(A) Section 613A(b)(1)(C) (relating to exemption for certain domestic gas wells) is amended by striking out “within the meaning of section 613(b)(1)(A)”.

26 USC 613A.

(B) Section 613A(c)(6)(i) (relating to limitations on percentage depletion in case of oil and gas wells) is amended by striking out “determined with” and inserting in lieu thereof “determined without”.

(87) AMENDMENTS OF SECTION 614.—

(A) (i) Section 614(c) (relating to aggregation of mineral interests in mines) is amended by striking out paragraph (4) (relating to special rule as to exploration deductions prior to aggregation).

26 USC 614.

(ii) The amendment made by clause (i) shall apply with respect to elections to form aggregations of operating mineral interests made under section 614(c)(1) of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1976.

26 USC 614 note.

(B) The third sentence of section 614(c)(2) (relating to election to treat a single interest as more than one property) is amended to read as follows: “A separate property so formed may, under regulations prescribed by the Secretary, be included as a part of an aggregation in accordance with paragraphs (1) and (3).”

(C) Section 614(c)(3) (relating to manner and scope of election) is amended to read as follows:

“(3) MANNER AND SCOPE OF ELECTION.—The elections provided by paragraphs (1) and (2) shall be made, in accordance with regulations prescribed by the Secretary, not later than the time prescribed for filing the return (including extensions thereof) for the first taxable year—

“(A) in which, in the case of an election under paragraph (1), any expenditure for development or operation in respect of the separate operating mineral interest is made by the taxpayer after the acquisition of such interest, or

“(B) in which, in the case of an election under paragraph (2), expenditures for development or operation of more than one mine in respect of a property are made by the taxpayer after the acquisition of the property.

An election made under paragraph (1) or (2) for a taxable year shall be binding upon the taxpayer for such year and all subsequent taxable years, except that the Secretary may consent to a different treatment of any interest with respect to which an election has been made.”

(88) REPEAL OF SECTION 615.—Section 615 (relating to deduction of pre-1970 exploration expenses) is repealed.

26 USC 615.

(89) AMENDMENT OF SECTION 617.—Section 617(a)(2)(B) (relating to time and scope of election to deduct certain mining exploration expenditures) is amended by striking out “may not be revoked after the last day of the third month following the month in which the final regulations issued under the authority of this subsection are published in the Federal Register, unless” and inserting in lieu thereof “may not be revoked unless”.

26 USC 617.

(90) REPEAL OF SECTION 632.—Section 632 (relating to tax in case of sale of oil and gas properties) is repealed.

26 USC 632.

(91) AMENDMENT OF SECTION 691.—Section 691(c)(1)(B) (relating to deduction for estate tax) is amended by striking out the last sentence.

26 USC 691.

(92) AMENDMENT OF SECTION 692.—The heading of section 692 (relating to income taxes of members of Armed Forces who die in a combat zone) is amended by striking out “ON” the first time it appears in the section heading and inserting in lieu thereof “OF”.

26 USC 751.

(93) AMENDMENT OF SECTION 751.—Section 751(c) (relating to unrealized receivables) is amended by striking out “1254(a), or 1250(a),” and inserting in lieu thereof “1245(a), 1250(a),”.

26 USC 771.

(94) REPEAL OF SECTION 771.—Part IV of subchapter K of chapter 1 (relating to effective date of subchapter K) is repealed.

26 USC 802.

(95) AMENDMENTS OF SECTION 802.—

(A) Section 802(a)(1) (relating to tax imposed on life insurance companies) is amended by striking out “beginning after December 31, 1957,”.

(B) Section 802(a)(2) (relating to alternative tax in case of capital gains) is amended by striking out “beginning after December 31, 1961,”.

(C) Section 802(a) is amended by striking out paragraph (3) (relating to special rules for 1959 and 1960).

(96) AMENDMENTS OF SECTION 804.—

26 USC 804.

(A) Section 804(a) is amended by striking out paragraph (6) (relating to certain exceptions).

(B) Section 804(b)(2) (relating to short-term capital gains) is amended by striking out “In the case of a taxable year beginning after December 31, 1958, the” and inserting in lieu thereof “The”.

(97) AMENDMENTS OF SECTION 805.—

26 USC 805.

(A) Section 805(b)(3)(B) (relating to average earnings rate) is amended to read as follows:

“(B) SPECIAL RULE.—For purposes of subparagraph (A), the current earnings rate for any taxable year of any company which, for such year, is an insurance company (but not a life insurance company) shall be determined as if this part applied to such company for such year.”

(B) Section 805(b)(4)(B) (relating to basis of assets) is amended by striking out “(determined without regard to fair market value on December 31, 1958)”.

(C) Section 805(d) (relating to pension plan reserves) is amended to read as follows:

“Pension plan reserves.”

“(d) PENSION PLAN RESERVES.—For purposes of this part, the term ‘pension plan reserves’ means that portion of the life insurance reserves which is allocable to contracts—

“(1) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be (A) trusts described in section 401(a) and exempt from tax under section 501(a), or (B) trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws;

“(2) purchased under contracts entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of paragraphs (3), (4), (5), and (6) of section 165(a) of the Internal Revenue Code of 1939;

“(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of paragraphs (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), and (20) of section 401(a);

“(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws, or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing; or

“(5) purchased under contracts entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b).”

(98) AMENDMENTS OF SECTION 809.—

(A) Section 809(b) (relating to definition of gain and loss from operations) is amended by striking out paragraph (4). 26 USC 809.

(B) (i) Section 809(d) (relating to life insurance company deductions) is amended by striking out paragraph (11) relating to mutualization distributions before 1963), and by redesignating paragraph (12) as paragraph (11).

(ii) Section 809(e) is amended by striking out “subsection (d) (12)” and inserting in lieu thereof “subsection (d) (11)”.

(C) Section 809 (relating to computation of gain and loss from operations) is amended by striking out subsection (g) (relating to deduction for certain mutualization distributions before 1963).

(99) AMENDMENT OF SECTION 812.—Section 812(b)(1) (relating to years to which operating losses of an insurance company may be carried), other than the last sentence thereof, as added by section 806(d)(1)(A) of this Act, is amended to read as follows: 26 USC 812.

“(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the ‘loss year’) shall be—

“(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

“(B) an operations loss carryover to each of the 5 taxable years following the loss year, and

“(C) subject to subsection (e), if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 5 taxable years described in subparagraph (B).”

(100) AMENDMENTS OF SECTION 817.—Section 817 (relating to rules applicable to certain gains and losses) is amended by striking out subsection (c) (relating to treatment of pre-1959 capital losses) and subsection (e) (relating to certain 1958 reinsurance transactions). 26 USC 817.

(101) AMENDMENT OF SECTION 818.—Section 818 (relating to life insurance accounting provisions) is amended by striking out subsection (e) (relating to certain rules applicable to taxable years 1957, 1958, and 1959), and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively. 26 USC 818.

(102) AMENDMENTS OF SECTION 819.—

(A) The first sentence of section 819(a)(2)(A) (relating to definition of minimum figure for foreign life insurance companies) is amended to read as follows: “The minimum figure is the amount determined by multiplying the tax- 26 USC 819.

payer's total insurance liabilities on United States business by a percentage for the taxable year to be determined and proclaimed by the Secretary."

26 USC 819.

(B) The second sentence of section 819(a)(2)(A) is amended by striking out "under clause (ii)" and inserting in lieu thereof "under the preceding sentence".

(C) Clause (i) of section 819(b)(2)(B) (relating to distributions pursuant to certain mutualizations) is amended to read as follows:

"(i) the minimum figure for 1958 determined under subsection (a)(2)(A) computed by using a percentage of 9 percent in lieu of the percentage determined and proclaimed by the Secretary, or".

(103) AMENDMENTS OF SECTION 820.—

26 USC 820.

(A) Section 820(c) (relating to optional treatment of certain reinsured policies) is amended by striking out paragraph (6) (relating to reimbursement for 1957 income taxes), and by redesignating paragraph (7) as paragraph (6).

(B) The last sentence of section 820(c) is amended by striking out "(5), and (6) and the rules prescribed under paragraph (7)" and inserting in lieu thereof "and (5) and the rules prescribed under paragraph (6)".

(104) AMENDMENTS OF SECTION 821.—

26 USC 821.

(A) Section 821(a) (relating to imposition of tax on certain mutual insurance companies) is amended by striking out "beginning after December 31, 1963,".

(B) Section 821(c)(1) (relating to alternative tax for certain small insurance companies) is amended by striking out "In the case of taxable years beginning after December 31, 1963, there is" and inserting in lieu thereof "There is".

(C) Section 821 (relating to tax on certain mutual insurance companies) is amended by striking out subsection (e) (relating to 1962 transitional rules) and by redesignating subsection (f) as subsection (e).

(105) AMENDMENTS OF SECTION 822.—

26 USC 822.

(A) Section 822(c)(5) (relating to deduction of interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(B) The last sentence of section 822(d)(2) (relating to amortization of premium and accrual of discount) is amended by striking out "For taxable years beginning after December 31, 1962, no accrual" and inserting in lieu thereof "No accrual".

26 USC 825.

(106) AMENDMENTS OF SECTION 825.—Section 825(g) (relating to unused loss deduction of certain insurance companies) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

26 USC 831.

(107) AMENDMENT OF SECTION 831.—Section 831(a) (relating to tax on certain insurance companies) is amended by striking out "or the taxable income" and inserting in lieu thereof "on the taxable income."

26 USC 832.

(108) AMENDMENTS OF SECTION 832.—Paragraphs (1) and (6) of section 832(b) (definitions relating to insurance company taxable income) are each amended by striking out "Convention" and inserting in lieu thereof "Association".

(109) AMENDMENTS OF SECTION 851.—

(A) Section 851(a)(1) (relating to definition of regulated investment company) is amended by striking out “54 Stat. 789;” 26 USC 851.

(B) Section 851(b)(1) (relating to regulated investment companies) is amended by striking out “which began after December 31, 1941”.

(110) AMENDMENTS OF SECTION 852.—

(A) Subparagraph (C) of section 852(b)(3) (relating to method of taxation of regulated investment companies and their shareholders) is amended by striking out the third sentence. 26 USC 852.

(B)(i) Section 852(b)(3)(D)(iii) is amended by striking out “by 75 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(A) and by 70 percent (72 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(B) or (2)” and inserting in lieu thereof “by 70 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)”. *Post*, p. 1786.

(ii) The amendment made by clause (i) shall not be considered to affect the amount of any increase in the basis of stock under the provisions of section 852(b)(3)(D)(iii) of the Internal Revenue Code of 1954 which is based upon amounts subject to tax under section 1201 of such Code in taxable years beginning before January 1, 1975.

(C) Section 852(d) is amended by inserting after “Investment Company Act of 1940” the following: “(15 U.S.C. 80a-1 and following)”. 26 USC 852 note.

(111) AMENDMENTS OF SECTION 856.—

(A) Section 856(c)(1) (relating to real estate investment trusts) is amended by striking out “which began after December 31, 1960”. 26 USC 856.

(B) Section 856(c)(6)(D) (relating to definition of other terms) is amended by inserting after “Investment Company Act of 1940, as amended” the following: “(15 U.S.C. 80a-1 and following)”.

(112) AMENDMENT OF SECTION 857.—Section 857(b)(3)(C) (relating to the taxation of capital gains in the case of real estate investment trusts) is amended by striking out the last sentence. 26 USC 857.

(113) AMENDMENTS OF SECTION 864.—

(A) Subsection (a) of section 864 (definitions relating to determinations of sources of income) is amended to read as follows: 26 USC 864.

“(a) PRODUCED.—For purposes of this part, the term ‘produced’ includes created, fabricated, manufactured, extracted, processed, cured, or aged.” “Produced.”

(B) Clauses (i) and (iii) of section 864(c)(4)(B) and subparagraph (C) of section 864(c)(5) (relating to effectively connected income) are each amended by striking out “sale” each place it appears and inserting in lieu thereof “sale or exchange”.

(C) Section 864(c)(4)(B)(iii) (relating to effectively connected income) is amended by striking out “sold” and inserting in lieu thereof “sold or exchanged”.

- 26 USC 905. (114) AMENDMENT OF SECTION 905.—Section 905(b) (relating to proof of foreign tax credits) is amended by striking out the last sentence (relating to the treatment of certain royalty payments).
- 26 USC 911. (115) AMENDMENT OF SECTION 911.—Section 911(c) (relating to earned income from sources without the United States) is amended by striking out paragraph (7) (relating to taxable years ending in 1963, 1964, or 1965).
- 26 USC 921. (116) AMENDMENT OF SECTION 921.—Section 921 (relating to definition of Western Hemisphere Trade Corporation) is amended by striking out the last sentence (relating to taxable years before 1954).
- 26 USC 931. (117) AMENDMENTS OF SECTION 931.—Section 931 (relating to income from sources within possession) is amended by striking out subsection (h) (relating to certain persons taken as prisoners of war while working in a possession), and by redesignating subsection (i) as subsection (h).
- 26 USC 934. (118) AMENDMENT OF SECTION 934.—Section 934(b) (relating to gross income received by a corporation from the Virgin Islands) is amended by striking out the last sentence.
- 26 USC 951. (119) AMENDMENT OF SECTION 951.—Section 951(a) (1) (relating to treatment of subpart F income) is amended by striking out “beginning after December 31, 1962”.
- 26 USC 972. (120) REPEAL OF SECTION 972.—Section 972 (relating to consolidation of export trade corporations) is repealed.
- 26 USC 1001. (121) AMENDMENT OF SECTION 1001.—Section 1001(c) (relating to recognition of gain or loss) is amended to read as follows:
“(c) RECOGNITION OF GAIN OR LOSS.—Except as otherwise provided in this subtitle, the entire amount of the gain or loss, determined under this section, on the sale or exchange of property shall be recognized.”
- 26 USC 1015. (122) AMENDMENTS OF SECTION 1015.—
(A) Subparagraph (A) of section 1015(d) (1) (relating to increased basis for gift tax paid) is amended by striking out “the date of the enactment of the Technical Amendments Act of 1958” and inserting in lieu thereof “September 2, 1958”.
(B) Subparagraph (B) of section 1015(d) (1) is amended by striking out “the date of the enactment of the Technical Amendments Act of 1958” and inserting in lieu thereof “September 2, 1958,”.
- 26 USC 1016. (123) AMENDMENT OF SECTION 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out paragraph (19).
- 26 USC 1018. (124) AMENDMENT OF SECTION 1018.—Section 1018 (relating to adjustment of capital structure before September 22, 1938) is amended by striking out “54 Stat. 709;”.
- 26 USC 1020. (125) REPEAL OF SECTION 1020.—Section 1020 (relating to election in respect of depreciation allowed before 1952) is repealed.
- 26 USC 1022. (126) REPEAL OF SECTION 1022.—
(A) Section 1022 (relating to the basis of certain foreign personal holding company stock) is repealed.
(B) The repeal made by subparagraph (A) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act.
- 26 USC 1024. (127) AMENDMENT OF SECTION 1024.—Section 1024 (containing cross references) is amended by striking out paragraph (4).

(128) AMENDMENTS OF SECTION 1033.—

(A) Section 1033(a) (relating to involuntary conversions) 26 USC 1033. is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 1033(a)(2) (relating to conversion into money), as redesignated by subparagraph (A) of this paragraph and as amended by this Act, is amended—

(i) by striking out “WHERE DISPOSITION OCCURRED AFTER 1950” in the paragraph heading;

(ii) by striking out “(g)” each place it appears and inserting in lieu thereof “(h)”;

(iii) by striking out “and the disposition of the converted property (as defined in paragraph (2)) occurred after December 31, 1950,” in the text; and

(iv) by adding at the end thereof the following new subparagraph:

“(E) DEFINITIONS.—For purposes of this paragraph—

“(i) CONTROL.—The term ‘control’ means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

“(ii) DISPOSITION OF THE CONVERTED PROPERTY.—The term ‘disposition of the converted property’ means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation.”

(C) Section 1033 (relating to involuntary conversions) is amended by striking out subsection (b) (relating to certain conversions occurring before 1954) and by redesignating subsections (c), (d), (e), (f), (g), and (h), as subsections (b), (c), (d), (e), (f), and (g), respectively.

(D) The first sentence of section 1033(b) (relating to basis of a property acquired through involuntary conversions), as redesignated by subparagraph (C) of this paragraph, is amended by striking out “or (2)” and inserting in lieu thereof “or section 112(f)(2) of the Internal Revenue Code of 1939”.

(E) Section 1033(f)(2) (relating to condemnation of real property), as redesignated by subparagraph (C) of this paragraph, is amended to read as follows:

“(2) LIMITATION.—Paragraph (1) shall not apply to the purchase of stock in the acquisition of control of a corporation described in subsection (a)(2)(A).”

(F) Section 1033(g)(4) (relating to condemnation of real property), as amended by section 2140(a) of this Act, is amended by striking out “(a)(3)(B)(i)” and inserting in lieu thereof “(a)(2)(B)(i)”.

(129) AMENDMENTS OF SECTION 1034.—

(A) Section 1034(a) (relating to gain on sale of residence) 26 USC 1034. is amended by striking out “after December 31, 1953,”.

(B) Section 1034(b) (defining adjusted sales price) is amended by striking out paragraph (3) (relating to effective date of subsection (b)).

(C) Section 1034(d) (relating to certain limitations) is amended by striking out “or section 112(n) of the Internal Revenue Code of 1939”.

26 USC 1034.

(D) Section 1034(i) (relating to involuntary conversions) is amended to read as follows:

“(ii) SPECIAL RULE FOR CONDEMNATION.—In the case of the seizure, requisition, or condemnation of a residence, or the sale or exchange of a residence under threat or imminence thereof, the provisions of this section, in lieu of section 1033 (relating to involuntary conversions), shall be applicable if the taxpayer so elects. If such election is made, such seizure, requisition, or condemnation shall be treated as the sale of the residence. Such election shall be made at such time and in such manner as the Secretary shall prescribe by regulations.”

26 USC 1037.

(E) Section 1034(j) (relating to statute of limitations) is amended by striking out “after December 31, 1950.”

(130) AMENDMENT OF SECTION 1037.—Section 1037(b)(1) (relating to certain exchanges of United States obligations) is amended by striking out “section 1232(a)(2)(A)” and inserting in lieu thereof “section 1232(a)(2)(B)”.

26 USC 1051.

(131) AMENDMENT OF SECTION 1051.—Section 1051 (relating to property acquired before 1929 during affiliation) is amended by striking out the last two sentences.

(132) AMENDMENTS OF SECTION 1081.—

26 USC 1081.

(A) Subsection (c) of section 1081 (relating to distributions required by the SEC) is amended to read as follows:

“(c) DISTRIBUTION OF STOCK OR SECURITIES ONLY.—If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property), without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized.”

(B) Section 1081(f) (relating to conditions for application of section) is amended by striking out “Except in the case of a distribution described in subsection (c)(2), the provisions” and inserting in lieu thereof “The provisions”, and by striking out “49 Stat. 820;”.

(C) Section 1081(g) (relating to applicability of other provisions) is amended by striking out “If a distribution described in subsection (c)(2), or an” and inserting in lieu thereof “If an”, and by striking out the comma after “Commission”.

26 USC 1083.

(133) AMENDMENTS OF SECTION 1083.—

(A) Section 1083(a) is amended by striking out “49 Stat. 820;”.

(B) Section 1083(b) is amended by striking out “49 Stat. 804;”.

(C) Section 1083(e)(4) is amended by striking out “49 Stat. 820;”.

26 USC 1111.

(134) REPEAL OF SECTION 1111.—Part IX of subchapter O of chapter 1 (relating to distributions pursuant to orders enforcing the antitrust laws) is repealed.

(135) AMENDMENTS OF SECTION 1201.—

26 USC 1201.

(A) Section 1201(a) (relating to the alternative tax on capital gain) is amended to read as follows:

“(a) CORPORATIONS.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, 821 (a) or (c) and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

“(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

“(2) a tax of 30 percent of the net capital gain.”

(B) Section 1201(c) (relating to computation of alternative tax) is amended to read as follows: 26 USC 1201.

“(c) COMPUTATION OF TAX WHERE CAPITAL GAIN EXCEEDS \$50,000.—The tax computed for purposes of subsection (b)(3) shall be the amount by which a tax determined under section 1 or 511 on an amount equal to the taxable income (but not less than 50 percent of the net capital gain) for the taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of (A) the amount subject to tax under subsection (b)(1) plus (B) an amount equal to 50 percent of the sum referred to in subsection (b)(2)(A).”

(C)(i) Section 1201 is amended by striking out subsection (d) (defining subsection (d) gain) and by redesignating subsection (e) as subsection (d).

(ii) Section 1201(b)(2)(A) (relating to alternative tax on noncorporate taxpayers) is amended by striking out “the amount of the subsection (d) gain” and inserting in lieu thereof “the sum of the long-term capital gains for the taxable year, but not to exceed \$50,000 (\$25,000 in the case of a married individual filing a separate return)”.

(iii) Section 1201(b)(3) is amended by striking out “the amount of the subsection (d) gain” and inserting in lieu thereof “the sum referred to in subparagraph (A)”.

(136) AMENDMENTS OF SECTION 1222.—

(A) Paragraph (9) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows: 26 USC 1222.

“(9) CAPITAL GAIN NET INCOME.—The term ‘capital gain net income’ means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges.”

(B) Paragraph (11) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows:

“(11) NET CAPITAL GAIN.—The term ‘net capital gain’ means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year.” “Net capital gain.”

(137) AMENDMENT OF SECTION 1233.—Section 1233(c) (relating to certain options to sell) is amended by striking out “the date of enactment of this title” and inserting in lieu thereof “August 16, 1954”. 26 USC 1233.

(138) AMENDMENT OF SECTION 1237.—Section 1237 (relating to real property subdivided for sale) is amended by striking out subsection (d) (relating to effective date). 26 USC 1237.

(139) REPEAL OF SECTION 1240.—Section 1240 (relating to taxability to employee of certain termination payments) is repealed. 26 USC 1240.

(140) AMENDMENT OF SECTION 1245.—Section 1245(b)(7)(B) (relating to transfers to tax-exempt organization where property will be used in unrelated business) is amended by striking out “such organization acquiring such property.”. 26 USC 1245.

(141) AMENDMENT OF SECTION 1246.—Section 1246(f) (relating to gain on foreign investment company stock) is amended by striking out “beginning after December 31, 1962”. 26 USC 1246.

- (142) AMENDMENT OF SECTION 1311.—Paragraphs (2) (A), (2) (B), and (3) of section 1311(b) (relating to mitigation of effect of limitations) are each amended by striking out “Tax Court of the United States” and inserting in lieu thereof “Tax Court”.
- 26 USC 1311. (143) REPEAL OF SECTION 1315.—Section 1315 (relating to effective date of part II of subchapter Q of chapter 1) is repealed.
- 26 USC 1315. (144) REPEAL OF SECTION 1321.—Part III of subchapter Q of chapter 1 (relating to involuntary liquidation of LIFO inventories) is repealed.
- 26 USC 1321. (145) REPEAL OF SECTIONS 1331 THROUGH 1337.—
- 26 USC 1331–1337. (A) Part IV of subchapter Q of chapter 1 (relating to war loss recoveries) is repealed.
- Effective date. (B) The repeal by subparagraph (A) shall apply with respect to war loss recoveries in taxable years beginning after 26 USC 1331 note. December 31, 1976.
- 26 USC 1341. (146) AMENDMENT OF SECTION 1341.—Section 1341(b) (2) (relating to claim of right) is amended by striking out the last sentence.
- 26 USC 1342. (147) REPEAL OF SECTION 1342.—Section 1342 (relating to computation of tax on certain amounts recovered as a result of a patent infringement suit) is repealed.
- 26 USC 1346. (148) REPEAL OF SECTION 1346.—Section 1346 (relating to recovery of unconstitutional Federal taxes) is repealed.
- 26 USC 1372. (149) AMENDMENTS OF SECTION 1372.—
- (A) Section 1372(b) (1) (relating to effect of election under subchapter S) is amended by striking out “(other than the tax imposed by section 1378)” and inserting in lieu thereof “(other than as provided by section 58(d) (2) and by section 1378)”.
- (B) Section 1372(c) (relating to subchapter S elections by small business corporations) is amended to read as follows:
- “(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the Secretary shall prescribe by regulations.”
- Regulations. (C) Section 1372 is amended by striking out subsection (g) (relating to certain elections for years beginning before 1961).
- 26 USC 1374. (150) AMENDMENTS OF SECTION 1374.—
- (A) Section 1374(b) (relating to net operating losses of subchapter S corporations) is amended by adding at the end thereof the following new sentence: “The deduction allowed by this subsection shall, for purposes of this chapter, be considered as a deduction attributable to a trade or business carried on by the shareholder.”
- (B) Subsection (d) of section 1374 (relating to treatment of net operating losses of subchapter S corporations) is repealed.
- 26 USC 1375. (151) AMENDMENTS OF SECTION 1375.—
- (A) The heading of subsection (b) of section 1375 is amended by striking out “RECEIVED CREDIT NOT ALLOWED” and inserting in lieu thereof “NOT TREATED AS SUCH FOR CERTAIN PURPOSES”.
- (B) Section 1375(f) (relating to elections as to certain distributions) is amended by striking out paragraph (3).

(152) AMENDMENT OF SECTION 1378.—Section 1378(b) (relating to the taxation of capital gain in the case of electing small business corporations) is amended by striking out the last sentence. 26 USC 1378.

(153) AMENDMENTS OF SECTION 1388.—

(A) Section 1388(c)(2)(B)(i) (relating to patronage dividends) is amended by striking out “the date of the enactment of the Revenue Act of 1962” and inserting in lieu thereof “October 16, 1962”. 26 USC 1388.

(B) Section 1388(h)(2)(B)(i) (relating to per-unit retain certificates) is amended by striking out “the date of the enactment of this subsection” and inserting in lieu thereof “November 13, 1966”.

(154) AMENDMENTS OF SECTION 1401.—

(A) Section 1401(a) (relating to rate of tax on self-employment income) is amended to read as follows: 26 USC 1401.

“(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 7.0 percent of the amount of the self-employment income for such taxable year.”

(B) Section 1401(b) (relating to rate of tax on self-employment income for hospital insurance) is amended by striking out paragraphs (1) and (2) and by redesignating paragraphs (3), (4), (5), and (6), as paragraphs (1), (2), (3) and (4), respectively.

(155) AMENDMENTS OF SECTION 1402.—

(A) Paragraph (1) of section 1402(b) (relating to definition of self-employment income) is amended to read as follows: 26 USC 1402.

“(1) that part of the net earnings from self-employment which is in excess of (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which such taxable year begins, minus (ii) the amount of the wages paid to such individual during such taxable years; or” 42 USC 430.

(B) Section 1402 amended by striking out subsection (g) (relating to treatment of self-employment income for years prior to 1962), and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively. 26 USC 1402.

(C) Section 1402(g)(2) (relating to self-employment income of members of certain religious faiths), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

“(2) TIME FOR FILING APPLICATIONS.—For purposes of this subsection, an application must be filed on or before the time prescribed for filing the return (including any extension thereof) for the first taxable year for which the individual has self-employment income (determined without regard to this subsection or subsection (c)(6)), except that an application filed after such date but on or before the last day of the third calendar month following the calendar month in which the taxpayer is first notified in writing by the Secretary that a timely application for an exemption from the tax imposed by this chapter has not been filed by him shall be deemed to be filed timely.”

(156) REPEAL OF SECTION 1465.—Section 1465 (relating to definition of withholding agent) is repealed. 26 USC 1465.

(157) AMENDMENTS OF SECTION 1481.—

(A) Section 1481(a)(1)(A) (relating to mitigation of effect of renegotiation of Government contracts) is amended 26 USC 1481.

by striking out “within the meaning of the Federal renegotiation act applicable to such transaction” and inserting in lieu thereof “within the meaning of the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 and following)”.

26 USC 1481.

(B) Section 1481(a)(1) (relating to renegotiation) is amended by striking out subparagraph (D).

(C) Subparagraphs (B) and (C) of section 1481(a)(1) are each amended by striking out “applicable Federal renegotiation act” and inserting in lieu thereof “Renegotiation Act of 1951, as amended”.

26 USC 1551.

(158) AMENDMENT OF SECTION 1551.—Section 1551(a) (relating to disallowance of surtax exemption) is amended by striking out “determined under subsection (d)” and inserting in lieu thereof “determined under subsection (c)”.

26 USC 1552.

(159) AMENDMENT OF SECTION 1552.—The first sentence of section 1552(a) (relating to earnings and profits of an affiliated group) is amended by striking out “beginning after December 31, 1953, and ending after the date of enactment of this title.”.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 35 AND 242.—

26 USC 36.

(A) Section 36, as amended by this Act, is amended by striking out “sections 32 and 35” and inserting in lieu thereof “section 32”.

26 USC 41.

(B) Section 41(b)(2) is amended by striking out “section 35 (relating to partially tax-exempt interest);”.

Ante, p. 1580.

(C) Section 46(a)(3) is amended by striking out subparagraph (B), by inserting “and” at the end of subparagraph (A), and by redesignating subparagraph (C) as subparagraph (B).

26 USC 50A.

(D) Section 50A(a)(3) is amended by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E), as subparagraphs (B), (C), and (D), respectively.

26 USC 171.

(E)(i) The heading of paragraph (1) of section 171(a) is amended to read “(1) TAXABLE BONDS.—”.

(ii) The heading of paragraph (2) of section 171(a) is amended to read “(2) TAX-EXEMPT BONDS.—”.

(iii) Section 171(a) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(iv) Section 171(b)(1)(B)(ii) is amended by striking out “subsection (c)(1)(B)” and inserting in lieu thereof “subsection (a)(1)”.

(v) So much of section 171(c) as precedes paragraph (2) is amended to read as follows:

“(c) ELECTION AS TO TAXABLE BONDS.—

“(1) ELIGIBILITY TO ELECT; BONDS WITH RESPECT TO WHICH ELECTION PERMITTED.—In the case of bonds the interest on which is not excludible from gross income, this section shall apply only if the taxpayer has so elected.”

26 USC 551.

(F)(i) Section 551 is amended by striking out subsection (c), and by redesignating subsections (d), (e), (f), and (g), as subsections (c), (d), (e), and (f), respectively.

26 USC 1016.

(ii) Section 1016(a)(13) is amended by striking out “section 551(f)” and inserting in lieu thereof “section 551(e)”.

26 USC 584.

(G) Section 584(c)(2) is amended to read as follows:

“(2) DIVIDENDS RECEIVED.—The proportionate share of each participant in the amount of dividends received by the common

trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant."

(H) (i) Section 642(a) is amended by striking out paragraph (1), and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively. 26 USC 642.

(ii) Section 41(d) is amended by striking out "section 642(a) (3)" and inserting in lieu thereof "section 642(a) (2)". 26 USC 41.

(iii) Section 901(g)(3), as amended by this Act, is amended by striking out "section 642(a) (2)" and inserting in lieu thereof "section 642(a) (1)". 26 USC 901.

(I) (i) Section 702(a) is amended by striking out paragraph (7) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively. 26 USC 702.

(ii) Section 702(b) is amended by striking out "paragraphs (1) through (8)" and inserting in lieu thereof "paragraphs (1) through (7)".

(iii) Section 1402(a) is amended by striking out "702(a) (9)" each place it appears and inserting in lieu thereof "702(a) (8)". 26 USC 1402.

(J) (i) Section 804(a) is amended by striking out paragraph (3), and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively. 26 USC 804.

(ii) Section 243(b)(3)(C)(iii), as redesignated by paragraph (21)(A) of this subsection, is amended by striking out "sections 804(a) (4)" and inserting in lieu thereof "sections 804(a) (3)". 26 USC 243.

(iii) Section 804(a) (2) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)", and by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(iv) Section 809(d) (10) is amended by striking out "section 804(a) (4)", and inserting in lieu thereof "section 804(a) (3)". 26 USC 809.

(v) Section 1561(a) (3) is amended by striking out "sections 804(a) (4)" and inserting in lieu thereof "sections 804(a) (3)". 26 USC 1561.

(vi) Section 1564(a) (1)(C) is amended by striking out "sections 804(a) (4)" inserting in lieu thereof "sections 804(a) (3)". 26 USC 1564.

(K) Section 804(a) (2)(A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(L) (i) Section 809(d) (8)(A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(ii) Section 809(d) (8)(B) is amended by striking out "subparagraph (A) (iii)" and inserting in lieu thereof "subparagraph (A) (ii)".

(M) Sections 804(a) (1), 804(a) (2), 809(a) (1), 809(b) (1)(A) and 809(b) (2)(A) are each amended by striking out "partially tax-exempt interest".

(N) Section 809(e) is amended by striking out paragraph (6), and by redesignating paragraph (7) as paragraph (6).

(O) Section 815(b) (2)(A) (iii) is amended by striking out "the deduction for partially tax-exempt interest provided" 26 USC 815.

26 USC 242.

by section 242 (as modified by section 804(a)(3)),” and by striking out the comma after “809(d)(8)(B))”.

26 USC 822.

(P) Section 822(c)(2) is amended by striking out “partially tax-exempt interest and”.

(Q) Section 822(c)(6)(A) is amended by striking out “or to the deduction provided in section 242 for partially tax-exempt interest”.

(R) Section 822(c)(7) is amended by striking out “partially tax-exempt interest and to”.

(S) Section 822(d)(2) is amended by striking out “, the deduction provided in subsection (c)(1), and the deduction allowed by section 242 (relating to partially tax-exempt interest)” and inserting in lieu thereof “and the deduction provided in subsection (c)(1)”.

26 USC 832.

(T) Section 832(c)(5)(A) is amended by striking out “or to the deductions provided in section 242 for partially tax-exempt interest”.

(U) Section 832(c)(12) is amended by striking out “partially tax-exempt interest and to”.

26 USC 852, 857.

(V) Sections 852(b)(1) and 857(b)(1) are each amended by striking out the last sentence.

26 USC 1244.

(W) Section 1244(c)(1)(E) is amended by striking out “sections 172, 242, 243” and inserting in lieu thereof “sections 172, 243”.

26 USC 1402.

(X) Section 1402(a)(2) is amended by striking out “(other than interest described in section 35)”.

26 USC 1503.

(Y) Section 1503(b)(3) is amended by striking out subparagraph (C).

(Z) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 35.

(AA) The table of sections for part VIII of subchapter B of chapter 1 is amended by striking out the item relating to section 242.

(2) AMENDMENT CONFORMING TO REPEAL OF SECTION 51.—The table of parts for subchapter A of chapter 1 is amended by striking out the item relating to part V.

(3) AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

26 USC 341.

(A) Paragraphs (1)(C), (5)(A), (6)(D), and (12) of section 341(e) are each amended by striking out “gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b)” each place it appears and inserting in lieu thereof “ordinary income”.

26 USC 483.

(B) Section 483(f)(3) is amended by striking out “no part of any gain on such” and inserting in lieu thereof “all of the gain, if any, on such” and by striking out “gain from the sale or exchange of a capital asset or property described in section 1231” and inserting in lieu thereof “ordinary income”.

26 USC 707.

(C) Section 707(b)(2) is amended by striking out “as gain from the sale or exchange of property other than a capital asset” and inserting in lieu thereof “as ordinary income”.

26 USC 735.

(D) Paragraphs (1) and (2) of section 735(a) are each amended by striking out “gain or loss from the sale or exchange of property other than a capital asset” and inserting in lieu thereof “as ordinary income or as ordinary loss, as the case may be”.

(E) Section 1236(b) is amended by striking out “loss from the sale or exchange of property which is not a capital asset” and inserting in lieu thereof “ordinary loss”. 26 USC 1236.

(F) Sections 1242 and 1243 are each amended by striking out “a loss from the sale or exchange of property which is not a capital asset” each place it appears and inserting in lieu thereof “an ordinary loss”. 26 USC 1242, 1243.

(G) Section 1244 is amended by striking out “a loss from the sale or exchange of an asset which is not a capital asset” each place it appears and inserting in lieu thereof “an ordinary loss”. 26 USC 1244.

(H) Section 1248(g) (3) (B), as redesignated by this Act, is amended by striking out “gain from the sale of an asset which is not a capital asset” and inserting “ordinary income”. 26 USC 1248.

(I) The following provisions are each amended by striking out “gain from the sale or exchange of property which is not a capital asset” each place it appears and inserting in lieu thereof “ordinary income”: sections 341(a), 871(a) (1) (C) (i) and (ii), 881(a) (3) (A) and (B), 996(d) (1) and (2), 1037(b) (1) (A), 1232(a) (2) (A) and (B), 1232(c), 1246(a), and 1385(c) (2) (C).

(J) The following provisions are each amended by striking out “gain from the sale of property which is not a capital asset” and inserting in lieu thereof “ordinary income”: sections 306(a) (1) (A), 306(a) (1) (B), and 306(f).

(K) The following provisions are each amended by striking out “gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231” each place it appears and inserting in lieu thereof “ordinary income”: sections 80(c) (1), 163(d) (3) and (5), 613(a), 617(d) (1), 995(b) (1) (C), 1238, 1245(a) (1), 1249(a), 1250 (f) and (g), 1251 (b) (3) (B), (c) (1), and (c) (2), and 1252(a) (1).

(4) CLERICAL AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

(A) The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new items:

“Sec. 64. Ordinary income defined.

“Sec. 65. Ordinary loss defined.”

(B) The heading for part I of subchapter B of chapter 1 is amended by striking out “AND TAXABLE INCOME” and inserting in lieu thereof “TAXABLE INCOME, ETC.”

(C) The table of parts for subchapter B of chapter 1 is amended by striking out “and taxable income.” in the item relating to part I and inserting in lieu thereof “taxable income, etc.”

(5) AMENDMENT CONFORMING TO REPEAL OF SECTION 76.—The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 76.

(6) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 103.—

(A) Section 6049(b) (2) (A) is amended by striking out “section 103(a) (1) or (3)” and inserting in lieu thereof “section 103(a)”. 26 USC 6049.

Post, p. 1930.

(B) Section 852(a)(1)(B), as added by this Act, is amended by striking out "section 103(a)(1)" and inserting in lieu thereof "section 103(a)".

(7) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 143.—

26 USC 153,
154.

(A)(i) Part V of subchapter B of chapter 1 is amended by striking out section 153 (relating to determination of marital status) and by redesignating section 154 as section 153.

(ii) The table of sections for part V of subchapter B of chapter 1 is amended by striking out the items relating to sections 153 and 154 and inserting in lieu thereof the following:

"Sec. 153. Cross references."

26 USC 152.

(B) Section 152(a)(9) is amended by striking out "section 153" and inserting in lieu thereof "section 143".

26 USC 153.

(C) Section 153, as redesignated by subparagraph (A) of this paragraph, is amended by adding at the end thereof the following new paragraph:

"(5) For determination of marital status, see section 143."

(8) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 151.—

26 USC 117,
152, 170, 403.

(A) The following provisions are each amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)": sections 117(a)(1)(A), 117(b)(1), 117(b)(2), 152(d), 170(g)(1)(B) (as redesignated by subsection (a)(28)(A)(i) of this section), and 403(b)(1)(A)(ii).

26 USC 103.

(B) Section 103(c)(3)(A), as redesignated by subsection (a)(17) of this section, is amended by striking out "educational institution (within the meaning of section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

26 USC 163.

(C) Section 163(b)(1) is amended by striking out "educational institution (as defined in section 151(e)(4)) and which is provided for a student of such institution" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii) and which is provided for a student of such organization".

26 USC 415.

(D)(i) Subparagraphs (A), (B), and (C) of section 415(c)(4) are each amended by striking out "educational institution" each place it appears and inserting in lieu thereof "educational organization".

"Educational
organization."

(ii) Subparagraph (D)(ii) of section 415(c)(4) is amended to read as follows:

"(ii) For purposes of this paragraph the term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii)."

(iii) Section 415(c)(4) is amended by striking out "EDUCATIONAL INSTITUTIONS" from the paragraph heading and inserting in lieu thereof "EDUCATIONAL ORGANIZATIONS".

26 USC 508.

(E) Section 508(c)(2)(A) is amended to read as follows:

"(A) educational organizations described in section 170(b)(1)(A)(ii), and"

26 USC 512.

(F) Section 512(b)(15)(B), as redesignated by section 1951(b)(8)(A) of this Act, is amended by striking out "edu-

cational institution (as defined in section 151(e)(4))” and inserting in lieu thereof “educational organization described in section 170(b)(1)(A)(ii)”.

(G) Section 1303(d) is amended by striking out “educational institution (as defined in section 151(e)(4))” each place it appears and inserting in lieu thereof “educational organization described in section 170(b)(1)(A)(ii)”.

26 USC 1303.

(H) Sections 4941(d)(2)(G)(ii) and 4945(g)(1) each are amended by striking out “educational institution described in section 151(e)(4)” and inserting in lieu thereof “educational organization described in section 170(b)(1)(A)(ii)”.

26 USC 4941,
4945.

(9) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 152.—Section 2(b)(3)(B) is amended by striking out clause (ii), by adding “or” at the end of clause (i), and by redesignating clause (iii) as clause (ii).

26 USC 2.

(10) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 172.—

(A) Section 374(e)(2) is amended by striking out “section 172(j)” and inserting in lieu thereof “172(g)”.

Ante, p. 296.

(B) Section 904(f)(2)(B)(i) and 904(f)(4)(B)(i), as amended by this Act, are each amended by striking out “section 172(k)(1)” and inserting in lieu thereof “section 172(h)”.

Ante, p. 1624.

(11) AMENDMENTS CONFORMING TO REPEAL OF SECTION 187.—

(A) Section 48(a)(8) (relating to section 38 property) is amended by striking out “187.”

26 USC 48.

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 187.

(C) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out “187.”

26 USC 1082.

(D) Section 1245(a)(2) (relating to gain from dispositions of certain depreciable property) is amended by striking out “187,” each place it appears.

26 USC 1245.

(12) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 342.—

(A) Section 551(f), as redesignated by paragraph (1)(F) of this subsection, is amended by striking out paragraph (3).

26 USC 551.

(B) The table of subparts for part II of subchapter C of chapter 1 is amended by striking out the item relating to subpart C and inserting in lieu thereof:

“Subpart C. Collapsible corporations.”

(C) The table of sections for subpart C of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 342.

(D) The heading of subpart C of part II of subchapter C of chapter 1 is amended to read as follows:

“Subpart C—Collapsible Corporations”.

(13) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 363.—The table of sections for subpart C of part III of subchapter C of chapter 1 is amended by striking out the item relating to section 363.

(14) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 373.—

(A) Section 372(b)(1) is amended by striking out “373 (b) or”.

26 USC 372.

26 USC 374.

(B) Section 374(b) is amended to read as follows:

“(b) BASIS.—

“(1) RAILROAD CORPORATIONS.—If the property of a railroad corporation, as defined in section 77(m) of the Bankruptcy Act (11 U.S.C. 205(m)), was acquired after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation—

“(A) in a receivership proceeding, or

“(B) in a proceeding under section 77 of the Bankruptcy Act,

and the acquiring corporation is a railroad corporation (as defined in section 77(m) of the Bankruptcy Act) organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired, increased in the amount of gain recognized under subsection (a) (2) to the transferor on such transfer.

“(2) PROPERTY ACQUIRED BY STREET, SUBURBAN, OR INTERURBAN ELECTRIC RAILWAY CORPORATION.—If the property of any street, suburban, or interurban electric railway corporation engaged as a common carrier in the transportation of persons or property in interstate commerce was acquired after December 31, 1934, in pursuance of an order of the court having jurisdiction of such corporation in a proceeding under section 77 of the Bankruptcy Act (11 U.S.C. 501 and following), and the acquiring corporation is a street, suburban, or interurban electric railway engaged as a common carrier in the transportation of persons or property in interstate commerce, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, then, notwithstanding the provisions of section 270 of the Bankruptcy Act (11 U.S.C. 670), the basis shall be the same as it would be in the hands of the corporation whose property was so acquired.”

Ante, p. 295.

(C) Section 374(c) (3) is amended by striking out “subsection (b)” and inserting in lieu thereof “subsection (b) (1)”.

26 USC 1232.

(D) Section 1232(b) (2) is amended by striking out “section 371, 373, or 374” and inserting in lieu thereof “section 371 or 374”.

(E) The table of sections for part IV of subchapter C of chapter 1 is amended by striking out the item relating to section 373.

(15) AMENDMENT CONFORMING TO REPEAL OF SECTIONS 391 THROUGH 395.—The table of parts for subchapter C of chapter 1 is amended by striking out the item relating to part VII.

26 USC 381.

(16) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 481.—Section 381(c) is amended by striking out paragraph (21).

(17) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 545.—Section 381(c) (15) is amended by striking out “subsections (b) (7) and (c)” and inserting in lieu thereof “subsection (c)”.

(18) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 583.—The table of sections for part I of subchapter H of chapter 1 is amended by striking out the item relating to section 583.

(19) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 592.—The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 592.

(20) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 601.—

(A) Section 535(b) is amended by striking out paragraph (8). 26 USC 535.

(B) (i) Section 545(b) is amended by striking out paragraph (6), and by redesignating paragraph (8) as paragraph (6). 26 USC 545.

(ii) Section 545(b) (2) is amended by striking out “paragraph (8)” and inserting in lieu thereof “paragraph (6)”.

(iii) Section 545(c) (5) is amended by striking out “subsection (b) (8)” and inserting in lieu thereof “subsection (b) (6)”.

(C) The table of parts for subchapter H of chapter 1 is amended by striking out the item relating to part III.

(21) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 615.—

(A) (i) Section 243(b) (3) (C) is amended— 26 USC 243.

(I) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

“(ii) \$400,000 limitation for certain exploration expenditures under section 617(h) (1),” and

(II) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively.

(ii) Section 1564(b) (2) (C) is amended by striking out “section 243(b) (3) (C) (v)” and inserting in lieu thereof “243(b) (3) (C) (iv)”. 26 USC 1564.

(B) Section 381(c) (10) is amended to read as follows: 26 USC 381.

“(10) TREATMENT OF CERTAIN MINING DEVELOPMENT AND EXPLORATION EXPENSES OF DISTRIBUTOR OR TRANSFEROR CORPORATION.—

The acquiring corporation shall be entitled to deduct, as if it were the distributor or transferor corporation, expenses deferred under section 616 (relating to certain development expenditures) if the distributor or transferor corporation has so elected. For the purpose of applying the limitation provided in section 617(h), if, for any taxable year, the distributor or transferor corporation was allowed a deduction under section 617(a), the acquiring corporation shall be deemed to have been allowed such deduction.”

(C) Section 617(h) (1) is amended by striking out “and section 615(a) and the amounts which are or have been treated as deferred expenses under section 615(b)” and inserting in lieu thereof “and subsection (a) of section 615 (as in effect before the enactment of the Tax Reform Act of 1976)”. 26 USC 617.

(D) Section 617(h) (3) is amended to read as follows:

“(3) APPLICATION OF PARAGRAPH (2) (B).—Paragraph (2) (B) shall apply with respect to all amounts deducted before the latest such transfer from the individual or corporation to the taxpayer. Paragraph (2) (B) shall apply only if—

“(A) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make paragraph (7), (8), (11), (15), (17), (20), or (22) of section 113(a) of the Internal Revenue Code of 1939 apply to such transfer; or

“(B) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make section 334(b), 362 (a) and (b), 372(a), 374(b) (1), 1051, or 1082 apply to such transfer.”

(E) Section 617 is amended by adding at the end thereof the following new subsection:

“(i) CERTAIN PRE-1970 EXPLORATION EXPENDITURES.—If—

“(1) the taxpayer receives mineral property in a transaction as a result of which the basis of such property in the hands of the transferee is determined by reference to the basis in the hands of the transferor,

“(2) an election made by the transferor under subsection (e) of section 615(e) (as in effect before the enactment of the Tax Reform Act of 1976) applied with respect to expenditures which were made by him and which were properly chargeable to such property, and

“(3) the taxpayer has made or makes an election under subsection (a),

then in the application of this section with respect to the transferee, the amounts allowed as deductions under such section 615 to the transferor, which (but for the transferor's election) would be reflected in the adjusted basis of such property in the hands of the transferee, shall be treated as expenditures allowed as deductions under subsection (a) to the transferor.”

26 USC 703.

(F) Section 703(b) is amended by striking out “under section 615 (relating to pre-1970 exploration expenditures),”.

26 USC 1016.

(G) Section 1016(a) is amended by striking out paragraph (10).

(H) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 615.

(22) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 632.—

(A) The table of sections for part III of subchapter I of chapter 1 is amended by striking out the item relating to section 632.

26 USC 5.

(B) Section 5(b) is amended by striking out paragraph (1).

(23) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 771.—

The table of parts for subchapter K of chapter 1 is amended by striking out the item relating to part IV.

26 USC 815.

(24) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 802.—Section 815(c) (3) (B) is amended by striking out “(determined without regard to section 802(a) (3))”.

26 USC 844.

(25) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 812.—Section 844(b) (2) is amended by striking out “section 812(b) (1) (A) (iii)” and inserting in lieu thereof “section 812 (b) (1) (C)”.

(26) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 864.—

26 USC 861.

(A) Paragraphs (5) and (6) of section 861(a) (relating to items treated as income from within United States) are each amended by striking out in the heading “SALE” and inserting in lieu thereof “SALE OR EXCHANGE”, and by striking out “sale” in the text and inserting in lieu thereof “sale or exchange”.

(B) Section 861(e) (1) (relating to income from certain aircraft and vessels) is amended by striking out “sale or other disposition” and inserting in lieu thereof “sale, exchange, or other disposition”.

26 USC 862.

(C) Paragraphs (5) and (6) of section 862(a) (relating to items treated as income from without the United States) and paragraphs (2) and (3) of section 863(b) (relating to sources of income) are each amended by striking out “sale” and inserting in lieu thereof “sale or exchange”.

26 USC 863.

(D) Paragraph (2) of section 863(b) (relating to sources of income) is amended by striking out "sold" each place it appears and inserting in lieu thereof "sold or exchanged". 26 USC 863.

(27) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 972.—

(A) Section 970(b)(1) (relating to inclusion of certain previously excluded amounts of subpart F income) is amended by striking out "application of section 972" and inserting in lieu thereof "treatment (under section 972 as in effect before the date of the enactment of the Tax Reform Act of 1976) of two or more controlled foreign corporations which are export trade corporations as a single controlled foreign corporation". 26 USC 970.

(B) The table of sections for subpart G of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 972.

(28) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 1001.—

(A) Subsection (c) of section 331 is amended to read as follows: 26 USC 331.

"(c) CROSS REFERENCE.—

"For general rule for determination of the amount of gain or loss recognized, see section 1001."

(B)(i) Section 1002 (relating to recognition of gain or loss) is repealed. 26 USC 1002.

(ii) The table of sections for part I of subchapter O of chapter 1 is amended by striking out the item relating to section 1002.

(29) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1020.—

(A) The third sentence of subsection (a) of section 1016 is amended by striking out "under section 1020" and inserting in lieu thereof "under section 1020 (as in effect before the date of the enactment of the Tax Reform Act of 1976)". 26 USC 1016. *Ante*, p. 1520

(B) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1020.

(30) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1022.—

(A) Section 1016(a) is amended— 26 USC 1016

(i) by striking out paragraph (21), and

(ii) by redesignating paragraphs (20) and (22) as paragraphs (19) and (20), respectively.

(B) The amendment made by subparagraph (A)(i) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act. 26 USC 1016 note.

(C) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1022.

(31) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 1033.—

(A) Section 1250(d)(4)(B) is amended by striking out "1033(a)(3)(A)" and inserting in lieu thereof "1033(a)(2)(A)". 26 USC 1250.

(B) Section 1250(d)(4)(C) and (D) are each amended by striking out "1033(a)(3)" and inserting in lieu thereof "1033(a)(2)".

- 26 USC 6212. (C) Section 6212(c)(2)(B) is amended by striking out "1033(a)(3)(C) and (D)" and inserting in lieu thereof "1033(a)(2)(C) and (D)".
- 26 USC 6504. (D) Section 6504(4) is amended by striking out "1033(a)(3)(C) and (D)" and inserting in lieu thereof "1033(a)(2)(C) and (D)".
- 26 USC 1071, 1250. (E) Sections 1071(b) and 1250(d)(4)(D) are each amended by striking out "1033(c)" and inserting in lieu thereof "1033(b)".
- (32) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1111.—
- 26 USC 301. (A) Section 301 is amended by striking out subsection (f), and by redesignating subsection (g) as subsection (e).
- 26 USC 312. (B) (i) Section 312 is amended by striking out subsection (k), and by redesignating subsections (l) and (m) as subsections (j) and (k), respectively.
- 26 USC 1246. (ii) Section 1246(g) is amended by striking out "312(l)" and inserting in lieu thereof "312(j)".
- 26 USC 964, 1248. (iii) Sections 964(a) and 1248(c)(1) are each amended by striking out "312(m)(3)" and inserting in lieu thereof "312(k)(3)".
- Ante*, p. 1608. (iv) Subsection (d) of section 1377, as added by this Act, is amended by striking out "312(m)" and inserting in lieu thereof "312(k)".
- 26 USC 535. (C) Section 535(b) is amended by striking out paragraphs (9) and (10).
- 26 USC 543. (D) Section 543(a)(1) is amended by inserting "and" at the end of subparagraph (A), and by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:
- "(B) interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1161 or 1177)."
- 26 USC 545. (E) Section 545(b) is amended by striking out paragraphs (10) and (11).
- 26 USC 553. (F) Section 553(a)(1) is amended to read as follows:
- "(1) DIVIDENDS, ETC.—Dividends, interest, royalties, and annuities."
- 26 USC 556. (G) Section 556(b) is amended by striking out paragraphs (7) and (8).
- 26 USC 561. (H) Section 561(b) is amended to read as follows:
- "(b) SPECIAL RULES APPLICABLE.—In determining the deduction for dividends paid, the rules provided in section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) and section 563 (relating to dividends paid after the close of the taxable year) shall be applicable."
- (I) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part IX.
- (33) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 1222.—
- 26 USC 57. (A) Section 57(a)(9)(A) is amended by striking out "the amount by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "the net capital gain".
- (B) So much of the first sentence of section 57(a)(9)(B) as precedes "by a fraction" is amended to read as follows: "In the case of a corporation having a net capital gain for the

taxable year, an amount equal to the product obtained by multiplying the net capital gain”.

(C) Section 527(b)(2) is amended by striking out “net section 1201 gain” and inserting in lieu thereof “net capital gain”. 26 USC 527.

(D) Sections 535(b)(6) and 545(b)(5) are each amended— 26 USC 535, 545.

(1) by striking out from the paragraph heading “LONG-TERM” and inserting in lieu thereof “NET”;

(2) by striking out from the text “the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year” each place it appears and inserting in lieu thereof “the net capital gain for the taxable year”; and

(3) by striking out from the text “such excess” each place it appears and inserting in lieu thereof “such net capital gain”.

(E) Section 802(a)(2) is amended— 26 USC 802.

(i) by striking out “the net long-term capital gain of any life insurance company exceeds the net short-term capital loss” and inserting in lieu thereof “any life insurance company has a net capital gain”; and

(ii) by striking out “such excess” each place it appears and inserting in lieu thereof “such net capital gain”.

(F) Section 804(a)(2) is amended by striking out “by which the net long-term capital gain exceeds the net short-term capital loss” and inserting in lieu thereof “of the net capital gain”. 26 USC 804.

(G) Sections 809(b)(1)(B) and 809(b)(2)(B) are each amended by striking out “by which the net long-term capital gain exceeds the net short-term capital loss” and inserting in lieu thereof “of the net capital gain”. 26 USC 809.

(H) Section 815(b)(2)(A)(ii) is amended by striking out “by which the net long-term capital gain exceeds the net short-term capital loss” and inserting in lieu thereof “of the net capital gain”. 26 USC 815.

(I) Section 852(b)(2)(A) is amended by striking out “the excess, if any, of the net long-term capital gain over the net short-term capital loss” and inserting in lieu thereof “the amount of the net capital gain, if any”. 26 USC 852.

(J)(i) Section 852(b)(3)(A) is amended to read as follows:

“(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year in the case of every regulated investment company a tax, determined as provided in section 1201(a), on the excess, if any, of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only.”

(ii) The second sentence of section 852(b)(3)(C) is amended by striking out “excess of the net long-term capital gain over the net short-term capital loss” each place it appears and inserting in lieu thereof “net capital gain”.

(K) The second sentence of section 857(b)(3)(C) is amended by striking out “excess of the net long-term capital gain over the net short-term capital loss” each place it appears and inserting in lieu thereof “net capital gain”. 26 USC 857.

(L) Section 1201(b) is amended by striking out “net section 1201 gain” each place it appears and inserting in lieu thereof “net capital gain”. 26 USC 1201.

26 USC 1202.

(M) The first sentence of section 1202 is amended to read as follows: "If for any taxable year, a taxpayer other than a corporation has a net capital gain, 50 percent of the amount of the net capital gain shall be a deduction from gross income."

26 USC 381,
852, 4940.

(N) Sections 381(c)(3)(B), 381(c)(3)(C), 852(d), 4940(c)(1), and 4940(c)(4) are each amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

26 USC 1212.

(O) Section 1212(a)(1) is amended by striking out "net capital gain" each place it appears and inserting in lieu thereof "capital gain net income", and by striking out "net capital gains" and inserting in lieu thereof "capital gain net income".

26 USC 1247.

(P) Section 1247(a)(1)(B) is amended by striking out "the excess (determined as if such corporation were a domestic corporation) of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount (determined as if such corporation were a domestic corporation) of the net capital gain".

26 USC 1375.

(Q)(i) Section 1375(a)(1) is amended by striking out "the excess of the corporation's net long-term capital gain over its short-term capital loss" and inserting in lieu thereof "the corporation's net capital gain".

(ii) The second sentence of section 1375(a)(1) is amended by striking out "such excess" and inserting in lieu thereof "such net capital gain".

(iii) Section 1375(a)(3) is amended by striking out "the excess of an electing small business corporation's net long-term capital gain over its net short-term capital loss" and inserting in lieu thereof "an electing small business corporation's net capital gain".

26 USC 1247,
1378.

(R) The following provisions are each amended by striking out "the excess of the net long-term capital gain over the net short-term capital loss," and inserting in lieu thereof "the net capital gain": Sections 1247(a)(2)(A)(i), 1247(a)(2)(C), 1247(d)(1) and (2), 1378(a)(1), 1378(b)(1), and 1378(c)(3).

(34) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1240.—The table of sections of part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1240.

(35) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1315.—The table of sections for part II of subchapter Q of chapter 1 is amended by striking out the item relating to section 1315.

(36) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1321.—

26 USC 472.

(A) Section 472 is amended by striking out subsection (f).

26 USC 6422.

(B) Section 6422, as amended by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (3) through (13) as paragraphs (2) through (12), respectively.

Post, p. 1829.

(C) Section 6504 is amended by striking out paragraph (1).

Post, p. 1803.

(D) Section 6515 is amended by striking out paragraph (1).

(E) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part III.

(37) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 1331 THROUGH 1337.—

(A) The third sentence of section 901(a) is amended by striking out “under section 1333 (relating to war loss recoveries) or”. 26 USC 901.

(B) Section 936(a)(2), as added by this Act, is amended— 26 USC 936.

(i) by inserting “or” at the end of subparagraph (C), and

(ii) by striking out subparagraph (D).

(C) Section 6212(c)(2) is amended by striking out subparagraph (D). 26 USC 6212.

(D) Section 6515 is amended by striking out paragraph (6). 26 USC 6515.

(E) Section 6515, as amended by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (1), (2), (3), (4), (5), and (6) respectively.

(F) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part IV.

(38) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1342.—The table of sections for part V of subchapter Q of chapter 1 is amended by striking out the item relating to section 1342.

(39) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1346.—

(A) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1346.

(B) Section 6504 is amended by striking out paragraph (7). *Post*, p. 1829.

(40) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 1372.—Section 58(d)(2) is amended by striking out “, notwithstanding the provisions of section 1371(b)(1),”. 26 USC 58.

(41) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1465.—The table of sections for subchapter C of chapter 3 is amended by striking out the item relating to section 1465.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

(1) Section 37(f) is amended by striking out “a Territory”. *Ante*, p. 1559.

(2) Sections 105(e)(2), 273, and 454(b)(2) are each amended by striking out “, a Territory”. 26 USC 105, 273, 454.

(3) Section 117(b)(2)(A)(iv) is amended by striking out “a territory”. 26 USC 117.

(4) Section 162(a) is amended by striking out “territory”. 26 USC 162.

(5) Section 581 is amended by striking out “, of any State, or of any Territory” and inserting in lieu thereof “or of any State”, and by striking out “, Territorial”. 26 USC 581.

(6) Section 801(b)(3) is amended by striking out “or Territorial”. 26 USC 801.

(7) Section 861(a)(1) is amended by striking out “, any Territory, any political subdivision of a Territory”. 26 USC 861.

(8) Paragraphs (6) and (7) of section 1014(b) are each amended by striking out “Territory”. 26 USC 1014.

(9) Section 1221(5) is amended by striking out “or Territory”. 26 USC 1221.

(d) EFFECTIVE DATE.—Except as otherwise expressly provided in this section, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976. The amendments made by subsections (a)(29) and (b)(10) shall apply with respect to taxable years ending after the date of the enactment of this Act. 26 USC 2 note.

SEC. 1902. AMENDMENTS OF SUBTITLE B; ESTATE AND GIFT TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF SECTION 2012.—

26 USC 2012.

(A) Section 2012(b) (relating to credit for gift tax) is amended—

(i) by striking out “(b) In applying,” and inserting in lieu thereof “(b) VALUATION REDUCTIONS.—In applying,”; and

(ii) by striking out in paragraphs (2) and (3) “deduction)—then” and inserting in lieu thereof “deduction), then”.

(B) Section 2012(c) (relating to gift by spouse or third party) is amended by striking out “(c) Where the decedent” and inserting in lieu thereof “(c) WHERE GIFT CONSIDERED MADE ONE-HALF BY SPOUSE.—Where the decedent”.

(C) Section 2012(d)(1) (relating to computation of amount of gift tax) is amended by striking out “(d)(1) For purposes of” and inserting in lieu thereof the following:

“(d) COMPUTATION OF AMOUNT OF GIFT TAX PAID.—

“(1) AMOUNT OF TAX.—For purposes of”.

(D) Section 2012(d)(2) (relating to credit for gift tax) is amended by striking out “(2) For purposes” and inserting in lieu thereof: “(2) AMOUNT OF GIFT.—For purposes”.

26 USC 2013.

(2) AMENDMENTS OF SECTION 2013.—Section 2013(d)(3) is amended by striking out “, or the corresponding provision of prior law,”.

26 USC 2038.

(3) AMENDMENT OF SECTION 2038.—Section 2038 (relating to revocable transfers) is amended by striking out subsection (c) (relating to effect of disability in certain cases).

26 USC 2055.

(4) AMENDMENTS OF SECTION 2055.—

(A) Section 2055(b) (relating to powers of appointment) is amended to read as follows:

“(b) POWERS OF APPOINTMENT.—Property includible in the decedent's gross estate under section 2041 (relating to powers of appointment) received by a donee described in this section shall, for purposes of this section, be considered a bequest of such decedent.”

(B) Section 2055(f) (relating to cross references) is amended to read as follows:

(f) CROSS REFERENCES.—

“(1) For option as to time for valuation for purpose of deduction under this section, see section 2032.

“(2) For exemption of gifts and bequests to or for the benefit of Library of Congress, see section 5 of the Act of March 3, 1925, as amended (2 U.S.C. 161).

“(3) For treatment of gifts and bequests for the benefit of the Office of Naval Records and History as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code.

“(4) For treatment of gifts and bequests to or for the benefit of National Park Foundation as gifts or bequests to or for the use of the United States, see section 8 of the Act of December 18, 1967 (16 U.S.C. 191).

16 USC 191.

“(5) For treatment of gifts, devises, or bequests accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts, devises, or bequests to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

“(6) For treatment of gifts or bequests of money accepted by the Attorney General for credit to ‘Commissary Funds, Federal Prisons,’ as gifts or bequests to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4).

"(7) For payment of tax on gifts and bequests of United States obligations to the United States, see section 24 of the Second Liberty Bond Act (31 U.S.C. 757e).

"(8) For treatment of gifts and bequests for benefit of the Naval Academy as gifts or bequests to or for the use of the United States, see section 6973 of title 10, United States Code.

"(9) For treatment of gifts and bequests for benefit of the Naval Academy Museum as gifts or bequests to or for the use of the United States, see section 6974 of title 10, United States Code.

"(10) For exemption of gifts and bequests received by National Archives Trust Fund Board, see section 2308 of title 44, United States Code."

(5) AMENDMENTS OF SECTION 2106.—

(A) Section 2106(a)(2)(F) (relating to cross references concerning the charitable deduction for estate tax purposes) is amended to read as follows:

"(F) CROSS REFERENCES.—

"(1) For option as to time for valuation for purposes of deduction under this section, see section 2032.

"(2) For exemption of certain bequests for the benefit of the United States and for rules of construction for certain bequests, see section 2055(f)."

(B) Section 2106 (relating to taxable estate of nonresidents) is amended by striking out subsection (c) (relating to treatment of United States bonds).

(6) AMENDMENT OF SECTIONS 2107 AND 2108.—Section 2107(a) (relating to estate tax on expatriates) and section 2108(a) (relating to application of pre-1967 estate tax provisions) are each amended by striking out "the date of enactment of this section" and inserting in lieu thereof "November 13, 1966".

(7) AMENDMENT RELATING TO SECTION 2201.—

(A) Section 6(b)(1) of the Act of January 2, 1975 (Public Law 93-597; 88 Stat. 1950) is amended by striking out "Section 2210" and inserting in lieu thereof "Section 2201".

(B) The amendment made by subsection (A) is effective July 1, 1973.

(8) REPEAL OF SECTION 2202.—Section 2202 (relating to missionaries in foreign service) is repealed.

(9) AMENDMENT OF SECTION 2204.—The last sentence of section 2204(b) (relating to the discharge from personal liability of a fiduciary other than the executor) is amended by striking out "has not been" and inserting in lieu thereof "has been".

(10) AMENDMENT OF SECTION 2501.—Section 2501(a)(1) (relating to imposition of gift tax) is amended to read as follows:

"(1) GENERAL RULE.—A tax, computed as provided in section 2502, is hereby imposed for each calendar quarter on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident."

(11) AMENDMENT OF SECTION 2522.—Subsection (d) of section 2522 (relating to cross references) is amended to read as follows:

"(d) CROSS REFERENCE.—
"For exemption of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain gifts, see section 2055(f)."

(12) AMENDMENTS TO SECTIONS REFERRING TO TERRITORIES.—

(A) The following provisions are each amended by striking out "Territory,"; sections 2055(a)(1), 2056(c)(2)(B), and 2106(a)(2)(A)(i).

26 USC 2011, 2053. (B) The following provisions are each amended by striking out "or Territory": sections 2011(a), 2011(e), and 2053(d).

26 USC 2016. (C) Section 2016 is amended by striking out "Territory or".

26 USC 2522. (D) Sections 2522(a)(1) and 2522(b)(1) are each amended by striking out "Territory,".

26 USC 2523. (E) Section 2523(f)(1) is amended by striking out "Territory, or".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT CONFORMING TO REPEAL OF SECTION 2202.—The table of sections for subchapter C of chapter 11 is amended by striking out the item relating to section 2202.

26 USC 6503. (2) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 2055.—

(A) Section 6503, as amended by this Act, is amended by striking out subsection (e), and by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively.

26 USC 6167. (B) Section 6167(h)(2) is amended by striking out "section 6503(f)" and inserting in lieu thereof "section 6503(e)".

(c) EFFECTIVE DATES.—

26 USC 2011 note. (1) ESTATE TAX AMENDMENTS.—The amendments made by paragraphs (1) through (10), and paragraphs (14) (A), (B), and (C), of subsection (a), and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (11) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1970.

26 USC 2501 note. (2) GIFT TAX AMENDMENTS.—The amendments made by paragraphs (12), (13), and (14) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976.

SEC. 1903. AMENDMENTS OF SUBTITLE C; EMPLOYMENT TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF SECTIONS 3101 AND 3111.—

26 USC 3101. (A) Section 3101(a) (relating to rate of tax on employees for old-age, survivors, and disability insurance) and section 3111(a) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1), (2), (3), and (4), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(B) Section 3101(b) (relating to rate of tax on employees for hospital insurance) and section 3111(b) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1) and (2), and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.

26 USC 3113. (2) REPEAL OF SECTION 3113.—Section 3113 (relating to application of social security tax on District of Columbia credit unions) is repealed.

(3) AMENDMENTS OF SECTION 3121.—

26 USC 3121. (A) Section 3121(b) (relating to employment) is amended—

(i) by striking out "performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever

nature, performed after 1954" and inserting in lieu thereof "of whatever nature, performed", and

(ii) by striking out "in the case of service performed after 1954,".

(B) Section 3121(b)(1) is amended by striking out "65 Stat. 119;". 26 USC 3121.

(C) Section 3121(b)(6)(B)(v) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(D) Section 3121(g)(3) (relating to agricultural labor) is amended by striking out "46 Stat. 1550, § 3;".

(E) Section 3121(k)(1) (relating to exemption of certain organizations) is amended by striking out subparagraphs (F) and (H) and by redesignating subparagraph (G) as subparagraph (F).

(F) Section 3121(l)(2) (relating to employees of foreign subsidiaries) is amended by striking out "but in no case prior to January 1, 1955".

(G) Section 3121(m)(1) (relating to service in the uniformed services) is amended by striking out "after December 1956".

(4) AMENDMENTS OF SECTION 3122.—The last sentence of section 3122 (relating to Federal service) is amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of Transportation". 26 USC 3122.

(5) AMENDMENT OF SECTION 3125.—Section 3125(c) (relating to returns in the case of Governmental employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia or such agents as they may designate" and by inserting in lieu thereof "Mayor of the District of Columbia or such agents as he may designate". 26 USC 3125.

(6) AMENDMENT OF SECTION 3201.—Section 3201 (relating to rate of tax on railroad employees) is amended— 26 USC 3201.

(A) by striking out "of the Internal Revenue Code of 1954" each place it appears;

(B) by striking out "of such Code";

(C) by striking out "after September 30, 1973, as is" and inserting in lieu thereof "as is"; and

(D) by striking out "any month after September 30, 1973" and inserting in lieu thereof "any month".

(7) AMENDMENTS OF SECTION 3202.—

(A) The second sentence of section 3202(a) (relating to reduction of tax by railroad employer) is amended— 26 USC 3202.

(i) by striking out "after September 30, 1973," each place it appears;

(ii) by striking out "after September 30, 1973 and the aggregate" and inserting in lieu thereof "and the aggregate";

(iii) by striking out "of the Internal Revenue Code of 1954" each place it appears; and

(iv) by inserting a comma immediately after "for any month" each place it appears.

(B) Section 3202(b) (relating to indemnification of employer) is amended by striking out "made".

(8) AMENDMENTS OF SECTION 3211.—Section 3211(a) (relating to rate of tax on railroad employee representatives) is amended— 26 USC 3211.

(A) by striking out “3111(a), 3111(b)” and inserting in lieu thereof “3111(a), and 3111(b)”;

(B) by striking out “of the Internal Revenue Code of 1954” each place it appears;

(C) by striking out “rendered by him after September 30, 1973,” and inserting in lieu thereof “rendered by him”; and

(D) by striking out “after September 30, 1973”.

(9) AMENDMENTS OF SECTION 3221.—

26 USC 3221.

(A) The first sentence of section 3221(a) (relating to rate of tax on railroad employers) is amended—

(i) by striking out “after September 30, 1973,” each place it appears;

(ii) by striking out “after September 30, 1973; except that” and inserting in lieu thereof “, except that”;

(iii) by striking out “after September 30, 1973 of the aggregate” and inserting in lieu thereof “of the aggregate”;

(iv) by striking out “of the Internal Revenue Code of 1954” each place it appears; and

(v) by inserting a comma before “the tax imposed”.

(B) Section 3221(b) (relating to rate of tax on railroad employers) is amended to read as follows:

“(b) The rate of tax imposed by subsection (a) shall be increased by the rate of tax imposed with respect to wages by section 3111(a) plus the rate imposed by section 3111(b).”

(C) Section 3221(c) (relating to additional railroad retirement tax) is amended—

(i) by striking out “(1) at the rate of 2 cents for the period beginning November 1, 1966, and ending March 31, 1970, and (2) commencing April 1, 1970,” and

(ii) by striking out “commencing with the quarter beginning April 1, 1970”.

(10) AMENDMENTS OF SECTION 3231.—

26 USC 3231.

(A) Section 3231(a) (defining employer) is amended by striking out “44 Stat. 577;”.

(B) Section 3231(b) (defining employee) is amended by striking out “50 Stat. 312;”.

(C) Section 3231(c) (defining employee representative) is amended by striking out “44 Stat. 577;”.

(D) Section 3231(d) (7) (defining service) is amended by striking out “50 Stat. 308;”.

26 USC 3301.

(11) AMENDMENTS OF SECTION 3301.—Section 3301 (relating to Federal unemployment tax rate) is amended—

(A) by striking out “the calendar year 1970 and each calendar year thereafter” and inserting in lieu thereof “each calendar year”, and

(B) by striking out the last sentence.

(12) AMENDMENTS OF SECTION 3302.—

26 USC 3302.

(A) Section 3302(a) (relating to credits against tax) is amended by striking out “(10-month period in the case of October 31, 1972)”.

(B) Section 3302(b) (relating to additional credit) is amended—

(i) by striking out “(10-month period in the case of October 31, 1972)”, and

(ii) by striking out "12 or 10-month period, as the case may be," and inserting in lieu thereof "12-month period".

(C) (i) Section 3302(c) (relating to limitation on credits against unemployment tax) is amended by striking out paragraph (2) and the unnumbered paragraph immediately following such paragraph (2) (relating to advances made to a State unemployment account before September 13, 1960), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively. 26 USC 3302.

(ii) Section 3302(c)(2) (relating to advances made to a State unemployment account after September 12, 1960), as redesignated by clause (i) of this subparagraph, is amended by striking out "on or after the date of the enactment of the Employment Security Act of 1960", and by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1)".

(iii) Section 3302(c)(3) (relating to reductions with respect to certain agreements under the Trade Act of 1974), as redesignated by clause (i) of this subparagraph, is amended by striking out "paragraphs (1), (2), and (3)" and inserting in lieu thereof "paragraphs (1) and (2)".

(iv) Section 3302(d)(3) (relating to effect of repayment of advances) is amended by striking out "or (3)".

(v) Section 3302(d)(4), (5), and (6) (relating to special rules) are each amended by striking out "subsection (c)(3)" each place it appears and inserting in lieu thereof "subsection (c)(2)".

(vi) Section 3302(d)(7) (relating to determination and certification of percentages) is amended by striking out "subsection (c)(3)(B) or (C)" and inserting in lieu thereof "subsection (c)(2)(B) or (C)".

(D) Section 3302(d) (relating to special rules for credits against the unemployment tax) is amended by striking out paragraph (8) (a cross reference).

(13) AMENDMENTS TO SECTION 3303.—Section 3303(b) (relating to certification with respect to additional credit allowance) is amended— 26 USC 3303.

(A) by striking out "(10-month period in the case of October 31, 1972)" each place it appears,

(B) by striking out "12 or 10-month period, as the case may be," each place it appears in paragraphs (1) and (2), and inserting in lieu thereof "12-month period", and

(C) by striking out "12 or 10-month period, as the case may be," in paragraph (3) and inserting in lieu thereof "12-month period".

(14) AMENDMENTS TO SECTION 3304.—

(A) Section 3304(a)(3) (relating to requirements) is amended by striking out "49 Stat. 640; 52 Stat. 1104, 1105;". 26 USC 3304.

(B) Section 3304(c) (relating to certification) is amended by striking out "(10-month period in the case of October 31, 1972)".

(15) AMENDMENTS OF SECTION 3305.—

(A) Section 3305(g) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,". 26 USC 3305.

26 USC 3305.

(B) Section 3305(h) (relating to certain contributions to States) is amended by striking out “on or after July 1, 1953, and”.

(C) Section 3305(j) (relating to denial of credits in certain cases) is amended by striking out “after December 31, 1971.”

26 USC 3306.

(16) AMENDMENTS OF SECTION 3306.—

(A) Section 3306(c) (9) (relating to the exclusion of service performed by certain employees and employee representatives from the definition of employment) is amended by striking out “52 Stat. 1094, 1095;”.

(B) Section 3306(c) (18) (relating to the exclusion of certain service performed by nonresident aliens from the definition of employment) is amended by inserting after the “Immigration and Nationality Act, as amended” the following: “(8 U.S.C. 1101(a) (15) (F) or (J))”.

(C) Section 3306(f) (relating to the definition of an unemployment fund) is amended by striking out “49 Stat. 640; 52 Stat. 1104, 1105;”.

(D) Section 3306(n) (relating to vessels operated by general agents of the United States) is amended by striking out “on or after July 1, 1953,”.

26 USC 3402.

(17) AMENDMENT OF SECTION 3402.—Section 3402(1) (3) (B) (relating to marital status) is amended by striking out “section 2(b)” and inserting in lieu thereof “section 2(a)”.

(b) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 3113.—The table of sections for subchapter B of chapter 21 is amended by striking out the item relating to section 3113.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—Sections 3401(c) and 3404 are each amended by striking out “Territory,” each place it appears.

26 USC 3401, 3404.

26 USC 3101 note.

26 USC 3201.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to wages paid after December 31, 1976, except that the amendments made to chapter 22 of the Internal Revenue Code of 1954 shall apply with respect to compensation paid for services rendered after December 31, 1976.

SEC. 1904. AMENDMENTS OF SUBTITLE D; MISCELLANEOUS EXCISE TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF CHAPTER 31.—

(A) So much of chapter 31 (relating to retailers excise taxes) as precedes section 4041 is amended to read as follows:

“CHAPTER 31—SPECIAL FUELS

“Sec. 4041. Imposition of tax.”

26 USC 4041.

(B) Section 4041(g) (relating to exemptions from fuel taxes) is amended to read as follows:

“(g) OTHER EXEMPTIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section—

“(1) on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d) (3));

“(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

“(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

“(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel. For purposes of paragraph (4), the term ‘nonprofit educational organization’ means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.”

“Nonprofit educational organization.”

(C) Section 4041 (relating to tax on fuels) is amended by adding at the end thereof the following new subsection:

26 USC 4041.

“(i) SALES BY UNITED STATES, ETC.—The taxes imposed by this section shall apply with respect to liquids sold at retail by the United States, or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes.”

(D) Chapter 31 is amended by striking out section 4042 (a cross reference) and subchapter F (special provisions applicable to retailers taxes).

26 USC 4042,
4054–4058.

(2) AMENDMENTS OF SECTION 4216.—

(A) Section 4216 (relating to definition of price) is amended by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

26 USC 4216.

(B) Paragraphs (3), (4), and (5) of section 4216(b) (relating to constructive sales price) are each amended by striking out “subsections (a) and (f)” each place it appears and inserting in lieu thereof “subsections (a) and (e)”.

(3) AMENDMENT OF SECTION 4217.—Section 4217(d) (relating to lease treated as sale) is amended by striking out paragraph (4) (relating to certain 1958 transitional rules).

26 USC 4217.

(4) REPEAL OF SECTION 4226.—Section 4226 (relating to floor-stock taxes imposed before 1967) is repealed.

26 USC 4226.

(5) AMENDMENT OF SECTION 4227.—Section 4227 (relating to cross references) is amended to read as follows:

26 USC 4227.

“SEC. 4227. CROSS REFERENCE.

“For credit for taxes on tires and inner tubes, see section 6416(c).”

(6) AMENDMENT OF SECTION 4253.—Section 4253 (relating to exemptions from the tax on communications services) is amended by adding at the end thereof the following new subsections:

26 USC 4253.

“(i) STATE AND LOCAL GOVERNMENTAL EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 upon any payment received for services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.

“(j) EXEMPTION FOR NONPROFIT EDUCATIONAL ORGANIZATIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a nonprofit educational organization for services or facilities furnished to such organization. For purposes of this subsection, the term ‘nonprofit educational organization’ means an educational organization described in section

“Nonprofit educational organization.”

170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

(7) AMENDMENTS OF SECTION 4261.—

26 USC 4261.

(A) Subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) are each amended by striking out "which begins after June 30, 1970,".

(B) Section 4261(c) is amended by striking out "and begins after June 30, 1970".

26 USC 4271.

(8) AMENDMENT OF SECTION 4271.—Section 4271(a) (relating to tax on transportation of property by air) is amended by striking out "which begins after June 30, 1970,".

26 USC 4292.

(9) REPEAL OF SECTION 4292.—Section 4292 (relating to State and local governmental exemption from the tax on communications services) is repealed.

26 USC 4294.

(10) REPEAL OF SECTION 4294.—Section 4294 (relating to exemption of nonprofit educational organizations from the tax on communications services) is repealed.

26 USC 4295.

(11) REPEAL OF SECTION 4295.—Section 4295 (a cross reference) is repealed.

(12) AMENDMENT OF CHAPTER 34.—Chapter 34 (relating to documentary stamp taxes) is amended to read as follows:

"CHAPTER 34—POLICIES ISSUED BY FOREIGN INSURERS

"Sec. 4371. Imposition of tax.

"Sec. 4372. Definitions.

"Sec. 4373. Exemptions.

"Sec. 4374. Liability for tax.

26 USC 4371.

"SEC. 4371. IMPOSITION OF TAX.

"There is hereby imposed, on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates:

"(1) CASUALTY INSURANCE AND INDEMNITY BONDS.—4 cents on each dollar, or fractional part thereof, of the premium paid on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372(d);

"(2) LIFE INSURANCE, SICKNESS AND ACCIDENT POLICIES, AND ANNUITY CONTRACTS.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of life, sickness, or accident insurance, or annuity contract, unless the insurer is subject to tax under section 819; and

"(3) REINSURANCE.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

26 USC 4372.

"SEC. 4372. DEFINITIONS.

"(a) FOREIGN INSURER OR REINSURER.—For purposes of section 4371, the term 'foreign insurer or reinsurer' means an insurer or reinsurer who is a nonresident alien individual, or a foreign partnership, or a

foreign corporation. The term includes a nonresident alien individual, foreign partnership, or foreign corporation which shall become bound by an obligation of the nature of an indemnity bond. The term does not include a foreign government, or municipal or other corporation exercising the taxing power.

“(b) **POLICY OF CASUALTY INSURANCE.**—For purposes of section 4371(1), the term ‘policy of casualty insurance’ means any policy (other than life) or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed. *Ante*, p. 1812.

“(c) **INDEMNITY BOND.**—For purposes of this chapter, the term ‘indemnity bond’ means any instrument by whatever name called whereby an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed. The term includes any bond for indemnifying any person who shall have become bound or engaged as surety, and any bond for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, where a premium is charged for the execution of such bond.

“(d) **INSURED.**—For purposes of section 4371(1), the term ‘insured’ means—

“(1) a domestic corporation or partnership, or an individual resident of the United States, against, or with respect to, hazards, risks, losses, or liabilities wholly or partly within the United States, or

“(2) a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States, against, or with respect to, hazards, risks, losses, or liabilities within the United States.

“(e) **POLICY OF LIFE, SICKNESS, OR ACCIDENT INSURANCE, OR ANNUITY CONTRACT.**—For purposes of section 4371(2), the term ‘policy of life, sickness, or accident insurance, or annuity contract’ means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.

“(f) **POLICY OF REINSURANCE.**—For purposes of section 4371(3), the term ‘policy of reinsurance’ means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.

“SEC. 4373. EXEMPTIONS.

26 USC 4373.

“The tax imposed by section 4371 shall not apply to—

“(1) **DOMESTIC AGENT.**—Any policy, indemnity bond, or annuity contract signed or countersigned by an officer or agent of the insurer in a State, or in the District of Columbia, within which such insurer is authorized to do business; or

“(2) **INDEMNITY BOND.**—Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check, issued by the United States.

“SEC. 4374. LIABILITY FOR TAX.

26 USC 4374.

“The tax imposed by this chapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the

documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax."

- (13) AMENDMENT OF SECTION 4493.—
 26 USC 4493. (A) Section 4493(b)(1) (relating to certain persons engaged in foreign air commerce) is amended by striking out "beginning on or after July 1, 1970".
 (B) Section 4493(b)(2) is amended by striking out the last sentence.
- (14) AMENDMENT OF CHAPTER 37.—So much of chapter 37 as precedes section 4501 (relating to tax on sugar) is amended to read as follows:
- "CHAPTER 37—SUGAR**
- "Sec. 4501. Imposition of tax.
 "Sec. 4502. Definitions.
 "Sec. 4503. Exemptions for sugar manufactured for home consumption."
- (15) REPEAL OF SECTIONS 4591 THROUGH 4597.—Chapter 38 (relating to import taxes on oleomargarine) is repealed.
- (16) REPEAL OF SECTIONS 4801 THROUGH 4806.—Subchapter B of chapter 39 (relating to tax on white phosphorus matches) is repealed.
- (17) REPEAL OF SECTIONS 4811 THROUGH 4826.—Subchapter C of chapter 39 (relating to tax on unadulterated butter) is repealed.
- (18) REPEAL OF SECTIONS 4881 THROUGH 4886.—Subchapter E of chapter 39 (relating to tax on circulation other than of national banks) is repealed.
- (19) AMENDMENT OF SECTION 4901.—Section 4901 (relating to payment of occupational taxes) is amended by striking out subsection (c).
- (20) AMENDMENT OF SECTION 4905.—Section 4905(a) (relating to liability for occupational taxes in case of death or change of location) is amended by striking out "wife" and inserting in lieu thereof "spouse".
- (21) REPEAL OF SECTION 4911 THROUGH 4931.—
 26 USC 4911-4931. (A) Chapter 41 (relating to interest equalization tax) is repealed.
 26 USC 4911 note. (B) The repeal made by subparagraph (A) shall apply with respect to acquisitions of stock and debt obligations made after June 30, 1974.
- (22) AMENDMENTS OF SECTION 4973.—
 26 USC 4973. (A) So much of section 4973(a) (relating to tax on excess contributions) as follows "of any individual," in paragraph (3) thereof is amended to read as follows:
 "there is imposed for each taxable year a tax in an amount equal to 6 percent of the amount of the excess contributions to such individual's accounts, annuities, or bonds (determined as of the close of the taxable year). The amount of such tax for any taxable year shall not exceed 6 percent of the value of the account, annuity, or bond (determined as of the close of the taxable year). In the case of an endowment contract described in section 408(b), the tax imposed by this section does not apply to any amount allocable to life, health, accident, or other insurance under such contract. The tax imposed by this subsection shall be paid by such individual."

(B) Section 4973(c) is amended by striking out “subsection (a)(3)” and inserting in lieu thereof “subsection (a)(2)”. 26 USC 4973.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO AMENDMENT OF CHAPTER 31.—

(A) Section 6416(a)(1) is amended by striking out “(retailers taxes)” and inserting in lieu thereof “(special fuels)”. 26 USC 6416.

(B) Section 6416(e) is amended by striking out “subchapter E of”.

(2) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 4216.—Section 6416(b)(1) is amended by striking out “section 4216(f) (2) and (3)” and inserting in lieu thereof “section 4216(e) (2) and (3)”.

(3) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 4226.—The table of sections for subchapter G of chapter 32 is amended by striking out the item relating to section 4226.

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTIONS 4292, 4294, AND 4295.—The table of sections for subchapter E of chapter 33 is amended by striking out the items relating to sections 4292, 4294, and 4295.

(5) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 34.—

(A) Section 7270 is amended by striking out “the affixing of stamps on insurance policies, etc.” and inserting in lieu thereof “liability for tax on policies issued by foreign insurers”. 26 USC 7270.

(B) Section 6808 is amended by striking out paragraph (4). 26 USC 6808.

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 37.—

(A) Section 7240 is amended by striking out “subchapter A of”. 26 USC 7240.

(B) Section 7655(a) is amended— 26 USC 7655.

(i) by striking out “Subchapter A of chapter 37” in paragraph (5) and inserting in lieu thereof “Chapter 37” and

(ii) by redesignating paragraph (5) as paragraph (3).

(7) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4591 THROUGH 4597.—

(A) Section 6808 is amended by striking out paragraph (7). 26 USC 6808.

(B) (i) Section 7234 (relating to violations of laws concerning oleomargarine or adulterated butter operations) is repealed. 26 USC 7234.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7234.

(C) (i) Section 7265 (relating to other offenses concerning oleomargarine or adulterated butter operations) is repealed. 26 USC 7265.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7265.

(D) Section 7611(a), as redesignated by this Act, is amended by striking out paragraph (1). *Ante*, p. 1699.

(E) The table of chapters for subtitle D is amended by striking out the item relating to chapter 38.

(8) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4801 THROUGH 4806.—

26 USC 4905.

(A) Section 4905(b) is amended to read as follows:

“(b) REGISTRATION.—

“For registration in case of wagering, see section 4412.”

26 USC 6808.

(B) Section 6808 is amended by striking out paragraph (12).

26 USC 7012.

(C) Section 7012 is amended by striking out subsection (e).

26 USC 7239.

(D)(i) Section 7239 (relating to violations of laws concerning white phosphorus matches) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7239.

26 USC 7267,
7274.

(E)(i) Sections 7267 and 7274 (relating to offenses and penalties concerning white phosphorus matches) are each repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the items relating to sections 7267 and 7274.

26 USC 7272.

(F) Section 7272(b) is amended by striking out “4804 (d).”.

26 USC 7303.

(G) Section 7303 is amended by striking out paragraph (6).

26 USC 7201.

(H)(i) Part II of subchapter C of chapter 75 (relating to provisions common to forfeitures) is amended by striking out section 7328 (relating to confiscation of white phosphorus matches), and by redesignating section 7329 (relating to cross references) as section 7328.

26 USC 7328,
7329.

(ii) The table of sections for part II of subchapter C of chapter 75 is amended by striking out the last two items and inserting in lieu thereof the following:

“Sec. 7328. Cross references.”

(9) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4811 THROUGH 4826.—

26 USC 6808.

(A) Section 6808 (relating to cross references) is amended by striking out paragraph (10).

26 USC 7235.

(B)(i) Section 7235 (relating to violations of laws concerning adulterated butter and process or renovated butter) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7235.

26 USC 7264.

(C)(i) Section 7264 (relating to offenses concerning renovated or adulterated butter) is repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7264.

26 USC 7303.

(D) Section 7303 is amended by striking out paragraphs (3), (4), and (5), and by redesignating paragraphs (7) and (8) as paragraphs (2) and (3), respectively.

Ante, p. 1699.

(E) Section 7611(a), as redesignated by this Act, is amended by striking out paragraph (2), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(10) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 4911 THROUGH 4931.—

(A) (i) (I) Section 263, as amended by this Act, is amended by striking out subsections (a) (3) and (d) (relating to the allowance of deductions for payment of interest equalization tax), and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively. 26 USC 263.

(II) Section 263(d), as redesignated by clause (i) (I) of this subparagraph, is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(ii) Section 6011 (relating to requirement of return, statement, or list) is amended by striking out subsection (d) (relating to interest equalization tax returns, etc.), and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively. 26 USC 6011.

(iii) (I) Section 6076 (relating to time for filing interest equalization tax returns) is repealed. 26 USC 6076.

(II) The table of sections for part V of subchapter A of chapter 61 is amended by striking out the item relating to section 6076.

(iv) Section 6611 (relating to interest on overpayments) is amended by striking out subsection (h) (relating to overpayments of interest equalization tax) and by redesignating subsection (i) as subsection (h). 26 USC 6611.

(v) Section 6651 (relating to failure to file tax return or to pay tax) is amended by striking out subsection (e) (relating to certain interest equalization tax returns). 26 USC 6651.

(vi) (I) Section 6680 (relating to failure to file interest equalization tax returns) is repealed. 26 USC 6680.

(II) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6680.

(vii) The amendments made by this subparagraph shall apply with respect to acquisitions of stock or debt obligations made after June 30, 1974, except that the repeal of paragraph (2) of section 6011(d) under clause (ii) shall apply with respect to loans and commitments made after such date. 26 USC 263 note.

(B) Section 861(a)(1)(G) (relating to income from sources within the United States) is amended— 26 USC 861.

(i) by striking out "section 4912(c)" and inserting in lieu thereof "subsection (c) of section 4912 (as in effect before July 1, 1974)"; and

(ii) by striking out "section 4912(c) (2)" and inserting in lieu thereof "subsection (c) (2) of such section".

(C) The second sentence of section 1232(b) (2) (relating to the definition of the issue price of bonds and other evidences of indebtedness) is amended by striking out "section 4911" and inserting in lieu thereof "section 4911, as in effect before July 1, 1974". 26 USC 1232.

(D) (i) Section 6681 (relating to false equalization tax certificates) is repealed. 26 USC 6681.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6681.

(iii) The amendments made by this subparagraph shall apply with respect to actions occurring after June 30, 1974. 26 USC 6681 note.

(E) (i) Section 6689 (relating to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements) is repealed. 26 USC 6689.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6689.

26 USC 6689
note.

(iii) The amendments made by this subparagraph shall apply with respect to stock or debt obligations issued after June 30, 1974.

26 USC 7241.

(F) (i) Section 7241 (relating to penalty for fraudulent equalization tax certificates) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7241.

26 USC 7241
note.

(iii) The amendments made by this subparagraph shall apply with respect to statements and certificates executed after June 30, 1974.

(G) The table of chapters for subtitle D is amended by striking out the item relating to chapter 41.

26 USC 4482.

(c) AMENDMENT TO PROVISION REFERRING TO TERRITORIES.—Section 4482(c) (1) is amended by striking out “, a Territory of the United States,”.

26 USC 4041
note.

(d) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 1905. AMENDMENTS OF SUBTITLE E; ALCOHOL, TOBACCO, AND CERTAIN OTHER EXCISE TAXES.

(a) IN GENERAL.—

26 USC 5005.

(1) AMENDMENT OF SECTION 5005.—Section 5005(c) (2) (relating to transfers in bond of distilled spirits) is amended by striking out the last two sentences and inserting in lieu thereof the following: “Such relief from liability shall be effective from the time of removal from the transferor’s bonded premises, or from the time of divestment of interest, whichever is later.”

26 USC 5008.

(2) AMENDMENTS OF SECTION 5008.—

(A) Section 5008(b) (1) (relating to abatement, remission, refund, and allowance for loss of destruction of distilled spirits) is amended by inserting immediately after “the tax imposed by this chapter” the following: “or by section 7652”.

(B) Section 5008(b) (2) is amended by striking out “the taxes imposed under section 5001(a) (1)” and all that follows and inserting in lieu thereof the following: “the taxes imposed under section 5001(a) (1), under subpart B of this part, or under section 7652 on the spirits so destroyed, to the proprietor of the distilled spirits plant who withdrew the distilled spirits on payment or determination of tax.”

(C) Subsections (c) (1) and (d) (1) of section 5008 are each amended by inserting immediately after “under section 5001(a) (1)” the following: “or under section 7652”.

(D) Section 5008(d) (1) is amended by striking out “, on or after July 1, 1959,”.

26 USC 5009.

(3) AMENDMENT OF SECTION 5009.—Section 5009(b) (3) is amended by striking out “46 Stat. 694;”.

26 USC 5025.

(4) AMENDMENT OF SECTION 5025.—Section 5025(j) (relating to stabilization of distilled spirits) is amended by striking out “the bottling of distilled spirits,” and inserting in lieu thereof “the bottling of distilled spirits, or preparatory to exportation,”.

26 USC 5054.

(5) AMENDMENT OF SECTION 5054.—Section 5054 (relating to determination and collection of tax on beer) is amended by striking out subsection (c) (relating to stamps or other devices as

evidence of payment of tax) and by redesignating subsection (d) as subsection (c).

(6) AMENDMENTS OF SECTION 5061.—

(A) Section 5061(a) (relating to collections of alcohol taxes) is amended by striking out the last sentence. 26 USC 5061.

(B) Section 5061(b) (relating to methods of collection) is amended to read as follows:

“(b) EXCEPTIONS.—Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, rectified distilled spirits and wines, and beer under—

“(1) section 5001(a) (5), (6), or (7),

“(2) section 5006(c) or (d),

“(3) section 5026(a) (2),

“(4) section 5041(d),

“(5) section 5043(a) (3),

“(6) section 5054(a) (3) or (4), or

“(7) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed.”

(C) Section 5061(c) (relating to applicability of other provisions of law) is amended to read as follows:

“(c) IMPORT DUTIES.—The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue tax.”

(7) AMENDMENT OF SECTION 5113.—Section 5113(f) (1) (relating to retail dealers in liquors) is amended by striking out “wines or beer” and inserting in lieu thereof “distilled spirits, wines, or beer”. 26 USC 5113.

(8) AMENDMENTS OF SECTION 5117.—Section 5117 (relating to prohibited purchases by dealers) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection: 26 USC 5117.

“(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.”

(9) AMENDMENT OF SECTION 5121.—Section 5121(c) (relating to limited retail dealers) is amended to read as follows: 26 USC 5121.

“(c) LIMITED RETAIL DEALERS.—Every limited retail dealer shall pay a special tax of \$4.50 for each calendar month in which sales are made as such dealer; except that the special tax shall be \$2.20 for each calendar month in which only sales of beer or wine are made.”

(10) AMENDMENT OF SECTION 5122.—Section 5122(c) (relating to definition of limited retail dealer) is amended by striking out “beer or wine” each place it appears and inserting in lieu thereof “distilled spirits, wine, or beer”. 26 USC 5122.

(11) AMENDMENT OF SECTION 5131.—Section 5131(a) (relating to eligibility for drawback) is amended by striking out “produced in a domestic registered distillery or industrial alcohol plant and withdrawn from bond, or using distilled spirits withdrawn from the bonded premises of a distilled spirits plant,”. 26 USC 5131.

- 26 USC 5142. (12) AMENDMENT OF SECTION 5142.—Section 5142(c) (relating to payment of occupational taxes) is amended to read as follows:
- “(c) How Paid.—
- Regulations. “(1) PAYMENT BY RETURN.—The special taxes imposed by this part shall be paid on the basis of a return under such regulations as the Secretary shall prescribe.
- “(2) STAMP DENOTING PAYMENT OF TAX.—After receiving a properly executed return and remittance of any special tax imposed by this subpart, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period.”
- 26 USC 5171. (13) AMENDMENTS OF SECTION 5171.—Section 5171(b) (relating to permits for operation of business as distillers, etc.) is amended—
- (A) in paragraph (1), by striking out “49 Stat. 978;”, and
- (B) by striking out paragraph (3) (relating to continuance of business after June 30, 1959, pending application for permit).
- 26 USC 5174. (14) AMENDMENT OF SECTION 5174.—Section 5174(a)(2)(A) (relating to withdrawal bonds for distilled spirits) is amended by striking out “such spirits” and inserting in lieu thereof “distilled spirits from bond”.
- 26 USC 5232. (15) AMENDMENT OF SECTION 5232.—Section 5232(a) (relating to transfer of imported distilled spirits) is amended by striking out “and the importer” and inserting in lieu thereof “and the importer, or the person bringing such distilled spirits into the United States.”.
- 26 USC 5233. (16) AMENDMENT OF SECTION 5233.—Section 5233(b)(4) (relating to bottling requirements) is amended by striking out “49 Stat. 977;”.
- 26 USC 5234. (17) AMENDMENT OF SECTION 5234.—The first sentence of section 5234(a)(2) (relating to the mingling of distilled spirits) is amended by striking out “8 years” and inserting in lieu thereof “20 years”.
- 26 USC 5314. (18) AMENDMENT OF SECTION 5314.—Section 5314(a)(2) (relating to application of certain provisions to Puerto Rico) is amended by striking out “section 5001(a)(4)” and inserting in lieu thereof “section 5001(a)(10)”.
- 26 USC 5315. (19) REPEAL OF SECTION 5315.—Section 5315 (relating to the status of certain distilled spirits on July 1, 1959) is repealed.
- 26 USC 5368. (20) AMENDMENTS OF SECTION 5368.—
- (A) The heading of section 5368 is amended to read as follows:
- “SEC. 5368. GAUGING AND MARKING.”
- (B) Section 5368(b) (relating to removal of wines) is amended to read as follows:
- Regulations. “(b) MARKING.—Wines shall be removed in such containers (including vessels, vehicles, and pipelines) bearing such marks and labels, evidencing compliance with this chapter, as the Secretary may by regulations prescribe.”
- 26 USC 5392. (21) AMENDMENT OF SECTION 5392.—Section 5392(f) (defining own production) is amended by striking out “49 Stat. 990;”.
- 26 USC 5601. (22) AMENDMENTS OF SECTION 5601.—Section 5601(b) (relating to presumptions in the case of criminal penalties) is amended to read as follows:

“(b) PRESUMPTION.—Whenever on trial for violation of subsection (a) (4) the defendant is shown to have been at the site or place where, and at the time when, the business of a distiller or rectifier was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).”

(23) AMENDMENTS OF SECTION 5685.—

(A) Section 5685(a) (relating to penalty for possession of devices for emitting gas, smoke, etc.) is amended by striking out “section 5848” and inserting in lieu thereof “section 5845”. 26 USC 5685.

(B) Section 5685(c) (relating to forfeiture of firearms, devices, etc.) is amended by striking out “section 5862” and inserting in lieu thereof “section 5872”.

(C) Section 5685(d) (relating to the definition of machine gun) is amended to read as follows:

“(d) DEFINITION OF MACHINE GUN.—As used in this section, the term ‘machine gun’ means a machinegun as defined in section 5845(b).”

(24) AMENDMENT OF SECTION 5701.—Section 5701(e) (relating to imported tobacco products, etc.) is amended by striking out “such articles” and inserting in lieu thereof “such articles, unless such import duties are imposed in lieu of internal revenue tax”. 26 USC 5701.

(25) AMENDMENTS OF SECTION 5703.—

(A) Section 5703(a) (2) (relating to transfer of liability for tobacco taxes) is amended by adding at the end thereof the following new sentence: “All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.” 26 USC 5703.

(B) The second sentence of section 5703(b) (relating to method of payment of tobacco taxes) is amended by striking out “, except that the taxes shall continue to be paid by stamp until the Secretary or his delegate provides, by regulations, for the payment of the taxes on the basis of a return”.

(C) Section 5703 is amended by striking out subsection (c) (relating to stamps to evidence tobacco taxes) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(26) AMENDMENTS OF SECTION 5704.—Subsections (c) and (d) of section 5704 (relating to exemptions from tobacco taxes) are each amended by inserting after “to a manufacturer of tobacco products or cigarette papers and tubes” the following: “or to the proprietor of an export warehouse”. 26 USC 5704.

(27) AMENDMENT OF SECTION 5712.—Section 5712 (relating to application for permit) is amended by striking out the last sentence. 26 USC 5712.

(28) AMENDMENTS OF SECTION 5723.—

(A) The heading of section 5723 is amended by striking out “NOTICES, AND STAMPS” and inserting in lieu thereof “AND NOTICES”. 26 USC 5723.

(B) Section 5723(b) (relating to marks, and so forth, on packages) is amended to read as follows:

“(b) MARKS, LABELS, AND NOTICES.—Every package of tobacco products or cigarette papers or tubes shall, before removal, bear the marks, labels, and notices, if any, that the Secretary by regulation prescribes.” Regulation.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION

5054.—

26 USC 5676.

(A) Section 5676 (relating to beer stamp penalties) is repealed.

(B) The table of sections for part III of subchapter J of chapter 51 is amended by striking out the item relating to section 5676.

(2) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION

5061.—

26 USC 5007.

(A) Section 5007(b) (1) is amended by striking out the second sentence.

26 USC 5026.

(B) Section 5026(b) is amended by striking out "Except as provided in subsection (a) (2), the taxes" and inserting in lieu thereof "The taxes".

26 USC 5043.

(C) Section 5043(b) is amended by striking out "Except as provided in subsection (a) (3), the taxes" and inserting in lieu thereof "The taxes".

26 USC 5662.

(D) Section 5662 is amended by striking out "stamp," each place it appears.

26 USC 5689.

(E) (i) Section 5689 (relating to penalty and forfeiture for tampering with a stamp machine) is repealed.

(ii) The table of sections for part IV of subchapter J of chapter 51 is amended by striking out the item relating to section 5689.

26 USC 5061.

(iii) Section 5061 is amended by striking out subsection (d).

(3) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION

5142.—

26 USC 5104.

(A) (i) Section 5104 (relating to method of payment of tax on stills) is repealed.

(ii) The table of sections for subpart C of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5104.

26 USC 5111.

(B) Section 5111(a) is amended by striking out the second sentence.

26 USC 5121.

(C) Section 5121(a) is amended by striking out the second sentence.

26 USC 5144.

(D) (i) Section 5144 (relating to supply of stamps) is repealed.

(ii) The table of sections for subpart G of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5144.

26 USC 5148.

(E) Section 5148(3) is amended by striking out "penalties" and inserting in lieu thereof "penalties, authority for assessments".

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 5315.—

The table of sections for part III of subchapter E of chapter 51 is amended by striking out the item relating to section 5315.

(5) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 5368.—The item relating to section 5368 in the table of sections for part II of subchapter F of chapter 51 is amended to read as follows:

"Sec. 5368. Gauging and marking."

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION

5601.—

- (A) Section 5105(b)(2) is amended by striking out “, 5601 (b)(1).” 26 USC 5105.
- (B) Section 5177(b)(2) is amended by striking out “5601 (b)(2).” and inserting in lieu thereof “5601(b).” 26 USC 5177.
- (C) Section 5179(b)(1) is amended by striking out “, 5601 (b)(1).” 26 USC 5179.
- (D) Section 5222(d) is amended by striking out “5601(b)(3), 5601(b)(4).” 26 USC 5222.
- (E) Section 5505(i) is amended by striking out “5601(b)(1).” 26 USC 5505.
- (7) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 5723.—

(A) Paragraphs (2) and (3) of section 5751(a) are each amended by striking out “notices, and stamps” and inserting in lieu thereof “and notices”. 26 USC 5751.

(B) (i) Section 5752 is amended to read as follows:

“SEC. 5752. RESTRICTIONS RELATING TO MARKS, LABELS, NOTICES, AND PACKAGES. 26 USC 5752.

“No person shall, with intent to defraud the United States, destroy, obliterate, or detach any mark, label, or notice prescribed or authorized, by this chapter or regulations thereunder, to appear on, or be affixed to, any package of tobacco products or cigarette papers or tubes, before such package is emptied.”

(ii) Section 5762(a) is amended by striking out paragraphs (6), (7), (8), (9), (10), and (11) and inserting in lieu thereof the following: 26 USC 5762.

“(6) DESTROYING, OBLITERATING, OR DETACHING MARKS, LABELS, OR NOTICES BEFORE PACKAGES ARE EMPTIED.—Violates any provision of section 5752;”

(iii) The item relating to section 5752 in the table of sections for subchapter E of chapter 52 is amended to read as follows:

“Sec. 5752. Restrictions relating to marks, labels, notices, and packages.”

(C) (i) Section 5763(a)(2) is amended by striking out “notices, and stamps” and inserting in lieu thereof “and notices”. 26 USC 5763.

(ii) Section 5763(b) is amended by striking out “internal revenue stamps.”

(D) The item relating to section 5723 in the table of sections for subchapter C of chapter 52 is amended to read as follows:

“Sec. 5723. Packages, marks, labels, and notices.”

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

(1) Section 5114(b) is amended by striking out “or Territory” each place it appears and by striking out “Territories”. 26 USC 5114.

(2) Section 5214(a)(2) is amended by striking out “or Territory” each place it appears. 26 USC 5214.

(3) Section 5272(b) is amended by striking out “and Territories”. 26 USC 5272.

(4) Section 5362(c)(9) is amended by striking out “and Territories”. 26 USC 5362.

(5) Section 5551(b)(2) is amended by striking out “Territory, or”. 26 USC 5551.

(6) Section 5685(a) is amended by striking out “Territory or”. 26 USC 5685.

26 USC 5005
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 1906. AMENDMENTS OF SUBTITLE F; PROCEDURE AND ADMINISTRATION.

(a) **IN GENERAL.**—

(1) **AMENDMENTS OF SECTION 6013.**—

26 USC 6013.

(A) Section 6013(b)(2)(C) (relating to petition to the Tax Court) is amended by striking out “of the United States”.

(B) The heading of section 6013(d) is amended to read as follows:

“(d) **SPECIAL RULES.**—”.

(C) Section 6013(d)(1) (relating to joint return after death of one spouse) is amended by striking out “and” at the end of subparagraph (A) and inserting in lieu thereof “or”, and by striking out “and” at the end of the subparagraph (B).

26 USC 6015.

(2) **AMENDMENT OF SECTION 6015.**—Section 6015 (relating to declaration of estimated tax by individuals) is amended by striking out subsection (j) (relating to an effective date provision).

26 USC 6037.

(3) **AMENDMENT OF SECTION 6037.**—Section 6037 (relating to returns of subchapter S corporations) is amended by striking out “section 1371(a)(2)” and inserting in lieu thereof “section 1371(b)”.

26 USC 6046.

(4) **AMENDMENT OF SECTION 6046.**—Section 6046(e) (relating to information as to organization of foreign corporation) is amended to read as follows:

“(e) **LIMITATION.**—No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a).”

26 USC 6051.

(5) **AMENDMENT OF SECTION 6051.**—Section 6051(a) (relating to information required to be furnished to employees) is amended by striking out “and” where it appears at the end of paragraph (6).

26 USC 6065.

(6) **AMENDMENTS OF SECTION 6065.**—Section 6065 (relating to verification of returns) is amended by striking out subsection (b) (relating to verification by oath), and by striking out in subsection (a) the following: “(a) **PENALTIES OF PERJURY.**—”.

26 USC 6105.

(7) **REPEAL OF SECTION 6105.**—Section 6105 (relating to compilation of data for certain excess profits tax cases) is repealed.

26 USC 6111.

(8) **AMENDMENT OF SECTION 6111.**—Section 6111 (relating to cross references), as redesignated by this Act, is amended to read as follows:

“SEC. 6111. CROSS REFERENCE.

Ante, p. 1686.

“For inspection of records, returns, etc., concerning gasoline or lubricating oils, see section 4102.”

26 USC 6152.

(9) **AMENDMENT OF SECTION 6152.**—Section 6152(a)(1) (relating to installment payments by corporations) is amended to read as follows:

26 USC 1.

“(1) **CORPORATIONS.**—A corporation subject to the taxes imposed by chapter 1 may elect to pay the unpaid amount of such taxes in two equal installments.”

(10) AMENDMENTS OF SECTION 6154.—

(A) Section 6154(c)(1)(B) (relating to definition of estimated tax) is amended— 26 USC 6154.

(i) by adding “and” after the comma at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

“(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation’s temporary estimated tax exemption for such year.”

(B) Section 6154(c)(2)(A)(ii) (relating to temporary estimated tax payments) is amended by striking out “clauses (ii) and (iii)” and inserting in lieu thereof “clause (ii)”.

(C) Section 6154(c)(2)(B) (relating to estimated tax) is amended by striking out the following:

“1968, 1969, 1970, 1971, and 1972-----	100 percent
1973 -----	80 percent
1974 -----	60 percent”.

(D) Section 6154(c) (relating to estimated tax) is amended by striking out paragraph (3) (relating to transitional exemption for taxable years beginning before 1972).

(11) AMENDMENTS OF SECTION 6157.—

(A) Section 6157 (relating to payment of Federal unemployment tax) is amended by striking out subsection (c) (relating to special rules for 1970 and 1971), and by redesignating subsection (d) as subsection (c). 26 USC 6157.

(B) Section 6157(a) is amended by striking out “subsections (c) and (d)” and inserting in lieu thereof “subsection (c)”.

(12) REPEAL OF SECTION 6162.—Section 6162 (relating to payment of tax on gain on liquidation of certain personal holding companies) is repealed. 26 USC 6162.

(13) AMENDMENT OF SECTION 6205.—Section 6205(a)(4) (relating to District of Columbia as employer) is amended by striking out “Commissioners of the District of Columbia and each agent designated by them” and inserting in lieu thereof “Mayor of the District of Columbia and each agent designated by him”. 26 USC 6205.

(14) AMENDMENT OF SECTION 6207.—Section 6207 (relating to cross references) is amended by striking out paragraph (7). 26 USC 6207.

(15) AMENDMENT OF SECTION 6213.—Section 6213(a) (relating to time for filing petition with the Tax Court) is amended by striking out “States of the Union and the District of Columbia” and inserting in lieu thereof “United States”. *Ante*, p. 1698.

(16) AMENDMENT OF SECTION 6215.—Section 6215(b)(5) (a cross reference) is amended by striking out “60 Stat. 48;”. 26 USC 6215.

(17) AMENDMENT OF SECTION 6302.—Section 6302(b) (relating to collection of certain excise taxes) is amended by striking out “sections 4501 (a) or 4511 of chapter 37, or section 4701 or 4721 of chapter 39” and inserting in lieu thereof “section 4501 (a) of chapter 37”. 26 USC 6302.

(18) REPEAL OF SECTION 6304.—Section 6304 (relating to a cross reference) is repealed. 26 USC 6304.

(19) AMENDMENT OF SECTION 6313.—Section 6313 (relating to fractional parts of a cent) is amended by striking out “not payable by stamp”. 26 USC 6313.

(20) AMENDMENTS OF SECTION 6326.—

26 USC 6326.

(A) Paragraph (2) of section 6326 (cross references) is amended by striking out "52 Stat. 851;"

(B) Paragraph (3) of section 6326 is amended by striking out "52 Stat. 867;"

(C) Paragraph (4) of section 6326 is amended by striking out "52 Stat. 867-877;"

(D) Paragraph (5) of section 6326 is amended by striking out "52 Stat. 938;"

26 USC 6365.

(21) AMENDMENT OF SECTION 6365.—Section 6365(b) (relating to definition of governor) is amended by striking out "Commissioner of the District of Columbia" and inserting in lieu thereof "Mayor of the District of Columbia".

26 USC 6412.

(22) AMENDMENT OF SECTION 6412.—Section 6412(a) (relating to floor stock refunds) is amended by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively.

26 USC 6413.

(23) AMENDMENTS OF SECTION 6413.—

(A) Section 6413(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(B)(i) Section 6413(c)(1) (relating to refunds of certain employment taxes) is amended to read as follows:

"(1) IN GENERAL.—If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 or section 3201, or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base. The term 'wages' as used in this paragraph shall, for purposes of this paragraph, include 'compensation' as defined in section 3231(e)."

42 USC 430.

"Wages."

(ii) So much of section 6413(c)(2)(A) (relating to Federal employees) as follows "and the term 'wages' includes" is amended to read as follows: "for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee."

26 USC 6413
note.

(iii) The amendments made by clauses (i) and (ii) shall apply with respect to remuneration paid after December 31, 1976.

26 USC 6413.

(C) Section 6413(c)(2)(F) (relating to government employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(D) Section 6413(c)(3) (relating to special refunds) is amended by striking out "after 1967". 26 USC 6413.

(24) AMENDMENTS OF SECTION 6416.—

(A) Section 6416(a)(3) (relating to special rules for refund of overpayment of tax) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively. 26 USC 6416.

(B) (i) Section 6416(b)(2) (relating to overpayments of certain excise taxes), as amended by section 2108 of this Act, is amended by striking out subparagraphs (G), (H), (I), and (J), and by redesignating subparagraphs (F), (K), (L), (M), (R), (S), and (T) as subparagraphs (E), (F), (G), (H), (I), (J), and (K), respectively. *Post*, p. 1904.

(ii) The repeals made by clause (i) shall apply with respect to the use or resale for use of liquids after December 31, 1976. 26 USC 6416 note.

(25) REPEAL OF SECTION 6417.—Section 6417 (relating to coconut and palm oil) is repealed. 26 USC 6417.

(26) AMENDMENTS OF SECTION 6420.—

(A) Section 6420(b) (relating to time for filing refund claims on gasoline) is amended to read as follows: 26 USC 6420.

"(b) TIME FOR FILING CLAIMS; PERIOD COVERED.—Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A."

26 USC 1.

(B) Section 6420(e)(1) (relating to application of other laws) is amended by striking out "apply in in respect" and inserting in lieu thereof "apply in respect".

(C) (i) Section 6420 is amended by striking out subsection (g) (relating to effective date) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(ii) Section 6420(a) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(D) Section 6420(g) (relating to income tax credit in lieu of gas tax refund), as redesignated by subparagraph (C) (i) of this paragraph, is amended by striking out "with respect to gasoline used after June 30, 1965," and "for gasoline used after June 30, 1965".

(27) AMENDMENTS OF SECTION 6421.—

(A) (i) Subsections (a) and (e) (3) of section 6421 (relating to nonhighway use of gasoline) are each amended by striking out "after June 30, 1970." 26 USC 6421.

(ii) The amendments made by clause (i) shall only apply with respect to gasoline used as a fuel after June 30, 1970. 26 USC 6421 note.

(B) Section 6421(c) (relating to nonhighway use of gasoline) is amended to read as follows:

"(c) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person

not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

26 USC 1.

“(2) EXCEPTION.—If \$1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.”

26 USC 6421.

(C) Section 6421(h) (relating to effective dates) is amended by striking out “after June 30, 1956, and”.

(D) Section 6421(i) (relating to income tax credit in lieu of refund) is amended—

(i) by striking out, in paragraph (1), “with respect to gasoline used after June 30, 1965,”

(ii) by striking out, in paragraph (2), “subsection (c) (3)(B)” and inserting in lieu thereof “subsection (c) (2)”, and

(iii) by striking out, in paragraph (3), “for gasoline used after June 30, 1965.”

(28) AMENDMENTS OF SECTION 6422.—

26 USC 6422.

(A) Paragraph (9) of section 6422 (relating to cross references), as redesignated by section 1901(b)(36)(B), is amended by striking out “60 Stat. 48;”.

(B) Paragraph (11) of section 6422, as so redesignated, is amended by striking out “47 Stat. 1516;”.

(29) AMENDMENTS OF SECTION 6423.—

26 USC 6423.

(A) Section 6423(b) (relating to filing of refund claim in case of alcohol and tobacco taxes) is amended to read as follows:

Regulations.

“(b) FILING OF CLAIMS.—No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim.”

(B) Section 6423 is amended by striking out subsection (c) (relating to suits barred on April 30, 1958) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(C) Section 6423(c) (relating to application of section), as redesignated by subparagraph (B) of this paragraph, is amended by adding “and” at the end of paragraph (1), by striking out “, and” at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(30) AMENDMENTS OF SECTION 6424.—

26 USC 6424.

(A) The last sentence of section 6424(b)(1) (relating to refund claims with respect to lubricating oil) is amended by striking out “, except that a person's first taxable year beginning after December 31, 1965, shall include the period after December 31, 1965, and before the beginning of such first taxable year”.

(B) Section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out subsection (f) (relating to effective date of section), and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively. 26 USC 6424.

(31) AMENDMENTS OF SECTION 6427.—

(A) Subsections (a), (b), and (c) of section 6427 (relating to fuels not used for taxable purposes) are each amended by striking out “, after June 30, 1970.”. 26 USC 6427.

(B) The amendments made by subparagraph (A) shall apply only with respect to fuel used or resold after June 30, 1970. 26 USC 6427 note.

(32) AMENDMENTS OF SECTION 6504.—

(A) Section 6504 (relating to cross references) is amended by striking out paragraphs (13) and (14) and inserting in lieu thereof: 26 USC 6504.

“(13) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), 6424 (relating to lubricating oil not used in highway motor vehicles), or 6427 (relating to fuels not used for taxable purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, 6421, 6424, or 6427, see section 6206.”

(B) Section 6504, as amended by this Act, is further amended by redesignating paragraphs (2), (3), (4), (5), (9), (10), (11), (12), (13), and (15) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10), respectively.

(33) AMENDMENTS OF SECTION 6511.—

(A) Section 6511(d)(2)(A)(ii) (relating to net operating loss carryback) is amended by striking out “September 1, 1959, or” and by striking out “, whichever is the later”. 26 USC 6511.

(B) Section 6511(d)(5) is amended by striking out “the later of the following dates: (A)”, and by striking out “, or (B) December 31, 1965”.

(34) AMENDMENT OF SECTION 6601.—Section 6601(h) (relating to interest on estimated tax payments) is amended by striking out “(or section 59 of the Internal Revenue Code of 1939)”. 26 USC 6601. 53 Stat. 32.

(35) AMENDMENT OF SECTION 6654.—Section 6654 (relating to payment of estimated income tax) is amended by striking out subsection (h) (relating to applicability of section). 26 USC 6654.

(36) AMENDMENT OF SECTION 6802.—Section 6802(2) (relating to supply and distribution of stamps) is amended by striking out the semicolon at the end and inserting in lieu thereof a period. 26 USC 6802.

(37) AMENDMENT OF SECTION 6803.—Section 6803 (relating to accounting and safeguarding) is amended to read as follows: 26 USC 6803.

“SEC. 6803. ACCOUNTING AND SAFEGUARDING.

“(a) BOND.—In cases coming within the provisions of paragraph (2) of section 6802, the Secretary may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

“(b) REGULATIONS.—The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraph (2) of section 6802.”

26 USC 6863.

(38) AMENDMENT OF SECTION 6863.—Section 6863(b)(3) (relating to stay of sale of seized property pending Tax Court decision) is amended by striking out subparagraph (C) (relating to effective date).

26 USC 7012.

(39) AMENDMENT OF SECTION 7012.—Section 7012 (relating to cross references), as amended by section 1904(b)(8)(C) of this Act, is amended to read as follows:

“SEC. 7012. CROSS REFERENCES.

“(1) For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5861.

“(2) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

“(3) For provisions relating to registration in relation to the production or importation of gasoline, see section 4101.

“(4) For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.

“(5) For penalty for failure to register, see section 7272.

“(6) For other penalties for failure to register with respect to wagering, see section 7262.”

26 USC 7103.

(40) AMENDMENT OF SECTION 7103.—Section 7103 (relating to cross references regarding bonds) is amended by striking out subsection (d).

26 USC 7271.

(41) AMENDMENTS OF SECTION 7271.—Section 7271 (relating to penalties for offenses concerning stamps) is amended by striking out paragraph (2), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

26 USC 7272.

(42) AMENDMENT OF SECTION 7272.—Section 7272(b) (relating to cross references) is amended by striking out “4722, 4753,”.

26 USC 7326.

(43) AMENDMENTS OF SECTION 7326.—Section 7326 (relating to disposal of forfeited property) is amended—

(A) by striking out “section 5862(b)” and inserting in lieu thereof “section 5872(b)”, and

(B) by redesignating subsection (c) as subsection (b).

26 USC 7422.

(44) AMENDMENTS OF SECTION 7422.—Section 7422(c) (relating to suits against collection officers) is amended by striking out “instituted after June 15, 1942,” and by striking out “where the petition to the Tax Court was filed after such date”.

26 USC 7428.

(45) AMENDMENTS OF SECTION 7428.—

(A) Paragraph (1) of section 7428 (cross references), as redesignated by this Act, is amended by striking out “52 Stat. 851;”.

(B) Paragraph (2) of such section 7428 is amended by striking out “52 Stat. 867;”.

(C) Paragraph (3) of such section 7428 is amended by striking out “52 Stat. 876–877;”.

(D) Paragraph (4) of such section 7428 is amended by striking out “52 Stat. 938;”.

26 USC 7448.

(46) AMENDMENTS OF SECTION 7448.—

(A) Subsection (a)(6) of section 7448 (relating to annuities to widows and dependent children of Tax Court judges) is amended—

“Surviving spouse.”

(i) by striking out “The term ‘widow’ means a surviving wife of” and inserting in lieu thereof “The term ‘surviving spouse’ means a surviving spouse of”; and

(ii) by striking out “the mother of issue” and inserting in lieu thereof “a parent of issue”.

(B) Section 7448(h) is amended—

- (i) by striking out “surviving widow or widower” and inserting in lieu thereof “surviving spouse”;
- (ii) by striking out “such widow” each place it appears and inserting in lieu thereof “such surviving spouse”;
- (iii) by striking out “a widow” each place it appears and inserting in lieu thereof “a surviving spouse”;
- (iv) by striking out “widow’s” each place it appears and inserting in lieu thereof “surviving spouse’s”; and
- (v) by striking out “surviving her” and inserting in lieu thereof “surviving such spouse”.

(C) Sections 7448 (h) and (o) are each amended by striking out “she” and inserting in lieu thereof “such spouse”. 26 USC 7448.

(D) Section 7448(o) is amended by striking out “her” and inserting in lieu thereof “such spouse’s”.

(E) Sections 7448 (d), (j), (m), (n), (o), and (q) are each amended by striking out “widow” each place it appears and inserting in lieu thereof “surviving spouse”.

(F) The section heading for section 7448 is amended by striking out “WIDOWS” and inserting in lieu thereof “SURVIVING SPOUSES”.

(47) AMENDMENTS OF SECTION 7471.—

(A) Subsection (a) of section 7471 (relating to Tax Court employees) is amended by striking out “is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1949 (63 Stat. 954; 5 U.S.C. chapter 21), as amended, to fix the compensation of,” and inserting in lieu thereof “is authorized to appoint, in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and to fix the basic pay of, in accordance with chapter 51 and subchapter III of chapter 53 of such title.” 26 USC 7471.

(B) Subsection (b) of section 7471 is amended by striking out “as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C. chapter 16).” and inserting in lieu thereof “as provided in chapter 57 of title 5, United States Code.” 5 USC 101 *et seq.*

(48) AMENDMENT OF SECTION 7476.—Section 7476(a) (relating to declaratory judgments) is amended by striking out so much thereof as follows paragraph (2)(B) and inserting in lieu thereof the following: 5 USC 5101, 5331.

“upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.” 5 USC 5701.

(49) AMENDMENT OF SECTION 7502.—Section 7502(b) (relating to timely mailing treated as timely filing and paying) is amended by striking out “United State Post Office” and inserting in lieu thereof “United States Postal Service”. 26 USC 7476.

(50) AMENDMENTS OF SECTION 7507.—Paragraphs (2) and (3) of section 7507(c) (relating to insolvent banks) are each amended by striking out “after May 28, 1938,”. 26 USC 7502.

(51) AMENDMENTS OF SECTION 7508.—

(A) The heading of section 7508 (relating to time for performing certain acts) is amended by striking out “BY REASON OF WAR” and inserting in lieu thereof “BY REASON OF SERVICE IN COMBAT ZONE”. 26 USC 7507.

26 USC 7508.

(B) Section 7508(a) (relating to time to be disregarded) is amended by striking out "States of the Union and the District of Columbia" each place it appears and inserting in lieu thereof "United States".

26 USC 7509.

(52) AMENDMENTS OF SECTION 7509.—Section 7509 (relating to expenditures incurred by the Post Office Department) is amended—

(A) in the section heading, by striking out "POST OFFICE DEPARTMENT" and inserting in lieu thereof "UNITED STATES POSTAL SERVICE";

(B) by striking out "Post Office Department" each place it appears and inserting in lieu thereof "United States Postal Service";

(C) by striking out "such Department" and inserting in lieu thereof "such Service"; and

(D) by striking out "together with the receipts required to be deposited under section 6803(a);".

Ante, p. 1829.

26 USC 7621.

(53) AMENDMENT OF SECTION 7621.—Section 7621(b) (relating to boundaries of internal revenue districts) is amended to read as follows:

"(b) BOUNDARIES.—For the purpose mentioned in subsection (a), the President may subdivide any State or the District of Columbia, or may unite into one district two or more States."

Repeal.

26 USC 7641.

(54) REPEAL OF SECTION 7641.—Subchapter C of chapter 78 (relating to supervision of operations of certain manufacturers) is repealed.

26 USC 7652.

(55) AMENDMENTS OF SECTION 7652.—Section 7652(b)(3) (relating to disposition of internal revenue collections) is amended—

(A) by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(B) by striking out "approved emergency relief purposes and essential public projects as provided in subparagraph (B)" and inserting in lieu thereof "emergency relief purposes and essential public projects, with the prior approval of the President or his designated representative", and

(C) by striking out "including payments under subparagraph (B);".

26 USC 7653.

(56) AMENDMENT OF SECTION 7653.—Section 7653(d) (a cross reference) is amended by striking out "c. 512, 64 Stat. 392, section 30;".

26 USC 7701.

(57) AMENDMENTS OF SECTION 7701.—

(A) Section 7701(a)(11) (relating to definitions of Secretary) is amended to read as follows:

"(11) SECRETARY OF THE TREASURY AND SECRETARY.—

Definitions.

"(A) SECRETARY OF THE TREASURY.—The term 'Secretary of the Treasury' means the Secretary of the Treasury, personally, and shall not include any delegate of his.

"(B) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or his delegate."

(B) Section 7701(a)(12)(A) (relating to definition of Secretary or his delegate) is amended to read as follows:

"(A) IN GENERAL.—The term 'or his delegate'—

"(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary

of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

“(ii) when used with reference to any other official of the United States, shall be similarly construed.”

(58) AMENDMENT OF SECTION 7803.—Section 7803 (relating to other personnel) is amended by redesignating subsection (d) as subsection (c). 26 USC 7803.

(59) AMENDMENT OF SECTION 7809.—Section 7809(a) (relating to deposit of collections) is amended by striking out “4735, 4762,”. 26 USC 7809.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6105.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6105.

(2) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6111.—The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

“Sec. 6111. Cross reference.”

(3) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 6154.—

(A) Paragraph (1) (B) of section 6655(e) is amended: 26 USC 6655.

(i) by adding “and” at the end of clause (i), and
(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

“(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation’s temporary estimated tax exemption for such year.”

(B) Paragraph (2) (B) of section 6655(e) is amended by striking out “clauses (ii) and (iii)” and inserting in lieu thereof “clause (ii)”.

(C) (i) Section 6655(e) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(ii) Section 243(b) (3) (C) (iv), as redesignated by section 1901(b) (20) (A) of this Act, is amended by striking out “sections 6154(c) (2) and (3)” and inserting in lieu thereof “section 6154(c) (2)”, and by striking out “sections 6655(e) (2) and (3)” and inserting in lieu thereof “section 6655(e) (2)”. *Ante*, p. 1797.

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6162.—The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6162.

(5) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6304.—The table of sections for subchapter A of chapter 64 is amended by striking out the item relating to section 6304.

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 6416.—

(A) Subparagraph (A) of section 6420(c) (3) is amended 26 USC 6420.
to read as follows:

“(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator; except that if such use is by any person

other than the owner, tenant, or operator of such farm, then for purposes of this subparagraph, in applying subsection (a) to this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 issued shall be treated as the user and the ultimate purchaser of such gasoline or liquid;”.

26 USC 4041.

26 USC 6420
note.

(B) The amendments made by subparagraph (A) shall apply with respect to the use of liquids after December 31, 1970.

Ante, p. 1827.

(7) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6417.—The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6417.

26 USC 39.

(8) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6420.—Section 39(a)(1) is amended by striking out “section 6420(h)” and inserting in lieu thereof “section 6420(g)”.

Ante, p. 1829.

(9) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6424.—Section 39(a)(3) is amended by striking out “section 6424(g)” and inserting in lieu thereof “section 6424(f)”.

(10) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7448.—The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended to read as follows:

“Sec. 7448. Annuities of surviving spouses and dependent children.”.

(11) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7508.—The item relating to section 7508 in the table of sections for chapter 77 is amended to read as follows:

“Sec. 7508. Time for performing certain acts postponed by reason of service in combat zone.”.

(12) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7509.—The item relating to section 7509 in the table of sections for chapter 77 is amended to read as follows:

“Sec. 7509. Expenditures incurred by the United States Postal Service.”.

Ante, p. 1832.
26 USC 1 *et seq.*

(13) AMENDMENT CONFORMING TO REPEAL OF SECTION 7641.—The table of subchapters for chapter 78 is amended by striking out the item relating to subchapter C.

(A) The Internal Revenue Code of 1954, as amended by this Act, is amended by striking out “Secretary or his delegate” each place it appears and inserting in lieu thereof “Secretary”.

(B) The following provisions are each amended by striking out “Secretary” each place it appears and inserting in lieu thereof “Secretary of the Treasury”: sections 4293, 4483 (b), 5551, 7801 (b), 7802 (a), 9006 (a), 9006 (b), and 9007 (d).

26 USC 4293,
4483, 5551,
7801, 7802,
9006, 9007.

(C) The following provisions are each amended by striking out “to the Secretary” each place it appears and inserting in lieu thereof “to the Secretary of the Treasury”: sections 3121 (b) (12) (B), 3303 (b), 3304 (a) (3), 3304 (c), 3305 (j), 3306 (c) (12) (B), 9005 (a), 9007 (b), 9010 (b), and 9012 (e) (3).

26 USC 3121,
3303, 3304,
3305, 3306,
9005, 9007,
9010, 9012.
26 USC 31.
26 USC 3304.

(D) Section 31 (b) (1) is amended by striking out “(or his delegate)”.

(E) The last sentence of section 3304 (c) is amended by striking out “the Secretary shall” and inserting in lieu thereof “the Secretary of Labor shall”.

(F) Section 3310(d)(2) is amended by striking out “the Secretary’s action” each place it appears and inserting in lieu thereof “the Secretary of Labor’s action”. 26 USC 3310.

(G) Section 3221(a) and 3221(c) are each amended by striking out “of the Treasury” each place it appears. 26 USC 3221.

(H) Section 3310(e) is amended by striking out “of the Secretary” and inserting in lieu thereof “of the Secretary of Labor”. 26 USC 3310.

(I) Section 4412(c) is amended by striking out “he or his delegate” and inserting in lieu thereof “the Secretary”. 26 USC 4412.

(J) Section 5845(f) is amended by striking out “of the Treasury or his delegate”. 26 USC 5845.

(K) Section 6402(b) is amended by striking out “(or his delegate)”. 26 USC 6402.

(L) Section 7458 is amended by striking out “nor his delegate”. 26 USC 7458.

(M) Section 7514 is amended by striking out “functions of the Secretary” and inserting in lieu thereof “functions of the Secretary of the Treasury”. 26 USC 7514.

(c) AMENDMENTS TO SECTIONS REFERRING TO TERRITORIES.—

(1) Section 6871(a) is amended by striking out “or Territory”. 26 USC 6871.

(2) Section 7622(b) is amended by striking out “, Territory,”. 26 USC 7622.

(3) Section 7701(a)(4) is amended by striking out “or Territory”. 26 USC 7701.

(d) EFFECTIVE DATE.—

26 USC 6013
note.

(1) GENERAL RULE.—Except as otherwise expressly provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

(2) AMENDMENTS RELATING TO INCOME TAX.—The amendments made by this section, when relating to a tax imposed by chapter 1 or chapter 2 of the Internal Revenue Code of 1954, shall take effect with respect to taxable years beginning after December 31, 1976. 26 USC 1, 1401.

SEC. 1907. AMENDMENTS OF SUBTITLE G; THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 8001.—Section 8001 (relating to creation of the Joint Committee) is amended by striking out “Joint Committee on Internal Revenue Taxation” and inserting in lieu thereof “Joint Committee on Taxation”. 26 USC 8001.

(2) AMENDMENT OF SECTION 8004.—Section 8004 (relating to compensation of staff) is amended by striking out “compensation of a clerk” and inserting in lieu thereof “compensation of the Chief of Staff of the Joint Committee”. 26 USC 8004.

(3) AMENDMENT OF SECTION 8021.—Section 8021(d) (relating to authority to make expenditures) is amended to read as follows: 26 USC 8021.

“(d) TO MAKE EXPENDITURES.—The Joint Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable.”

(4) AMENDMENT OF SECTION 8023.—Section 8023(c) (relating to reorganization plans) is amended to read as follows: 26 USC 8023.

“(c) APPLICATION OF SUBSECTIONS (a) AND (b).—Subsections (a) and (b) shall be applied in accordance with their provisions without regard to any reorganization plan becoming effective on, before, or after the date of the enactment of this subsection.”

26 USC 8001
note.

(5) All references in any other statute, or in any rule, regulation, or order, to the Joint Committee on Internal Revenue Taxation shall be considered to be made to the Joint Committee on Taxation.

(b) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 8001.—

(1) The heading of subtitle G is amended by striking out “Internal Revenue”.

(2) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle G and inserting in lieu thereof the following:

“SUBTITLE G. The Joint Committee on Taxation.”.

26 USC 8001
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

26 USC 1 note.

SEC. 1908. EFFECTIVE DATE OF CERTAIN DEFINITIONS AND DESIGNATIONS

For purposes of any amendment made by any provision of this Act (other than this title)—

(1) which contains a term the meaning of which is defined in or modified by any provision of this title, and

(2) which has an effective date earlier than the effective date of the provision of this title defining or modifying such term, that definition or modification shall be considered to take effect as of such earlier effective date.

Subtitle B—Amendments of Code Provisions With Limited Current Application; Repeals and Savings Provisions

SEC. 1951. PROVISIONS OF SUBTITLE A.

(a) REFERENCES TO INTERNAL REVENUE CODE.—Except as otherwise expressly provided, whenever in this section a reference is made to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(b) AMENDMENTS.—

(1) AMENDMENT OF SECTION 72.—

26 USC 1.

26 USC 72.

(A) REPEAL.—Section 72 (relating to annuities) is amended by striking out subsection (i) (relating to joint and survivor annuities where first annuitant died in 1951, 1952, or 1953).

26 USC 72 note.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if the provisions of section 72(i) applied to amounts received in taxable years beginning before January 1, 1977, under an annuity contract, then amounts received under such contract on or after such date shall be treated as if such provisions were not repealed.

26 USC 108.

(2) AMENDMENTS OF SECTION 108.—

(A) REPEAL.—Section 108 (relating to income from discharge of indebtedness) is amended by striking out subsection (b) (relating to certain railroad corporations) and by striking out of subsection (a) the following: “(a) SPECIAL RULE OF EXCLUSION.—”.

- (B) SAVINGS PROVISION.—If any discharge, cancellation, or modification of indebtedness of a railroad corporation occurs in a taxable year beginning after December 31, 1976, pursuant to an order of a court in a proceeding referred to in section 108(b) (A) or (B) which commenced before January 1, 1960, then, notwithstanding the amendments made by subparagraph (A), the provisions of subsection (b) of section 108 shall be considered as not repealed with respect to such discharge, cancellation, or modification of indebtedness. 26 USC 108 note.
- (3) AMENDMENTS OF SECTION 164.—
- (A) REPEAL.—Section 164 (relating to taxes) is amended by striking out subsection (f) (relating to payments for municipal services in atomic energy communities) and by redesignating subsection (g) as subsection (f). 26 USC 164.
- (B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any amount paid or accrued in a taxable year beginning after December 31, 1976, to the Atomic Energy Commission or its successors for municipal-type services shall be allowed as a deduction under section 164 if such amount would have been deductible by reason of section 164(f) (as in effect for a taxable year ending on December 31, 1976) and if the amount is paid or accrued with respect to real property in a community (within the meaning of section 21 b. of the Atomic Energy Community Act of 1955 (42 U.S.C. 2304 (b))) in which the Commission on December 31, 1976, was rendering municipal-type services for which it received compensation from the owners of property within such community. 26 USC 164 note.
- (4) REPEAL OF SECTION 168.—
- (A) REPEAL.—Section 168 (relating to amortization of emergency facilities) is repealed. 26 USC 168.
- (B) SAVINGS PROVISION.—Notwithstanding the repeal made by subparagraph (A), if a certificate was issued before January 1, 1960, with respect to an emergency facility which is or has been placed in service before the date of the enactment of this Act, the provisions of section 168 shall not, with respect to such facility, be considered repealed. The benefit of deductions by reason of the preceding sentence shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary in accordance with regulations prescribed under section 642(f). 26 USC 168 note.
- (5) AMENDMENT OF SECTION 171.—
- (A) REPEAL.—
- (i) Section 171(b)(1)(B) (relating to amount of bond premium) is amended by striking out clause (iii) (relating to certain bonds acquired before 1958). 26 USC 171.
- (ii) Section 171(b)(1)(B)(i) is amended by striking out “clause (ii) or (iii) applies,” and inserting in lieu thereof “clause (ii) applies, or”, and by inserting “and” at the end thereof.
- (iii) Section 171(b)(1)(B)(ii) is amended by striking out “, or” and inserting “, and” in lieu thereof.
- (iv) The second sentence in section 171(b)(2) is amended by striking out “or (iii)”.

26 USC 171
note.

(B) SAVINGS PROVISION.—Notwithstanding the amendments made by subparagraph (A), in the case of a bond the interest on which is not excludable from gross income—

(i) which was issued after January 22, 1951, with a call date not more than 3 years after the date of such issue, and

(ii) which was acquired by the taxpayer after January 22, 1954, and before January 1, 1958, the bond premium for a taxable year beginning after December 31, 1975, shall not be determined under section 171(b)(1)(B)(i) but shall be determined with reference to the amount payable on maturity, and if the bond is called before its maturity, the bond premium for the year in which the bond is called shall be determined in accordance with the provisions of section 171(b)(2).

26 USC 333.

(6) AMENDMENT OF SECTION 333.—

(A) REPEAL.—Section 333 (relating to election as to recognition of gain in certain liquidations) is amended by striking out subsection (g) (relating to the liquidation of certain personal holding companies).

26 USC 333
note.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if any corporation meets all the requirements of section 333(g)(2)(B), as in effect before its repeal by this Act, the liquidation of such corporation shall be treated as if paragraphs (2), (3), and (4) of section 333(g) had not been repealed.

26 USC 333
note.

(C) PHASE-IN OF 12-MONTH HOLDING PERIOD REQUIREMENT.—For purposes of subparagraph (B), the period for holding of stock specified in section 333(g)(2)(A)(ii), as in effect before such repeal, shall—

(i) in the case of taxable years beginning in 1977, be considered to be “9 months”; and

(ii) in the case of taxable years beginning after December 31, 1977, be considered to be “1 year”.

26 USC 453.

(7) AMENDMENT OF SECTION 453.—

(A) REPEAL.—Section 453(b)(2) (relating to limitation on use of installment sales method) is amended to read as follows:

“(2) LIMITATION.—Paragraph (1) shall apply only if in the taxable year of the sale or other disposition—

“(A) there are no payments, or

“(B) the payments (exclusive of evidences of indebtedness of the purchaser) do not exceed 30 percent of the selling price.”.

26 USC 453
note.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), in the case of installment payments received during taxable years beginning after December 31, 1976, on account of a sale or other disposition made during a taxable year beginning before January 1, 1954, subsection (b)(1) of section 453 (relating to sales of realty and casual sales of personalty) shall apply only if the income was (by reason of section 44(b) of the Internal Revenue Code of 1939) returnable on the basis and in the manner prescribed in section 44(a) of such Code.

53 Stat. 24.

(8) AMENDMENTS OF SECTION 512.—

(A) REPEAL.—Section 512(b) (relating to unrelated business taxable income) is amended by striking out paragraphs (13) and (14) and by redesignating paragraphs (15), (16), and (17) as paragraphs (13), (14), and (15), respectively. 26 USC 512.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), income received in a taxable year beginning after December 31, 1975, shall be excluded from gross income in determining unrelated business taxable income, if such income would have been excluded by paragraph (13) or (14) of section 512(b) if received in a taxable year beginning before such date. Any deductions directly connected with income excluded under the preceding sentence in determining unrelated business taxable income shall also be excluded for such purpose. 26 USC 512 note.

(9) AMENDMENT OF SECTION 545.—

(A) REPEAL.—Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (9) (relating to deductions on account of certain liens in favor of the United States). 26 USC 545.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if any amount was deducted under paragraph (9) of section 545(b) in a taxable year beginning before January 1, 1977, on account of a lien which is satisfied or released in a taxable year beginning on or after such date, the amount so deducted shall be included in income, for purposes of section 545, as provided in the second sentence of such paragraph. Shareholders of any corporation which has amounts included in its income by reason of the preceding sentence may elect to compute the income tax on dividends attributable to amounts so included as provided in the third sentence of such paragraph. 26 USC 545 note.

(10) AMENDMENTS OF SECTION 691.—

(A) REPEAL.—Section 691 (relating to income in respect of decedents) is amended by striking out subsection (e) (relating to certain installment obligations transmitted at death) and by redesignating subsection (f) as subsection (e). 26 USC 691.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any election made under section 691(e) to have subsection (a)(4) of such section apply in the case of an installment obligation shall continue to be effective with respect to taxable years beginning after December 31, 1976. Section 691(c) shall not apply in respect of any amount included in gross income by reason of the preceding sentence. The liability under bond filed under section 44(d) of the Internal Revenue Code of 1939 (or corresponding provisions of prior law) in respect of which such an election applies is hereby released with respect to taxable years to which such election applies. 26 USC 691 note.

53 Stat. 24.

(11) AMENDMENTS OF SECTION 817.—

(A) REPEAL.—Section 817 is amended by striking out subsection (d) (relating to certain gains occurring before 1959). 26 USC 817.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any gain in a taxable year beginning after December 31, 1976, from any sale or other disposition of property prior to January 1, 1959, would be excluded or not taken into 26 USC 817 note.

Ante, p. 1839.

account for purposes of part 1 of subchapter L of chapter 1 if subsection (d) of section 817 of such Code were still in effect for such taxable year, such gain shall be excluded for purposes of such part.

(12) REPEAL OF SECTION 1347.—

26 USC 1347.

(A) REPEAL.—Section 1347 (relating to certain claims filed against the United States before January 1, 1958) is repealed.

26 USC 1347
note.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if amounts received in a taxable year beginning after December 31, 1976, would have been subject to the provisions of section 1347 if received in a taxable year beginning before such date, the tax imposed by section 1 attributable to such receipt shall be computed as if section 1347 had not been repealed.

(13) REPEAL OF SECTION 1471.—

26 USC 1471.

(A) REPEAL.—Subchapter A of chapter 4 (relating to recovery of excessive profits on certain Government contracts) is repealed.

26 USC 1471
note.

(B) SAVINGS PROVISION.—If the amount of profit required to be paid into the Treasury under section 2382 or 7300 of title 10, United States Code, is not voluntarily paid, the Secretary of the Treasury or his delegate shall collect the same under the methods employed to collect taxes under subtitle A. All provisions of law (including penalties) applicable with respect to such taxes and not inconsistent with section 2382 or 7300 of title 10 of such Code, shall apply with respect to the assessment, collection, or payment of excess profits to the Treasury as provided in the preceding sentence, and to refunds by the Treasury of overpayments of excess profits into the Treasury.

(14) AMENDMENT OF SECTION 1481.—

26 USC 1481.

(A) REPEAL.—Section 1481 (relating to mitigation of effect of renegotiation of Government contracts) is amended by striking out subsection (d) (relating to renegotiation for years prior to 1954).

26 USC 1481
note.

(B) SAVINGS PROVISION.—If, during a taxable year beginning after December 31, 1976, a recovery of excessive profits through renegotiation which relates to profits of a taxable year subject to the Internal Revenue Code of 1939, the adjustments in respect to such renegotiation shall be made under section 3806 of such Code.

53 Stat. 1.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

26 USC 1017.

(1) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 108.—Section 1017 is amended by striking out “section 108(a)” each time it appears therein and inserting in lieu thereof “section 108”.

26 USC 1238.

(2) AMENDMENTS CONFORMING TO REPEAL OF SECTION 168.—

(A) Section 1238 is amended by striking out “(relating to amortization deduction of emergency facilities)” and inserting in lieu thereof “(as in effect before its repeal by the Tax Reform Act of 1976)”.

Ante, p. 1520.
26 USC 642,
1082.

(B) Sections 642(f) and 1082(a)(2)(B) are each amended by striking out “168.”

Ante, p. 1837.
26 USC 1245,
1250.

(C) Sections 1245(a)(2) and 1250(b)(3) are each amended by striking out “168,” each place it appears and inserting in lieu thereof “168 (as in effect before its repeal by the Tax Reform Act of 1976).”

(D) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 168.

Ante, p. 1837.

(3) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1347.—

(A) Section 5(b) is amended by striking out paragraph (5) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

26 USC 5.

(B) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1347.

Ante, p. 1840.

(C) The heading of part VI of subchapter Q of chapter 1 is amended to read as follows:

“PART VI—MAXIMUM RATE ON PERSONAL SERVICE INCOME.”

(D) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part VI and inserting in lieu thereof the following:

“Part VI. Maximum rate on personal service income.”

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1471.—

The table of subchapters for chapter 4 is amended by striking out the item relating to subchapter A.

(d) EFFECTIVE DATE.—Except as otherwise expressly provided, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.

26 USC 72 note.

SEC. 1952. PROVISIONS OF SUBCHAPTER D OF CHAPTER 39; COTTON FUTURES.

United States
Cotton Futures
Act.
7 USC 15b.

(a) SHORT TITLE.—This section may be cited as the “United States Cotton Futures Act”.

(b) REPEAL OF TAX ON COTTON FUTURES.—Subchapter D of chapter 39 (relating to tax on cotton futures) is repealed.

26 USC 4851.

(c) DEFINITIONS.—For purposes of this section—

(1) COTTON FUTURES CONTRACT.—The term “cotton futures contract” means any contract of sale of cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business which has been designated a “contract market” by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act and the term “contract of sale” as so used shall be held to include sales, agreements of sale, and agreements to sell.

7 USC 1.

(2) FUTURE DELIVERY.—The term “future delivery” shall not include any cash sale of cotton for deferred shipment or delivery.

(3) PERSON.—The term “person” includes an individual, trust, estate, partnership, association, company, or corporation.

(4) SECRETARY.—The term “Secretary” means the Secretary of Agriculture of the United States.

(5) STANDARDS.—The term “standards” means the official cotton standards of the United States established by the Secretary pursuant to the United States Cotton Standards Act, as amended.

(d) BONA FIDE SPOT MARKETS AND COMMERCIAL DIFFERENCES.—

(1) DEFINITION.—For purposes of this section, the only markets which shall be considered bona fide spot markets shall be those which the Secretary shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

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regulations.

(2) **DETERMINATION.**—In determining, pursuant to the provisions of this section, what markets are bona fide spot markets, the Secretary is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary; except that if there are not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary, to enable him to designate at least five spot markets in accordance with subsection (f) (3), he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the market selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to subsection (f) (1) and (2) shall be determined in compliance with such rules and regulations. It shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

(3) **WITHHOLDING INFORMATION.**—Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under paragraph (2) of this subsection, or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than \$500.

(e) **FORM AND VALIDITY OF COTTON FUTURES CONTRACTS.**—Each cotton futures contract shall be a basis grade contract, or a tendered grade contract, or a specific grade contract as specified in subsections (f), (g), or (h) and shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. No cotton futures contract which does not conform to such requirements shall be enforceable by, or on behalf of, any party to such contract or his privies.

(f) **BASIS GRADE CONTRACTS.**—

(1) **CONDITIONS.**—Each basis grade cotton futures contract shall comply with each of the following conditions:

(A) **CONFORMITY WITH REGULATIONS.**—Conform to the regulations made pursuant to this section.

(B) **SPECIFICATION OF GRADE, PRICE, AND DATES OF SALE AND SETTLEMENT.**—Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary, except grades prohibited from being delivered on a contract made under this

subsection by subparagraph (E), the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled; except that middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(C) PROVISION FOR DELIVERY OF STANDARD GRADES ONLY.—Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E) and no other grade or grades.

(D) PROVISION FOR SETTLEMENT ON BASIS OF ACTUAL COMMERCIAL DIFFERENCES.—Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(E) PROHIBITION OF DELIVERY OF INFERIOR COTTON.—Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed", shall not be delivered on, under, or in settlement of such contract.

(F) PROVISIONS FOR TENDER IN FULL, NOTICE OF DELIVERY DATE, AND CERTIFICATE OF GRADE.—Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(G) PROVISION FOR TENDER AND SETTLEMENT IN ACCORDANCE WITH GOVERNMENT CLASSIFICATION.—Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, col-

Regulations.

lected, and paid as provided in such regulations. The Secretary is authorized to prescribe regulations for carrying out the purposes of this subparagraph and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this subparagraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as *prima facie* evidence of the true classification of the cotton involved.

(2) **INCORPORATION OF CONDITIONS IN CONTRACTS.**—The provisions of paragraphs (1) (C), (D), (E), (F), and (G) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandums evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (f)."

Ante, p. 1841.

(3) **DELIVERY ALLOWANCES.**—For the purpose of this subsection, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basic grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with paragraph (1)(F), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary, as such values were established by the sales of spot cotton, in such designated five or more markets. For purposes of this paragraph, such values in the such spot markets shall be based upon the standards for grades of cotton established by the Secretary. Whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary.

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regulations.

(g) **TENDERED GRADE CONTRACTS.**—

(1) **CONDITIONS.**—Each tendered grade cotton future contract shall comply with each of the following conditions:

(A) **COMPLIANCE WITH SUBSECTION (f).**—Comply with all the terms and conditions of subsection (f) not inconsistent with this subsection; and

(B) **PROVISION FOR CONTINGENT SPECIFIC PERFORMANCE.**—Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(2) **INCORPORATION OF CONDITIONS IN CONTRACT.**—Contracts made in compliance with this subsection shall be known as "subsection (g) Contracts". The provisions of this subsection shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (g)".

(3) APPLICATION OF SUBSECTION.—Nothing in this subsection shall be so construed as to authorize any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any “fixed difference” system, or by arbitration, or by any other method not provided for by this section.

(h) SPECIFIC GRADE CONTRACTS.—

(1) CONDITIONS.—Each specific grade cotton futures contract shall comply with each of the following conditions:

(A) CONFORMITY WITH RULES AND REGULATIONS.—Conform to the rules and regulations made pursuant to this section.

(B) SPECIFICATION OF GRADE, PRICE, DATES OF SALE AND DELIVERY.—Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(C) PROHIBITION OF DELIVERY OF OTHER THAN SPECIFIED GRADE.—Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(D) PROVISION FOR SPECIFIC PERFORMANCE.—Provide that the delivery of cotton under the contract shall not be effected by means of “setoff” or “ring” settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(2) INCORPORATION OF CONDITIONS IN CONTRACT.—The provisions of paragraphs (1) (A), (C), and (D) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words “Subject to United States Cotton Futures Act, subsection (h)”.

Ante, p. 1841.

(3) APPLICATION OF SUBSECTION.—This subsection shall not be construed to apply to any contract of sale made in compliance with subsection (f) or (g).

(i) LIABILITY OF PRINCIPAL FOR ACTS OF AGENT.—When construing and enforcing the provisions of this section, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

(j) REGULATIONS.—The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

(k) VIOLATIONS.—Any person who knowingly violates any regulation made in pursuance of this section, shall, upon conviction thereof, be fined not less than \$100 nor more than \$500, for each violation thereof, in the discretion of the court, and, in case of natural persons, may, in addition be punished by imprisonment for not less than 30 days nor more than 90 days, for each violation, in the discretion of the

court except that this subsection shall not apply to violations subject to subsection (d) (3).

(1) **APPLICABILITY TO CONTRACTS PRIOR TO EFFECTIVE DATE.**—The provisions of this section shall not apply to any cotton futures contract entered into prior to the effective date of this section or to any act or failure to act by any person prior to such effective date and all such prior contracts, acts or failure to act shall continue to be governed by the applicable provisions of the Internal Revenue Code of 1954 as in effect prior to the enactment of this section. All designations of bona fide spot markets and all rules and regulations issued by the Secretary pursuant to the applicable provisions of the Internal Revenue Code of 1954 which were in effect on the effective date of this section, shall remain fully effective as designations and regulations under this section until superseded, amended, or terminated by the Secretary.

(m) **AUTHORIZATION.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(n) **CONFORMING AND CLERICAL AMENDMENTS.**—

(1) Section 6808 (relating to cross references) is amended by striking out paragraph (2), and by redesignating paragraphs (3), (6), and (11) as paragraphs (1), (2), and (3), respectively.

(2) (A) Section 7233 (relating to failure to pay tax on cotton futures) is repealed.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7233.

(3) (A) Section 7263 (relating to penalties concerning cotton futures) is repealed.

(B) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7263.

(4) (A) Subchapter E of chapter 76 (relating to miscellaneous provisions regarding cotton futures contracts) is repealed.

(B) The table of subchapters for chapter 76 is amended by striking out the items relating to subchapter E.

(5) Chapter 39 (relating to regulatory taxes) is amended by striking out the chapter heading and the table of subchapters.

(6) The table of chapters for subtitle D is amended by striking out the item relating to chapter 39.

(o) **EFFECTIVE DATE.**—The provisions of this section shall take effect on the 90th day after the date of the enactment of this Act.

TITLE XX—ESTATE AND GIFT TAXES

SEC. 2001. UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES; UNIFIED CREDIT IN LIEU OF SPECIFIC EXEMPTIONS.

(a) **CHANGES IN ESTATE TAX.**—

(1) **IMPOSITION OF TAX; RATE SCHEDULE.**—Section 2001 (relating to rate of tax) is amended to read as follows:

“SEC. 2001. **IMPOSITION AND RATE OF TAX.**

“(a) **IMPOSITION.**—A tax is hereby imposed on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

“(b) **COMPUTATION OF TAX.**—The tax imposed by this section shall be the amount equal to the excess (if any) of—

“(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (c) on the sum of—

- “(A) the amount of the taxable estate, and
 “(B) the amount of the adjusted taxable gifts, over
 “(2) the aggregate amount of tax payable under chapter 12 26 USC 2501.
 with respect to gifts made by the decedent after December 31,
 1976.

For purposes of paragraph (1) (B), the term ‘adjusted taxable gifts’ means the total amount of the taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent. “Adjusted taxable gifts.”

“(c) RATE SCHEDULE.—

“If the amount with respect to which the tentative tax to be computed is: The tentative tax is:

Not over \$10,000-----	18 percent of such amount.
Over \$10,000 but not over \$20,000-----	\$1,800, plus 20 percent of the excess of such amount over \$10,000.
Over \$20,000 but not over \$40,000-----	\$3,800, plus 22 percent of the excess of such amount over \$20,000.
Over \$40,000 but not over \$60,000-----	\$8,200, plus 24 percent of the excess of such amount over \$40,000.
Over \$60,000 but not over \$80,000-----	\$13,000, plus 26 percent of the excess of such amount over \$60,000.
Over \$80,000 but not over \$100,000-----	\$18,200, plus 28 percent of the excess of such amount over \$80,000.
Over \$100,000 but not over \$150,000-----	\$23,800, plus 30 percent of the excess of such amount over \$100,000.
Over \$150,000 but not over \$250,000-----	\$38,800, plus 32 percent of the excess of such amount over \$150,000.
Over \$250,000 but not over \$500,000-----	\$70,800, plus 34 percent of the excess of such amount over \$250,000.
Over \$500,000 but not over \$750,000-----	\$155,800, plus 37 percent of the excess of such amount over \$500,000.
Over \$750,000 but not over \$1,000,000-----	\$248,300, plus 39 percent of the excess of such amount over \$750,000.
Over \$1,000,000 but not over \$1,250,000-----	\$345,800 plus 41 percent of the excess of such amount over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000-----	\$448,300, plus 43 percent of the excess of such amount over \$1,250,000.
Over \$1,500,000 but not over \$2,000,000-----	\$555,800, plus 45 percent of the excess of such amount over \$1,500,000.
Over \$2,000,000 but not over \$2,500,000-----	\$780,800, plus 49 percent of the excess of such amount over \$2,000,000.
Over \$2,500,000 but not over \$3,000,000--	\$1,025,800, plus 53 percent of the excess of such amount over \$2,500,000.
Over \$3,000,000 but not over \$3,500,000--	\$1,290,800, plus 57 percent of the excess of such amount over \$3,000,000.
Over \$3,500,000 but not over \$4,000,000--	\$1,575,800, plus 61 percent of the excess of such amount over \$3,500,000.
Over \$4,000,000 but not over \$4,500,000--	\$1,880,800, plus 65 percent over the excess of such amount over \$4,000,000.
Over \$4,500,000 but not over \$5,000,000--	\$2,205,800, plus 69 percent of the excess of such amount over \$4,500,000.
Over \$5,000,000-----	\$2,550,800, plus 70 percent of the excess of such amount over \$5,000,000.

“(d) ADJUSTMENT FOR GIFT TAX PAID BY SPOUSE.—For purposes of subsection (b) (2), if—

“(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent’s spouse, and

“(2) the amount of such gift is includible in the gross estate of the decedent,
 any tax payable by the spouse under chapter 12 on such gift (as determined under section 2012(d)) shall be treated as a tax payable with respect to a gift made by the decedent.”

(2) ALLOWANCE OF UNIFIED CREDIT.—Part II of subchapter A of chapter 11 (relating to credits against the estate tax) is amended by inserting before section 2011 the following new section:

26 USC 2010. **“SEC. 2010. UNIFIED CREDIT AGAINST ESTATE TAX.**

“(a) GENERAL RULE.—A credit of \$47,000 shall be allowed to the estate of every decedent against the tax imposed by section 2001.

“(b) PHASE-IN OF \$47,000 CREDIT.—

“In the case of decedents dying in:		Subsection (a) shall be applied by substituting for “\$47,000” the following amount:
1977	-----	\$30, 000
1978	-----	34, 000
1979	-----	38, 000
1980	-----	42, 500

“(c) ADJUSTMENT TO CREDIT FOR CERTAIN GIFTS MADE BEFORE 1977.—The amount of the credit allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.

“(d) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by subsection (a) shall not exceed the amount of the tax imposed by section 2001.”

26 USC 2012.

(3) TERMINATION OF CREDIT FOR GIFT TAX.—Section 2012 (relating to credit for gift tax) is amended by adding at the end thereof the following new subsection:

“(e) SECTION INAPPLICABLE TO GIFTS MADE AFTER DECEMBER 31, 1976.—No credit shall be allowed under this section with respect to the amount of any tax paid under chapter 12 on any gift made after December 31, 1976.”

26 USC 2052.

(4) REPEAL OF SPECIFIC EXEMPTION.—Section 2052 (relating to exemption for purposes of the estate tax) is hereby repealed.

26 USC 2035.

(5) ADJUSTMENTS FOR GIFTS MADE WITHIN 3 YEARS OF DEATH.—Section 2035 (relating to transactions in contemplation of death) is amended to read as follows:

“SEC. 2035. ADJUSTMENTS FOR GIFTS MADE WITHIN 3 YEARS OF DECEDENT’S DEATH.

“(a) INCLUSION OF GIFTS MADE BY DECEDENT.—Except as provided in subsection (b), the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent’s death.

“(b) EXCEPTIONS.—Subsection (a) shall not apply to—

“(1) any bona fide sale for an adequate and full consideration in money or money’s worth, and

“(2) any gift excludable in computing taxable gifts by reason of section 2503(b) (relating to \$3,000 annual exclusion for purposes of the gift tax) determined without regard to section 2513 (a).

“(c) INCLUSION OF GIFT TAX ON CERTAIN GIFTS MADE DURING 3 YEARS BEFORE DECEDENT’S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse after Decem-

ber 31, 1976, and during the 3-year period ending on the date of the decedent's death."

(b) CHANGES IN GIFT TAX.—

(1) RATE OF TAX.—Subsection (a) of section 2502 (relating to rate of gift tax) is amended to read as follows: 26 USC 2502.

"(a) COMPUTATION OF TAX.—The tax imposed by section 2501 for each calendar quarter shall be an amount equal to the excess of—

"(1) a tentative tax, computed in accordance with the rate schedule set forth in section 2001(c), on the aggregate sum of the taxable gifts for such calendar quarter and for each of the preceding calendar years and calendar quarters, over *Ante*, p. 1846.

"(2) a tentative tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters."

(2) UNIFIED CREDIT.—Subchapter A of chapter 12 (relating to determination of gift tax liability) is amended by adding at the end thereof the following new section:

"SEC. 2505. UNIFIED CREDIT AGAINST GIFT TAX.

25 USC 2505.

"(a) GENERAL RULE.—In the case of a citizen or resident of the United States, there shall be allowed as a credit against the tax imposed by section 2501 for each calendar quarter an amount equal to—

"(1) \$47,000, reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters.

"(b) PHASE-IN OF \$47,000 CREDIT.—

Subsection (a)(1) shall be applied by substituting for '\$47,000' the following amount:

"In the case of gifts made:

After December 31, 1976, and before July 1, 1977	\$6,000
After June 30, 1977, and before January 1, 1978	\$30,000
After December 31, 1977, and before January 1, 1979	\$34,000
After December 31, 1978, and before January 1, 1980	\$38,000
After December 31, 1979, and before January 1, 1981	\$42,500

"(c) ADJUSTMENT TO CREDIT FOR CERTAIN GIFTS MADE BEFORE 1977.—The amount allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the individual after September 8, 1976.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed under subsection (a) for any calendar quarter shall not exceed the amount of the tax imposed by section 2501 for such calendar quarter."

(3) REPEAL OF SPECIFIC EXEMPTION.—Section 2521 (relating to specific exemption in the case of the gift tax) is hereby repealed. 26 USC 2521.

(c) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) CHANGES IN ESTATE TAX.—

(A) CREDIT FOR STATE DEATH TAXES.—Section 2011 (relating to credit for State death taxes) is amended— 26 USC 2011.

(i) by striking out "taxable estate" each place it appears in subsection (b) (including the heading to the table) and inserting in lieu thereof "adjusted taxable estate";

(ii) by adding at the end of subsection (b) the following new sentence:

"Adjusted taxable estate."

"For purposes of this section, the term 'adjusted taxable estate' means the taxable estate reduced by \$60,000."

(iii) by striking out "taxable estate" each place it appears in subsection (e) and inserting in lieu thereof "adjusted taxable estate"; and

(iv) by adding at the end thereof the following new subsection:

"(f) **LIMITATION BASED ON AMOUNT OF TAX.**—The credit provided by this section shall not exceed the amount of the tax imposed by section 2001, reduced by the amount of the unified credit provided by section 2010."

26 USC 2012.

(B) **CREDIT FOR GIFT TAX.**—Subsection (a) of section 2012 (relating to credit for gift tax) is amended by striking out "provided by section 2011" and inserting in lieu thereof "provided by section 2011 and the unified credit provided by section 2010".

Ante, p. 1848.

(C) **CREDIT FOR TAX ON PRIOR TRANSFERS.**—

26 USC 2013.

(i) The first sentence of section 2013(b) is amended by striking out "and increased by the exemption provided for by section 2052 or section 2106(a)(3), or the corresponding provisions of prior laws, in determining the taxable estate of the transferor for purposes of the estate tax".

(ii) Subparagraph (A) of section 2013(e)(1) is amended to read as follows:

"(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in sections 2010, 2011, 2012, and 2014) computed without regard to this section, exceeds".

26 USC 2101.

(D) **RATE OF TAX IN CASE OF NONRESIDENTS NOT CITIZENS.**—Section 2101 (relating to tax imposed in the case of estates of nonresidents not citizens) is amended to read as follows:

"SEC. 2101. TAX IMPOSED.

"(a) **IMPOSITION.**—Except as provided in section 2107, a tax is hereby imposed on the transfer of the taxable estate (determined as provided in section 2106) of every decedent nonresident not a citizen of the United States.

"(b) **COMPUTATION OF TAX.**—The tax imposed by this section shall be the amount equal to the excess (if any) of—

"(1) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the sum of—

"(A) the amount of the taxable estate, and

"(B) the amount of the adjusted taxable gifts, over

"(2) a tentative tax computed in accordance with the rate schedule set forth in subsection (d) on the amount of the adjusted taxable gifts.

"(c) **ADJUSTMENTS FOR TAXABLE GIFTS.**—

"(1) **ADJUSTED TAXABLE GIFTS DEFINED.**—For purposes of this section, the term 'adjusted taxable gifts' means the total amount of the taxable gifts (within the meaning of section 2503 as modified by section 2511) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

"(2) **ADJUSTMENT FOR CERTAIN GIFT TAX.**—For purposes of this section, the rules of section 2001(d) shall apply.

“(d) RATE SCHEDULE.—**“If the amount with respect to which the tentative tax to be computed is:**

The tentative tax to be computed is:	The tentative tax is:
Not over \$100,000-----	6% of such amount.
Over \$100,000 but not over \$500,000-----	\$6,000, plus 12% of excess over \$100,000.
Over \$500,000 but not over \$1,000,000---	\$54,000, plus 18% of excess over \$500,000.
Over \$1,000,000 but not over \$2,000,000--	\$144,000, plus 24% of excess over \$1,000,000.
Over 2,000,000-----	\$384,000, plus 30% of excess over \$2,000,000.”

(E) CREDIT IN CASE OF ESTATE OF NONRESIDENTS NOT CITIZENS.—

(i) Section 2102 (relating to credits against tax in case of estates of nonresidents not citizens) is amended by adding at the end thereof the following new subsection: 26 USC 2102.

“(c) UNIFIED CREDIT.—

“(1) IN GENERAL.—A credit of \$3,600 shall be allowed against the tax imposed by section 2101. *Ante*, p. 1850.

“(2) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a ‘nonresident not a citizen of the United States’ under section 2209, the credit under this subsection shall be the greater of—

“(A) \$3,600, or

“(B) that proportion of \$15,075 which the value of that part of the decedent’s gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

“(3) PHASE-IN OF PARAGRAPH (2) (B) AMOUNT.—In the case of a decedent dying before 1981, paragraph (2) (B) shall be applied—

“(A) in the case of a decedent dying during 1977, by substituting ‘\$8,480’ for ‘\$15,075’,

“(B) in the case of a decedent dying during 1978, by substituting ‘\$10,080’ for ‘\$15,075’,

“(C) in the case of a decedent dying during 1979, by substituting ‘\$11,680’ for ‘\$15,075’, and

“(D) in the case of a decedent dying during 1980, by substituting ‘\$13,388’ for ‘\$15,075’.

“(4) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under this subsection shall not exceed the amount of the tax imposed by section 2101.

“(5) APPLICATION OF OTHER CREDITS.—For purposes of subsection (a), sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under this subsection were allowed under section 2010.”

(ii) Subsection (c) of section 2107 (relating to expatriation to avoid tax) is amended to read as follows: 26 USC 2107.

“(c) CREDITS.—**“(1) UNIFIED CREDIT.—**

“(A) IN GENERAL.—A credit of \$13,000 shall be allowed against the tax imposed by subsection (a).

“(B) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under this paragraph shall not exceed the amount of the tax imposed by subsection (a).

“(2) OTHER CREDITS.—The tax imposed by subsection (a) shall be credited with the amounts determined in accordance with sub-

sections (a) and (b) of section 2102. For purposes of subsection (a) of section 2102, sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under paragraph (1) were allowed under section 2010."

26 USC 2106. (F) **REPEAL OF SPECIFIC EXEMPTION.**—Paragraph (3) of section 2106(a) (relating to specific exemption in case of decedents nonresidents not citizens) is hereby repealed.

26 USC 2014. (G) **CREDIT FOR FOREIGN DEATH TAXES.**—Paragraph (2) of section 2014(b) (relating to limitations on credit) is amended by striking out "sections 2011 and 2012" and inserting in lieu thereof "sections 2010, 2011, and 2012".

26 USC 2206. (H) **LIABILITY OF LIFE INSURANCE BENEFICIARIES.**—The first sentence of section 2206 (relating to liability of life insurance beneficiaries) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051" and inserting in lieu thereof "the taxable estate".

26 USC 2207. (I) **LIABILITY OF RECIPIENTS OF CERTAIN PROPERTY.**—The first sentence of section 2207 (relating to liability of recipient of property over which decedent had power of appointment) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2052, or section 2106(a), as the case may be" and inserting in lieu thereof "the taxable estate".

26 USC 6018. (J) **RETURN BY EXECUTOR.**—Subsection (a) of section 6018 (relating to estate tax returns by executor) is amended—

(i) by striking out "\$60,000" in paragraph (1) and inserting in lieu thereof "\$175,000";

(ii) by striking out "\$30,000" in paragraph (2) and inserting in lieu thereof "\$60,000"; and

(iii) by adding at the end thereof the following new paragraphs:

"(3) **PHASE-IN OF FILING REQUIREMENT AMOUNT.**—In the case of a decedent dying before 1981, paragraph (1) shall be applied—

"(A) in the case of a decedent dying during 1977, by substituting '\$120,000' for '\$175,000',

"(B) in the case of a decedent dying during 1978, by substituting '\$134,000' for '\$175,000',

"(C) in the case of a decedent dying during 1979, by substituting '\$147,000' for '\$175,000', and

"(D) in the case of a decedent dying during 1980, by substituting '\$161,000' for '\$175,000'.

"(4) **ADJUSTMENT FOR CERTAIN GIFTS.**—The amount applicable under paragraph (1) and the amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

Ante, p. 1846. "(A) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the decedent after December 31, 1976, plus

19 USC 2101. "(B) the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976."

26 USC 2038. (K) **REVOCABLE TRANSFERS.**—

(i) Paragraph (1) of section 2038(a) (relating to revocable transfers) is amended by striking out "in con-

templation of decedent's death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death".

(ii) Paragraph (2) of section 2038(a) (relating to revocable transfer) is amended by striking out "in contemplation of his death" and inserting in lieu thereof "during the 3-year period ending on the date of the decedent's death". 26 USC 2038.

(L) PROPERTY WITHIN THE UNITED STATES.—Subsection (b) of section 2104 (relating to revocable transfers and transfers in contemplation of death) is amended by striking out "AND TRANSFERS IN CONTEMPLATION OF DEATH" in the subsection heading and inserting in lieu thereof "AND TRANSFERS WITHIN 3 YEARS OF DEATH". 26 USC 2104.

(M) PRIOR INTERESTS.—Section 2044 (relating to prior interests) is amended by striking out "specifically provided therein" and inserting in lieu thereof "specifically provided by law". 26 USC 2044.

(N) CLERICAL AMENDMENTS.—

(i) The item relating to section 2001 in the table of sections for part I of subchapter A of chapter 11 is amended to read as follows:

"Sec. 2001. Imposition and rate of tax."

(ii) The table of sections for part II of subchapter A of chapter 11 is amended by inserting before the item relating to section 2011 the following new item:

"Sec. 2010. Unified credit against estate tax."

(iii) The table of sections for part III of subchapter A of chapter 11 is amended by striking out the item relating to section 2035 and inserting in lieu thereof the following new item:

"Sec. 2035. Adjustments for gifts made within 3 years of decedent's death."

(iv) The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2052.

(2) CHANGES IN GIFT TAX.—

(A) TAXABLE GIFTS FOR PRECEDING YEARS AND QUARTERS.—Subsection (a) of section 2504 (relating to taxable gifts for preceding years and quarters) is amended by striking out "except that" and all that follows and inserting in lieu thereof "except that the specific exemption in the amount, if any, allowable under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) shall be applied in all computations in respect of calendar years or calendar quarters ending before January 1, 1977, for purposes of computing the tax for any calendar quarter." 26 USC 2504.

(B) CLERICAL AMENDMENTS.—

(i) The table of sections for subchapter A of chapter 12 is amended by adding at the end thereof the following new item:

"Sec. 2505. Unified credit against gift tax."

(ii) The table of sections for subchapter C of chapter 12 is amended by striking out the item relating to section 2521.

(d) **EFFECTIVE DATES.**—26 USC 2001
note.

(1) The amendments made by subsections (a) and (c) (1) shall apply to the estates of decedents dying after December 31, 1976; except that the amendments made by subsection (a) (5) and subparagraphs (K) and (L) of subsection (c) (1) shall not apply to transfers made before January 1, 1977.

26 USC 2502
note.

(2) The amendments made by subsections (b) and (c) (2) shall apply to gifts made after December 31, 1976.

SEC. 2002. INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS; FRACTIONAL INTERESTS OF SPOUSE.

26 USC 2056. (a) **INCREASE IN ESTATE TAX MARITAL DEDUCTION.**—Paragraph (1) of section 2056(c) (relating to limitation on marital deduction) is amended to read as follows:

“(1) **LIMITATION.**—

“(A) **IN GENERAL.**—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) shall not exceed the greater of—

“(i) \$250,000, or

“(ii) 50 percent of the value of the adjusted gross estate (as defined in paragraph (2)).

“(B) **ADJUSTMENT FOR CERTAIN GIFTS TO SPOUSE.**—If a deduction is allowed to the decedent under section 2523 with respect to any gift made to his spouse after December 31, 1976, the limitation provided by subparagraph (A) (determined without regard to this subparagraph) shall be reduced (but not below zero) by the excess (if any) of—

“(i) the aggregate of the deductions allowed to the decedent under section 2523 with respect to gifts made after December 31, 1976, over

“(ii) the aggregate of the deductions which would have been allowable under section 2523 with respect to gifts made after December 31, 1976, if the amount deductible under such section with respect to any gift were 50 percent of its value.

“(C) **COMMUNITY PROPERTY ADJUSTMENT.**—The \$250,000 amount set forth in subparagraph (A) (i) shall be reduced by the excess (if any) of—

“(i) the amount of the subtraction determined under clauses (i), (ii), and (iii) of paragraph (2) (B), over

“(ii) the excess of the aggregate of the deductions allowed under sections 2053 and 2054 over the amount taken into account with respect to such deductions under clause (iv) of paragraph (2) (B).”

26 USC 2523. (b) **INCREASE IN GIFT TAX MARITAL DEDUCTION.**—Subsection (a) of section 2523 (relating to deduction for gift to spouse) is amended to read as follows:

“(a) **ALLOWANCE OF DEDUCTION.**—

“(1) **IN GENERAL.**—Where a donor who is a citizen or resident transfers during the calendar quarter by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar quarter an amount with respect to such interest equal to its value.

“(2) **LIMITATION.**—The aggregate of the deductions allowed under paragraph (1) for any calendar quarter shall not exceed the sum of—

“(A) \$100,000 reduced (but not below zero) by the aggregate of the deductions allowed under this section for preceding calendar quarters beginning after December 31, 1976; plus

“(B) 50 percent of the lesser of—

“(i) the amount of the deductions allowable under paragraph (1) for such calendar quarter (determined without regard to this paragraph); or

“(ii) the amount (if any) by which the aggregate of the amounts determined under clause (i) for the calendar quarter and for each preceding calendar quarter beginning after December 31, 1976, exceeds \$200,000.”

(c) FRACTIONAL INTEREST OF SPOUSE.—

(1) IN GENERAL.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsection: 26 USC 2040.

“(b) CERTAIN JOINT INTERESTS OF HUSBAND AND WIFE.—

“(1) INTERESTS OF SPOUSE EXCLUDED FROM GROSS ESTATE.—Notwithstanding subsection (a), in the case of any qualified joint interest, the value included in the gross estate with respect to such interest by reason of this section is one-half of the value of such qualified joint interest.

“(2) QUALIFIED JOINT INTEREST DEFINED.—For purposes of paragraph (1), the term ‘qualified joint interest’ means any interest in property held by the decedent and the decedent’s spouse as joint tenants or as tenants by the entirety, but only if—

“(A) such joint interest was created by the decedent, the decedent’s spouse, or both.

“(B) (i) in the case of personal property, the creation of such joint interest constituted in whole or in part a gift for purposes of chapter 12, or

“(ii) in the case of real property, an election under section 2515 applies with respect to the creation of such joint interest, and

“(C) in the case of a joint tenancy, only the decedent and the decedent’s spouse are joint tenants.”

(2) AMENDMENT OF RELATED GIFT TAX PROVISION.—Subsection

(c) of section 2515 (relating to election with respect to tenancies by the entirety) is amended to read as follows: 26 USC 2515.

“(c) EXERCISE OF ELECTION.—

“(1) IN GENERAL.—The election provided by subsection (a) shall be exercised by including such creation of a tenancy by the entirety as a transfer by gift, to the extent such transfer constitutes a gift (determined without regard to this section), in the gift tax return of the donor for the calendar quarter in which such tenancy by the entirety was created, filed within the time prescribed by law, irrespective of whether or not the gift exceeds the exclusion provided by section 2503(b).

“(2) SUBSEQUENT ADDITIONS IN VALUE.—If the election provided by subsection (a) has been made with respect to the creation of any tenancy by the entirety, such election shall also apply to each addition made to the value of such tenancy by the entirety.

“(3) CERTAIN ACTUARIAL COMPUTATIONS NOT REQUIRED.—In the case of any election under subsection (a) with respect to any property, the retained interest of each spouse shall be treated as one-half of the value of their joint interest.”

26 USC 2040.

(3) CLERICAL AMENDMENT.—Section 2040 is amended by striking out “The value” and inserting in lieu thereof the following:
 “(a) GENERAL RULE.—The value”.
 (d) EFFECTIVE DATES.—

26 USC 2056
note.

(1) (A) Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1976.

(B) If—

(i) the decedent dies after December 31, 1976, and before January 1, 1979,

(ii) by reason of the death of the decedent property passes from the decedent or is acquired from the decedent under a will executed before January 1, 1977, or a trust created before such date, which contains a formula expressly providing that the spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by Federal law,

(iii) the formula referred to in clause (ii) was not amended at any time after December 31, 1976, and before the death of the decedent, and

(iv) the State does not enact a statute applicable to such estate which construes this type of formula as referring to the marital deduction allowable by Federal law as amended by subsection (a),

then the amendment made by subsection (a) shall not apply to the estate of such decedent.

26 USC 2523
note.

(2) The amendment made by subsection (b) shall apply to gifts made after December 31, 1976.

26 USC 2040
note.

(3) The amendments made by subsection (c) shall apply to joint interests created after December 31, 1976.

SEC. 2003. VALUATION FOR PURPOSES OF THE FEDERAL ESTATE TAX OF CERTAIN REAL PROPERTY DEVOTED TO FARMING OR CLOSELY HELD BUSINESSES.

(a) GENERAL RULE.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2032 the following new section:

26 USC 2032A.

“SEC. 2032A. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

“(a) VALUE BASED ON USE UNDER WHICH PROPERTY QUALIFIES.—

“(1) GENERAL RULE.—If—

“(A) the decedent was (at the time of his death) a citizen or resident of the United States, and

“(B) the executor elects the application of this section and files the agreement referred to in subsection (d) (2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use under which it qualifies, under subsection (b), as qualified real property.

“(2) LIMITATION.—The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed \$500,000.

“(b) QUALIFIED REAL PROPERTY.—

“(1) IN GENERAL.—For purposes of this section, the term ‘qualified real property’ means real property located in the United States which, on the date of the decedent’s death, was being used for a qualified use, but only if—

“(A) 50 percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which—

“(i) on the date of the decedent’s death, was being used for a qualified use, and

“(ii) was acquired from or passed from the decedent to a qualified heir of the decedent.

“(B) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A) (ii) and (C),

“(C) during the 8-year period ending on the date of the decedent’s death there have been periods aggregating 5 years or more during which—

“(i) such real property was owned by the decedent or a member of the decedent’s family and used for a qualified use, and

“(ii) there was material participation by the decedent or a member of the decedent’s family in the operation of the farm or other business, and

“(D) such real property is designated in the agreement referred to in subsection (d) (2).

“(2) QUALIFIED USE.—For purposes of this section, the term ‘qualified use’ means the devotion of the property to any of the following:

“(A) use as a farm for farming purposes, or

“(B) use in a trade or business other than the trade or business of farming.

“(3) ADJUSTED VALUE.—For purposes of paragraph (1), the term ‘adjusted value’ means—

“(A) in the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction under paragraph (4) of section 2053 (a), or

“(B) in the case of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property under paragraph (4) of section 2053 (a).

“(c) TAX TREATMENT OF DISPOSITIONS AND FAILURES TO USE FOR QUALIFIED USE.—

“(1) IMPOSITION OF ADDITIONAL ESTATE TAX.—If, within 15 years after the decedent’s death and before the death of the qualified heir—

“(A) the qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his family), or

“(B) the qualified heir ceases to use for the qualified use the qualified real property which was acquired (or passed) from the decedent,

then, there is hereby imposed an additional estate tax.

“(2) AMOUNT OF ADDITIONAL TAX.—

“(A) IN GENERAL.—The amount of the additional tax imposed by paragraph (1) with respect to any interest shall be the amount equal to the lesser of—

“(i) the adjusted tax difference attributable to such interest, or

“(ii) the excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm’s length, the fair market value of the interest) over the value of the interest determined under subsection (a).

“(B) ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO INTEREST.—For purposes of subparagraph (A), the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under subparagraph (C)) as—

“(i) the excess of the value of such interest for purposes of this chapter (determined without regard to subsection (a)) over the value of such interest determined under subsection (a), bears to

“(ii) a similar excess determined for all qualified real property.

“(C) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of subparagraph (B), the term ‘adjusted tax difference with respect to the estate’ means the excess of what would have been the estate tax liability but for subsection (a) over the estate tax liability. For purposes of this subparagraph, the term ‘estate tax liability’ means the tax imposed by section 2001 reduced by the credits allowable against such tax.

“(D) PARTIAL DISPOSITIONS.—For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) such heir (or a predecessor qualified heir) or there is a cessation of use of such a portion—

“(i) the value determined under subsection (a) taken into account under subparagraph (A) (ii) with respect to such portion shall be its pro rata share of such value of such interest, and

“(ii) the adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this subsection with respect to all prior transactions involving portions of such interest.

“(3) PHASEOUT OF ADDITIONAL TAX BETWEEN 10TH AND 15TH YEARS.—If the date of the disposition or cessation referred to in paragraph (1) occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

“(A) the numerator of which is the number of full months after such death in excess of 120, and

“(B) the denominator of which is 60.

“(4) ONLY 1 ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY 1 PORTION.—In the case of an interest acquired from (or passing from) any decedent, if subparagraph (A) or (B) of paragraph (1) applies to any portion of an interest, subparagraph (B) or

“Estate tax liability.”

Ante, p.1846.

(A), as the case may be, of paragraph (1) shall not apply with respect to the same portion of such interest.

“(5) DUE DATE.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the disposition or cessation referred to in paragraph (1).

“(6) LIABILITY FOR TAX.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

“(7) CESSATION OF QUALIFIED USE.—For purposes of paragraph (1) (B), real property shall cease to be used for the qualified use if—

“(A) such property ceases to be used for the qualified use set forth in subparagraph (A) or (B) of subsection (b) (2) under which the property qualified under subsection (b), or

“(B) during any period of 8 years ending after the date of the decedent's death and before the date of the death of the qualified heir, there had been periods aggregating 3 years or more during which—

“(i) in the case of periods during which the property was held by the decedent, there was no material participation by the decedent or any member of his family in the operation of the farm or other business, and

“(ii) in the case of periods during which the property was held by any qualified heir, there was no material participation by such qualified heir or any member of his family in the operation of the farm or other business.

“(d) ELECTION; AGREEMENT.—

“(1) ELECTION.—The election under this section shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

26 USC 6075.
Ante, p. 1846.

“(2) AGREEMENT.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

“(e) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

“(1) QUALIFIED HEIR.—The term ‘qualified heir’ means, with respect to any property, a member of the decedent's family who acquired such property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

“(2) MEMBER OF FAMILY.—The term ‘member of the family’ means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

“(3) CERTAIN REAL PROPERTY INCLUDED.—In the case of real property which meets the requirements of subparagraph (C) of subsection (b) (1), residential buildings and related improvements on such real property occupied on a regular basis by the

owner or lessee of such real property or by persons employed by such owner or lessee for the purpose of operating or maintaining such real property, and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use.

“(4) FARM.—The term ‘farm’ includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards and woodlands.

“(5) FARMING PURPOSES.—The term ‘farming purposes’ means—

“(A) cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training, and management of animals) on a farm;

“(B) handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and

“(C) (i) the planting, cultivating, caring for, or cutting of trees, or

“(ii) the preparation (other than milling) of trees for market.

“(6) MATERIAL PARTICIPATION.—Material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 1402(a) (relating to net earnings from self-employment).

“(7) METHOD OF VALUING FARMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the value of a farm for farming purposes shall be determined by dividing—

“(i) the excess of the average annual gross cash rental for comparable land used for farming purposes and located in the locality of such farm over the average annual State and local real estate taxes for such comparable land, by

“(ii) the average annual effective interest rate for all new Federal Land Bank loans.

For purposes of the preceding sentence, each average annual computation shall be made on the basis of the 5 most recent calendar years ending before the date of the decedent's death.

“(B) EXCEPTION.—The formula provided by subparagraph (A) shall not be used—

“(i) where it is established that there is no comparable land from which the average annual gross cash rental may be determined, or

“(ii) where the executor elects to have the value of the farm for farming purposes determined under paragraph (8).

“(8) METHOD OF VALUING CLOSELY HELD BUSINESS INTERESTS, ETC.—In any case to which paragraph (7) (A) does not apply, the following factors shall apply in determining the value of any qualified real property:

“(A) The capitalization of income which the property can be expected to yield for farming or closely held business pur-

poses over a reasonable period of time under prudent management using traditional cropping patterns for the area, taking into account soil capacity, terrain configuration, and similar factors,

“(B) The capitalization of the fair rental value of the land for farm land or closely held business purposes,

“(C) Assessed land values in a State which provides a differential or use value assessment law for farmland or closely held business,

“(D) Comparable sales of other farm or closely held business land in the same geographical area far enough removed from a metropolitan or resort area so that nonagricultural use is not a significant factor in the sales price, and

“(E) Any other factor which fairly values the farm or closely held business value of the property.

“(f) **STATUTE OF LIMITATIONS.**—If qualified real property is disposed of or ceases to be used for a qualified use, then—

“(1) the statutory period for the assessment of any additional tax under subsection (c) attributable to such disposition or cessation shall not expire before the expiration of 3 years from the date the Secretary is notified (in such manner as the Secretary may by regulations prescribe) of such disposition or cessation, and

“(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(g) **APPLICATION OF THIS SECTION AND SECTION 6324B TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.**—The Secretary shall prescribe regulations setting forth the application of this section and section 6324B in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of paragraph (1) of section 6166(b)).”

Regulations.

(b) **SPECIAL LIEN.**—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324A the following new section:

“**SEC. 6324B. SPECIAL LIEN FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO FARM, ETC., VALUATION.**

26 USC 6324B.

“(a) **GENERAL RULE.**—In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)) shall be a lien in favor of the United States on the property in which such interest exists.

Ante, p. 1856.

“(b) **PERIOD OF LIEN.**—The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified farm real property—

“(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

“(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2032A(c) with respect to such interest.

“(c) **CERTAIN RULES MADE APPLICABLE.**—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

Post, p. 1868.

“(d) **SUBSTITUTION OF SECURITY FOR LIEN.**—To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section.”

26 USC 2013.

(c) **CREDIT FOR TAX ON PRIOR TRANSFERS.**—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

“(f) **TREATMENT OF ADDITIONAL TAX IMPOSED UNDER SECTION 2032A.**—If section 2032A applies to any property included in the gross estate of the transferor and an additional tax is imposed with respect to such property under section 2032A (c) before the date which is 2 years after the date of the decedent’s death, for purposes of this section—

“(1) the additional tax imposed by section 2032A (c) shall be treated as a Federal estate tax payable with respect to the estate of the transferor; and

“(2) the value of such property and the amount of the taxable estate of the transferor shall be determined as if section 2032A did not apply with respect to such property.”

(d) **CLERICAL AMENDMENTS.**—

(1) The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2032 the following new item:

“Sec. 2032A. Valuation of certain farm, etc., real property.”

(2) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324A the following new item:

“Sec. 6324B. Special lien for additional estate tax attributable to farm, etc., valuation.”

26 USC 2032A
note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2004. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.

(a) **GENERAL RULE.**—Subchapter B of chapter 62 (relating to extensions of time for payment of tax) is amended by redesignating section 6166 as section 6166A and by inserting after section 6165 the following new section:

26 USC 6166.

“**SEC. 6166. ALTERNATE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.**

“(a) **5-YEAR DEFERRAL; 10-YEAR INSTALLMENT PAYMENT.**—

“(1) **IN GENERAL.**—If the value of an interest in a closely held business which is included in determining the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States exceeds 65 percent of the adjusted gross estate, the executor may elect to pay part or all of the tax imposed by section 2001 in 2 or more (but not exceeding 10) equal installments.

“(2) **LIMITATION.**—The maximum amount of tax which may be paid in installments under this subsection shall be an amount which bears the same ratio to the tax imposed by section 2001 (reduced by the credits against such tax) as—

“(A) the closely held business amount, bears to

“(B) the amount of the adjusted gross estate.

“(3) **DATE FOR PAYMENT OF INSTALLMENTS.**—If an election is made under paragraph (1), the first installment shall be paid on or before the date selected by the executor which is not more than

5 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment. 26 USC 6151.

“(4) **ELIGIBILITY FOR ELECTION.**—No election may be made under this section by the executor of the estate of any decedent if an election under section 6166A applies with respect to the estate of such decedent. *Ante*, p. 1862.

“(b) **DEFINITIONS AND SPECIAL RULES.**—

“(1) **INTEREST IN CLOSELY HELD BUSINESS.**—For purposes of this section, the term ‘interest in a closely held business’ means—

“(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

“(B) an interest as a partner in a partnership carrying on a trade or business, if—

“(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

“(ii) such partnership had 15 or fewer partners; or

“(C) stock in a corporation carrying on a trade or business if—

“(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

“(ii) such corporation had 15 or fewer shareholders.

“(2) **RULES FOR APPLYING PARAGRAPH (1).**—For purposes of paragraph (1)—

“(A) **TIME FOR TESTING.**—Determinations shall be made as of the time immediately before the decedent’s death.

“(B) **CERTAIN INTERESTS HELD BY HUSBAND AND WIFE.**—Stock or a partnership interest which—

“(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

“(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common, shall be treated as owned by one shareholder or one partner, as the case may be.

“(C) **INDIRECT OWNERSHIP.**—Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

“(3) **FARMHOUSES AND CERTAIN OTHER STRUCTURES TAKEN INTO ACCOUNT.**—For purposes of the 65-percent requirement of subsection (a) (1), an interest in a closely held business which is the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

“(4) **VALUE.**—For purposes of this section, value shall be value determined for purposes of chapter 11 (relating to estate tax).

“(5) **CLOSELY HELD BUSINESS AMOUNT.**—For purposes of this section, the term ‘closely held business amount’ means the value of

the interest in a closely held business which qualifies under subsection (a) (1).

26 USC 2053,
2054.

Ante, p. 1846.

“(6) ADJUSTED GROSS ESTATE.—For purposes of this section, the term, ‘adjusted gross estate’ means the value of the gross estate reduced by the sum of the amounts allowable as a deduction under section 2053 or 2054. Such sum shall be determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which such return is filed).

“(c) SPECIAL RULE FOR INTERESTS IN 2 OR MORE CLOSELY HELD BUSINESSES.—For purposes of this section, interests in 2 or more closely held businesses, with respect to each of which there is included in determining the value of the decedent’s gross estate more than 20 percent of the total value of each such business, shall be treated as an interest in a single closely held business. For purposes of the 20-percent requirement of the preceding sentence, an interest in a closely held business which represents the surviving spouse’s interest in property held by the decedent and the surviving spouse as community property or as joint tenants, tenants by the entirety, or tenants in common shall be treated as having been included in determining the value of the decedent’s gross estate.

“(d) ELECTION.—Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe. If an election under subsection (a) is made, the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of the tax.

“(e) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (a) (2)) be prorated to the installments payable under subsection (a). The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

“(f) TIME FOR PAYMENT OF INTEREST.—If the time for payment of any amount of tax has been extended under this section—

“(1) INTEREST FOR FIRST 5 YEARS.—Interest payable under section 6601 of any unpaid portion of such amount attributable to the first 5 years after the date prescribed by section 6151(a) for payment of the tax shall be paid annually.

“(2) INTEREST FOR PERIODS AFTER FIRST 5 YEARS.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after the 5-year period referred to in paragraph (1) shall be paid annually at the same time as, and as a part of, each installment payment of the tax.

“(3) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.—In the case of a deficiency to which subsection (e) applies which is assessed after the close of the 5-year period referred to in paragraph (1), interest attributable to such 5-year period, and interest

assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

“(4) SELECTION OF SHORTER PERIOD.—If the executor has selected a period shorter than 5 years under subsection (a) (3), such shorter period shall be substituted for 5 years in paragraphs (1), (2), and (3) of this subsection.

“(g) ACCELERATION OF PAYMENT.—

“(1) DISPOSITION OF INTEREST; WITHDRAWAL OF FUNDS FROM BUSINESS.—

“(A) If—

“(i) one-third or more in value of an interest in a closely held business which qualifies under subsection (a) (1) is distributed, sold, exchanged, or otherwise disposed of, or

“(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which qualifies under subsection (a) (1), made with respect to such interest, equal or exceed one-third of the value of such trade or business,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and any unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

“(B) In the case of a distribution in redemption of stock to which section 303 (or so much of section 304 as relates to section 303) applies— 26 USC 303.

“(i) subparagraph (A) (i) does not apply with respect to the stock redeemed; and for purposes of such subparagraph the interest in the closely held business shall be considered to be such interest reduced by the value of the stock redeemed, and

“(ii) subparagraph (A) (ii) does not apply with respect to withdrawals of money and other property distributed; and for purposes of such subparagraph the value of the trade or business shall be considered to be such value reduced by the amount of money and other property distributed.

This subparagraph shall apply only if, on or before the date prescribed by subsection (a) (3) for the payment of the first installment which becomes due after the date of the distribution (or, if earlier, on or before the day which is 1 year after the date of the distribution), there is paid an amount of the tax imposed by section 2001 not less than the amount of money and other property distributed.

“(C) Subparagraph (A) (i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a) (1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A) (i) as an interest qualifying under subsection (a) (1).

“(D) Subparagraph (A) (i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under

the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

“(2) **UNDISTRIBUTED INCOME OF ESTATE.**—

“(A) If an election is made under this section and the estate has undistributed net income for any taxable year ending on or after the due date for the first installment, the executor shall, on or before the date prescribed by law for filing the income tax return for such taxable year (including extensions thereof), pay an amount equal to such undistributed net income in liquidation of the unpaid portion of the tax payable in installments.

“(B) For purposes of subparagraph (A), the undistributed net income of the estate for any taxable year is the amount by which the distributable net income of the estate for such taxable year (as defined in section 643) exceeds the sum of—

“(i) the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a) (relating to deductions for distributions, etc.);

“(ii) the amount of tax imposed for the taxable year on the estate under chapter 1; and

“(iii) the amount of the tax imposed by section 2001 (including interest) paid by the executor during the taxable year (other than any amount paid pursuant to this paragraph).

“(3) **FAILURE TO PAY INSTALLMENT.**—If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

“(h) **ELECTION IN CASE OF CERTAIN DEFICIENCIES.**—

“(1) **IN GENERAL.**—If—

“(A) a deficiency in the tax imposed by section 2001 is assessed,

“(B) the estate qualifies under subsection (a) (1), and

“(C) the executor has not made an election under subsection (a),

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

“(2) **TIME OF ELECTION.**—An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary for the payment of the deficiency, and shall be made in such manner as the Secretary shall by regulations prescribe.

“(3) **EFFECT OF ELECTION ON PAYMENT.**—If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (a) (2)) be prorated to the installments which would have been due if an election had been timely made under subsection (a) at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date for payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date

26 USC 643.

Ante, p. 1846.

for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.

“(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to the application of this section.

“(j) CROSS REFERENCES.—

“(1) Security.—

“For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

“(2) Lien.—

“For special lien (in lieu of bond) in the case of an extension under this section, see section 6324A.

“(3) Period of limitation.—

“For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

“(4) Interest.—

“For provisions relating to interest on tax payable in installments under this section, see subsection (j) of section 6601.”

(b) 4-PERCENT INTEREST RATE.—Section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment of tax) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

26 USC 6601.

“(j) 4-PERCENT RATE ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER SECTION 6166.—

“(1) IN GENERAL.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, interest on the 4-percent portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid at the rate of 4 percent. For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

26 USC 2001.

“(2) 4-PERCENT PORTION.—For purposes of this subsection, the term ‘4-percent portion’ means the lesser of—

“(A) \$345,800 reduced by the amount of the credit allowable under section 2010(a); or

Ante, p. 1848.

“(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

“(3) TREATMENT OF PAYMENTS.—If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 4-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 4-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 4-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166.”

(c) REASONABLE CAUSE SUBSTITUTED FOR UNDUE HARDSHIP IN DETERMINING ELIGIBILITY FOR EXTENSIONS OF PAYMENT OF ESTATE TAX.—

(1) Paragraph (2) of section 6161(a) (relating to extension of time for paying estate tax) is amended to read as follows:

26 USC 6161.

“(2) ESTATE TAX.—The Secretary may, for reasonable cause, extend the time for payment of—

“(A) any part of the amount determined by the executor as the tax imposed by chapter 11, or

“(B) any part of any installment under section 6166 or 6166A (including any part of a deficiency prorated to any installment under such section),

for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax (or, in the case of an amount referred to in subparagraph (B), if later, not beyond the date which is 12 months after the due date for the last installment)."

26 USC 6161.

(2) Subsection (b) of section 6161 (relating to extension of time for payment of certain deficiencies) is amended to read as follows:
 "(b) AMOUNT DETERMINED AS DEFICIENCY.—

"(1) INCOME, GIFT, AND CERTAIN OTHER TAXES.—Under regulations prescribed by the Secretary, the Secretary may extend the time for the payment of the amount determined as a deficiency of a tax imposed by chapter 1, 12, 41, 42, 43, or 44 for a period not to exceed 18 months from the date fixed for the payment of the deficiency, and in exceptional cases, for a further period not to exceed 12 months. An extension under this paragraph may be granted only where it is shown to the satisfaction of the Secretary that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, 41, 42, 43, or 44, or to the donor in the case of a tax imposed by chapter 12.

"(2) ESTATE TAX.—Under regulations prescribed by the Secretary, the Secretary may, for reasonable cause, extend the time for the payment of any deficiency of a tax imposed by chapter 11 for a reasonable period not to exceed 4 years from the date otherwise fixed for the payment of the deficiency.

"(3) NO EXTENSION FOR CERTAIN DEFICIENCIES.—No extension shall be granted under this subsection for any deficiency if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax."

26 USC 6163.

(3) Subsection (b) of section 6163 (relating to extension to prevent undue hardship in case of reversionary or remainder interest) is amended to read as follows:

"(b) EXTENSION FOR REASONABLE CAUSE.—At the expiration of the period of postponement provided for in subsection (a), the Secretary may, for reasonable cause, extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of the period of postponement provided in subsection (a)."

26 USC 6503.

(4) Subsection (d) of section 6503 (relating to extensions of time for payment of estate tax) is amended by striking out "section 6166" and inserting in lieu thereof "section 6163, 6166, or 6166A".

(d) SPECIAL LIEN FOR ESTATE TAX DEFERRED UNDER SECTION 6166.—

(1) IN GENERAL.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324 the following new section:

26 USC 6324A. "SEC. 6324A. SPECIAL LIEN FOR ESTATE TAX DEFERRED UNDER SECTION 6166 OR 6166A.

"(a) GENERAL RULE.—In the case of any estate with respect to which an election has been made under section 6166 or 6166A, if the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

"(b) SECTION 6166 LIEN PROPERTY.—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘section 6166 lien property’ means interests in real and other property to the extent such interests—

“Section 6166 lien property.”

“(A) can be expected to survive the deferral period, and

“(B) are designated in the agreement referred to in subsection (c).

“(2) **MAXIMUM VALUE OF REQUIRED PROPERTY.**—The maximum value of the property which the Secretary may require as section 6166 lien property with respect to any estate shall be a value which is not greater than the sum of—

“(A) the deferred amount, and

“(B) the aggregate interest amount.

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151 (a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

26 USC 6151.

Ante, p. 1861.

“(3) **PARTIAL SUBSTITUTION OF BOND FOR LIEN.**—If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interests in property covered by the agreement referred to in subsection (c), the Secretary may accept bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.

Ante, p. 1862.

“(c) **AGREEMENT.**—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—

“(1) consenting to the creation of the lien under this section with respect to such property, and

“(2) designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or 6166A or this section.

Ante, p. 1862.

“(d) **SPECIAL RULES.**—

“(1) **REQUIREMENT THAT LIEN BE FILED.**—The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic’s lien, or judgment lien creditor until notice thereof which meets the requirements of section 6323 (f) has been filed by the Secretary. Such notice shall not be required to be refiled.

“(2) **PERIOD OF LIEN.**—The lien imposed by this section shall arise at the time the executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.

“(3) **PRIORITIES.**—Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—

“(A) **REAL PROPERTY TAX AND SPECIAL ASSESSMENT LIENS.**—To the extent provided in section 6323(b) (6).

“(B) **REAL PROPERTY SUBJECT TO A MECHANIC’S LIEN FOR REPAIRS AND IMPROVEMENTS.**—In the case of any real property subject to a lien for repair or improvement, as against a mechanic’s lienor.

“(C) REAL PROPERTY CONSTRUCTION OR IMPROVEMENT FINANCING AGREEMENT.—As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax lien filing). Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(g) or 6166A(h).”

Ante, p. 1862.

“(4) LIEN TO BE IN LIEU OF SECTION 6324 LIEN.—If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.”

“(5) ADDITIONAL LIEN PROPERTY REQUIRED IN CERTAIN CASES.—If at any time the value of the property covered by the agreement is less than the unpaid portion of the deferred amount and the aggregate interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished) within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(g) or 6166A(h).”

“(6) LIEN TO BE IN LIEU OF BOND.—The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.”

“(e) DEFINITIONS.—For purposes of this section—

“(1) DEFERRED AMOUNT.—The term ‘deferred amount’ means the aggregate amount deferred under section 6166 or 6166A (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).”

“(2) AGGREGATE INTEREST AMOUNT.—The term ‘aggregate interest amount’ means the aggregate amount of interest which will be payable over the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).”

“(3) DEFERRAL PERIOD.—The term ‘deferral period’ means the period for which the payment of tax is deferred pursuant to the election under section 6166 or 6166A.”

“(4) APPLICATION OF DEFINITIONS IN CASE OF DEFICIENCIES.—In the case of a deficiency, a separate deferred amount, aggregate interest amount, and deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166 or 6166A.”

26 USC 2204.

“(2) DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

Ante, p. 1868.

“(c) SPECIAL LIEN UNDER SECTION 6324A.—For purposes of the second sentence of subsection (a) and the last sentence of subsection (b), an agreement which meets the requirements of section 6324A (relating to special lien for estate tax deferred under section 6166 or 6166A) shall be treated as the furnishing of bond with respect to the

amount for which the time for payment has been extended under section 6166 or 6166A.” *Ante*, p. 1862.

(e) AMENDMENTS OF SECTION 303.—

(1) EXTENSION OF PERIOD FOR DISTRIBUTION.—Paragraph (1) of section 303(b) (relating to distributions in redemption of stock to pay death taxes) is amended by striking out “or” at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “, or ”, and by adding at the end thereof the following new subparagraph: 26 USC 303.

“(C) If an election has been made under section 6166 or 6166A and if the time prescribed by this subparagraph expires at a later date than the time prescribed by subparagraph (B) of this paragraph, within the time determined under section 6166 or 6166A for the payment of the installments.”

(2) RELATIONSHIP OF STOCK TO DECEDENT’S ESTATE.—

(A) Subparagraph (A) of section 303(b) (2) is amended to read as follows:

“(A) IN GENERAL.—Subsection (a) shall apply to a distribution by a corporation only if the value (for Federal estate tax purposes) of all of the stock of such corporation which is included in determining the value of the decedent’s gross estate exceeds 50 percent of the excess of—

“(i) the value of the gross estate of such decedent, over

“(ii) the sum of the amounts allowable as a deduction under section 2053 or 2054.”

(B) The first sentence of subparagraph (B) of section 303(b) (2) is amended by striking out “the 35 percent and 50 percent requirements” and inserting in lieu thereof “the 50 percent requirement”.

(3) RELATIONSHIP OF SHAREHOLDER TO ESTATE TAX.—Subsection (b) of section 303 is amended by adding at the end thereof the following new paragraphs:

“(3) RELATIONSHIP OF SHAREHOLDER TO ESTATE TAX.—Subsection (a) shall apply to a distribution by a corporation only to the extent that the interest of the shareholder is reduced directly (or through a binding obligation to contribute) by any payment of an amount described in paragraph (1) or (2) of subsection (a).

“(4) ADDITIONAL REQUIREMENTS FOR DISTRIBUTIONS MADE MORE THAN 4 YEARS AFTER DECEDENT’S DEATH.—In the case of amounts distributed more than 4 years after the date of the decedent’s death, subsection (a) shall apply to a distribution by a corporation only to the extent of the lesser of—

“(A) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which remained unpaid immediately before the distribution, or

“(B) the aggregate of the amounts referred to in paragraph (1) or (2) of subsection (a) which are paid during the 1-year period beginning on the date of such distribution.”

(4) STOCK WITH SUBSTITUTED BASIS.—Subsection (c) of section 303 (relating to stock with substituted basis) is amended by striking out “limitation specified in subsection (b) (1)” and inserting in lieu thereof “limitations specified in subsection (b)”.

(f) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324 the following new item:

"Sec. 6324A. Special lien for estate tax deferred under section 6166 or 6166A."

26 USC 7403.

(2) Section 7403(a) (relating to action to enforce lien or to subject property to payment of tax) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any acceleration of payment under section 6166 (g) or 6166A(h) shall be treated as a neglect to pay tax."

Ante, p. 1862.

26 USC 2011.

(3) Paragraph (2) of section 2011(c) (relating to credit for State death taxes) is amended by striking out "section 6161" and inserting in lieu thereof "section 6161, 6166 or 6166A".

26 USC 2204.

(4) The last sentence of section 2204(b) is amended by striking out "has not been extended under" and inserting in lieu thereof "has been extended under".

(5) The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6166 and inserting in lieu thereof the following:

"Sec. 6166. Alternate extension of time for payment of estate tax where estate consists largely of interest in closely held business.

"Sec. 6166A. Extension of time for payment of estate tax where estate tax consists largely of interest in closely held business."

(6) Subsections (a) and (b) of section 2204 (relating to discharge of fiduciary from personal liability) are as amended by striking out "or 6166" and inserting in lieu thereof "6166 or 6166A".

26 USC 6166
note.

(g) **EFFECTIVE DATE.**—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

SEC. 2005. CARRYOVER BASIS.

(a) GENERAL RULE.—

(1) **AMENDMENT OF SECTION 1014.**—Subsection (d) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

"(d) **DECEDENTS DYING AFTER DECEMBER 31, 1976.**—In the case of a decedent dying after December 31, 1976, the section shall not apply to any property for which a carryover basis is provided by section 1023."

(2) **CARRYOVER BASIS.**—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by redesignating section 1023 as section 1024 and by inserting after section 1022 the following new section:

"SEC. 1023. CARRYOVER BASIS FOR CERTAIN PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 1976.

"(a) GENERAL RULE.—

"(1) **CARRYOVER BASIS.**—Except as otherwise provided in this section, the basis of carryover basis property acquired from a decedent dying after December 31, 1976, in the hands of the person so acquiring it shall be the adjusted basis of the property immediately before the death of the decedent, further adjusted as provided in this section.

"(2) **LOSS ON PERSONAL AND HOUSEHOLD EFFECTS.**—In the case of any carryover basis property which, in the hands of the decedent, was a personal or household effect, for purposes of determining loss, the basis of such property in the hands of the person acquiring such property from the decedent shall not exceed its fair market value.

"(b) CARRYOVER BASIS PROPERTY DEFINED.—

"(1) **IN GENERAL.**—For purposes of this section, the term 'carryover basis property' means any property which is acquired from

or passed from a decedent (within the meaning of section 1014(b)) and which is not excluded pursuant to paragraph (2) or (3). 26 USC 1014.

“(2) CERTAIN PROPERTY NOT CARRYOVER BASIS PROPERTY.—The term ‘carryover basis property’ does not include—

“(A) any item of gross income in respect of a decedent described in section 691;

“(B) property described in section 2042 (relating to proceeds of life insurance);

“(C) a joint and survivor annuity under which the surviving annuitant is taxable under section 72, and payments and distributions under a deferred compensation plan described in part I of subchapter D of chapter 1 to the extent such payments and distributions are taxable to the decedent’s beneficiary under chapter 1;

“(D) property included in the decedent’s gross estate by reason of section 2035, 2038, or 2041 which has been disposed of before the decedent’s death in a transaction in which gain or loss is recognizable for purposes of chapter 1;

“(E) stock or a stock option passing from the decedent to the extent income in respect of such stock or stock option is includable in gross income under section 422(c)(1), 423(c), or 424(c)(1); and

“(F) property described in section 1014(b)(5).

“(3) \$10,000 EXCLUSION FOR CERTAIN ASSETS.—

“(A) EXCLUSION.—The term ‘carryover basis property’ does not include any asset—

“(i) which, in the hands of the decedent, was a personal or household effect, and

“(ii) with respect to which the executor has made an election under this paragraph.

“(B) LIMITATION.—The fair market value of all assets designated under this subsection with respect to any decedent shall not exceed \$10,000.

“(C) ELECTION.—An election under this paragraph with respect to any asset shall be made by the executor not later than the date prescribed by section 6075(a) for filing the return of the tax imposed by section 2001 or 2101 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

Ante, pp. 1846,
1850.

“(c) INCREASE IN BASIS FOR FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to the tax imposed by section 2001 or 2101 in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal and State estate taxes as—

“(1) the net appreciation in value of such property, bears to

“(2) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

“(d) \$60,000 MINIMUM FOR BASES OF CARRYOVER BASIS PROPERTIES.—

“(1) IN GENERAL.—If \$60,000 exceeds the aggregate bases (as determined after any adjustment under subsection (h) or (c)) of all carryover basis property, the basis of each appreciated carryover basis property (after any adjustment under subsection (h) or (c)) shall be increased by an amount which bears the same ratio to the amount of such excess as—

“(A) the net appreciation in value of such property, bears to

“(B) the net appreciation in value of all such property.

“(2) SPECIAL RULE FOR PERSONAL OR HOUSEHOLD EFFECT.—For purposes of paragraph (1), the basis of any property which is a personal or household effect shall be treated as not greater than the fair market value of such property.

“(3) NONRESIDENT NOT CITIZEN.—This subsection shall not apply to any carryover basis property acquired from any decedent who was (at the time of his death) a nonresident not a citizen of the United States.

“(e) FURTHER INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAX PAID BY TRANSFEREE OF PROPERTY.—If—

“(1) any person acquires appreciated carryover basis property from a decedent, and

“(2) such person actually pays an amount of estate, inheritance, legacy, or succession taxes with respect to such property to any State or the District of Columbia for which the estate is not liable, then the basis of such property (after any adjustment under subsection (h), (c), or (d)) shall be increased by an amount which bears the same ratio to the aggregate amount of all such taxes paid by such person as—

“(A) the net appreciation in value of such property, bears to

“(B) the fair market value of all property acquired by such person which is subject to such taxes.

“(f) SPECIAL RULES AND DEFINITIONS FOR APPLICATION OF SUBSECTIONS (c), (d), AND (e).—

“(1) FAIR MARKET VALUE LIMITATION.—The adjustments under subsections (c), (d), and (e) shall not increase the basis of property above its fair market value.

“(2) NET APPRECIATION.—For purposes of this section, the net appreciation in value of any property is the amount by which the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent (as determined after any adjustment under subsection (h)). For purposes of subsection (d), such adjusted basis shall be increased by the amount of any adjustment under subsection (c), and, for purposes of subsection (e), such adjusted basis shall be increased by the amount of any adjustment under subsection (c) or (d).

“(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c), the term ‘Federal and State estate taxes’ means—

“(A) the tax imposed by section 2001 or 2101, reduced by the credits against such tax, and

“(B) any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia.

“(4) CERTAIN MARITAL AND CHARITABLE DEDUCTION PROPERTY TREATED AS NOT SUBJECT TO TAX.—For purposes of subsections (c) and (e), property shall be treated as not subject to a tax—

“(A) with respect to the tax imposed by section 2001 or 2101, to the extent that a deduction is allowable with respect to such property under section 2055 or 2056 or under section 2106(a)(2), and

“(B) with respect to State estate taxes and with respect to the State taxes referred to in subsection (e)(2), to the extent that such property is not subject to such taxes.

Ante, pp. 1846,
1850.

26 USC 2055,
2056, 2106.

“(5) APPRECIATED CARRYOVER BASIS PROPERTY.—For purposes of this section, the term ‘appreciated carryover basis property’ means any carryover basis property if the fair market value of such property exceeds the adjusted basis of such property immediately before the death of the decedent.

“(g) OTHER SPECIAL RULES AND DEFINITIONS.—

“(1) FAIR MARKET VALUE.—For purposes of this section, when not otherwise distinctly expressed, the term ‘fair market value’ means value as determined under chapter 11.

“(2) PROPERTY PASSING FROM THE DECEDENT.—For purposes of this section, property passing from the decedent shall be treated as property acquired from the decedent.

“(3) DECEDENT’S BASIS UNKNOWN.—If the facts necessary to determine the basis (unadjusted) of carryover basis property immediately before the death of the decedent are unknown to the person acquiring such property from the decedent, such basis shall be treated as being the fair market value of such property as of the date (or approximate date) at which such property was acquired by the decedent or by the last preceding owner in whose hands it did not have a basis determined in whole or in part by reference to its basis in the hands of a prior holder.

“(4) CERTAIN MORTGAGES.—For purposes of subsections (c), (d), and (e), if—

“(A) there is an unpaid mortgage on, or indebtedness in respect of, property,

“(B) such mortgage or indebtedness does not constitute a liability of the estate, and

“(C) such property is included in the gross estate undiminished by such mortgage or indebtedness,

then the fair market value of such property to be treated as included in the gross estate shall be the fair market value of such property, diminished by such mortgage or indebtedness.

“(h) ADJUSTMENT TO BASIS FOR DECEMBER 31, 1976, FAIR MARKET VALUE.—

“(1) MARKETABLE BONDS AND SECURITIES.—If the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis of any marketable bond or security on December 31, 1976, and if the fair market value of such bond or security on December 31, 1976, exceeded its adjusted basis on such date, then, for purposes of determining gain, the adjusted basis of such property shall be increased by the amount of such excess.

“(2) PROPERTY OTHER THAN MARKETABLE BONDS AND SECURITIES.—

“(A) IN GENERAL.—If—

“(i) the adjusted basis immediately before the death of the decedent of any property which is carryover basis property reflects the adjusted basis on December 31, 1976, of any property other than a marketable bond or security, and

“(ii) the value of such carryover basis property (as determined with respect to the estate of the decedent without regard to section 2032) exceeds the adjusted basis of such property immediately before the death of the decedent (determined without regard to this subsection),

then, for purposes of determining gain, the adjusted basis of such property immediately before the death of the decedent

(determined without regard to this subsection) shall be increased by the amount determined under subparagraph (B).

“(B) AMOUNT OF INCREASE.—The amount of the increase under this subparagraph for any property is the sum of—

“(i) the excess referred to in subparagraph (A) (ii), reduced by an amount equal to all adjustments for depreciation, amortization, or depletion for the holding period of such property, and then multiplied by the applicable fraction determined under subparagraph (C), and

“(ii) the adjustments to basis for depreciation, amortization, or depletion which are attributable to that portion of the holding period for such property which occurs before January 1, 1977.

“(C) APPLICABLE FRACTION.—For purposes of subparagraph (B) (i), the term ‘applicable fraction’ means, with respect to any property, a fraction—

“(i) the numerator of which is the number of days in the holding period with respect to such property which occurs before January 1, 1977, and

“(ii) the denominator of which is the total number of days in such holding period.

“(D) SUBSTANTIAL IMPROVEMENTS.—Under regulations prescribed by the Secretary, if there is a substantial improvement of any property, such substantial improvement shall be treated as a separate property for purposes of this paragraph.

“(E) DEFINITIONS.—For purposes of this paragraph—

“(i) The term ‘marketable bond or security’ means any security for which, as of December 1976, there was a market on a stock exchange, in an over-the-counter market, or otherwise.

“(ii) The term ‘holding period’ means, with respect to any carryover basis property, the period during which the decedent (or, if any other person held such property immediately before the death of the decedent, such other person) held such property as determined under section 1223; except that such period shall end on the date of the decedent’s death.

“(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”

26 USC 1016.

(3) AMENDMENT OF SECTION 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out the period at the end thereof and by inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

“(23) to the extent provided in section 1023, relating to carryover basis for certain property acquired from a decedent dying after December 31, 1976.”

26 USC 691.

(4) AMENDMENTS OF SECTION 691.—

(A) Section 691(c)(2)(A) (relating to deduction for estate tax in case of income in respect of decedents) is amended to read as follows:

“Estate tax.”

“(A) The term ‘estate tax’ means Federal and State estate taxes (within the meaning of section 1023(f)(3)).”

(B) Section 691(c)(2)(C) is amended to read as follows:

“(C) The estate tax attributable to such net value shall be an amount which bears the same ratio to the estate tax as such net value bears to the value of the gross estate.”

(5) **REPEAL OF SECTION 1246 (e).**—Section 1246 (relating to gain on foreign investment company stock) is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively. 26 USC 1246.

(b) **NONRECOGNITION OF GAIN WHERE CERTAIN APPRECIATED CARRYOVER BASIS PROPERTY IS USED IN SATISFACTION OF A PECUNIARY REQUEST.**—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

“SEC. 1040. USE OF CERTAIN APPRECIATED CARRYOVER BASIS PROPERTY TO SATISFY PECUNIARY REQUEST. 26 USC 1040.

“(a) GENERAL RULE.—If the executor of the estate of any decedent satisfies the right of any person to receive a pecuniary bequest with appreciated carryover basis property (as defined in section 1023(f)(5)), then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11. *Ante*, p. 1872.

“(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

“(1) by reason of the death of the decedent, a person has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

“(2) the trustee of the trust satisfies such right with carryover basis property to which section 1023 applies.

“(c) BASIS OF PROPERTY ACQUIRED IN EXCHANGE DESCRIBED IN SUBSECTION (a) OR (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange, increased by the amount of the gain recognized to the estate or trust on the exchange.”

(c) LIMITATION OF INCREASE IN BASIS FOR GIFT TAX PAID TO THAT PORTION OF GIFT TAX ATTRIBUTABLE TO NET APPRECIATION IN VALUE.—Subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended by adding at the end thereof the following new paragraph: 26 USC 1015.

“(6) SPECIAL RULE FOR GIFTS MADE AFTER DECEMBER 31, 1976.—

(A) IN GENERAL.—In the case of any gift made after December 31, 1976, the increase in basis provided by this subsection with respect to any gift for the gift tax paid under chapter 12 shall be an amount (not in excess of the amount of tax so paid) which bears the same ratio to the amount of tax so paid as—

“(i) the net appreciation in value of the gift, bears to

“(ii) the amount of the gift.

“(B) NET APPRECIATION.—For purposes of paragraph (1), the net appreciation in value of any gift is the amount by which the fair market value of the gift exceeds the donor's adjusted basis immediately before the gift.”

(d) INFORMATION REQUIREMENT.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039 the following new section:

26 USC 6039A. **"SEC. 6039A. INFORMATION REGARDING CARRYOVER BASIS PROPERTY ACQUIRED FROM A DECEDENT.**

Ante, p. 1872. **"(a) IN GENERAL.**—Every executor (as defined in section 2203) shall furnish the Secretary such information with respect to carryover basis property to which section 1023 applies as the Secretary may by regulations prescribe.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WHO ACQUIRE PROPERTY FROM A DECEDENT.—Every executor who is required to furnish information under subsection (a) shall furnish in writing to each person acquiring an item of such property from the decedent (or to whom the item passes from the decedent) the adjusted basis of such item."

(2) PENALTIES.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6694. **"SEC. 6694. FAILURE TO FILE INFORMATION WITH RESPECT TO CARRYOVER BASIS PROPERTY.**

Penalties. Supra. **"(a) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.**—Any executor who fails to furnish information required under subsection (a) of section 6039A on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay a penalty of \$100 for each such failure, but the total amount imposed for all such failures shall not exceed \$5,000.

"(b) INFORMATION REQUIRED TO BE FURNISHED TO BENEFICIARIES.—Any executor who fails to furnish in writing to each person described in subsection (b) of section 6039A the information required under such subsection, unless it is shown that such failure is due to reasonable cause and not to willful neglect, shall pay a penalty of \$50 for each such failure, but the total amount imposed for all such failures shall not exceed \$2,500."

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1023 and inserting in lieu thereof the following:

"Sec. 1023. Carryover basis for certain property acquired from a decedent dying after December 31, 1976.

"Sec. 1024. Cross references."

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following:

"Sec. 1040. Use of certain appreciated carryover basis property to satisfy pecuniary bequest."

(3) The table of sections for part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039 the following:

"Sec. 6039A. Information regarding carryover basis property acquired from a decedent."

(4) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following:

"Sec. 6694. Failure to file information with respect to carryover basis property."

(f) EFFECTIVE DATES.—

26 USC 1023
note.

(1) Except as provided in paragraph (2), the amendments made by this section shall apply in respect of decedents dying after December 31, 1976.

(2) The amendment made by subsection (c) shall apply to gifts made after December 31, 1976. 26 USC 1023 note.

SEC. 2006. CERTAIN GENERATION-SKIPPING TRANSFERS.

(a) **IMPOSITION OF TAX.**—Subtitle B (relating to estate and gift taxes) is amended by adding at the end thereof the following new chapter:

“CHAPTER 13—TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS

“SUBCHAPTER A. Tax imposed.

“SUBCHAPTER B. Definitions and special rules.

“SUBCHAPTER C. Administration.

“Subchapter A—Tax Imposed

“Sec. 2601. Tax imposed.

“Sec. 2602. Amount of tax.

“Sec. 2603. Liability for tax.

“SEC. 2601. TAX IMPOSED.

26 USC 2601.

“A tax is hereby imposed on every generation-skipping transfer in the amount determined under section 2602.

“SEC. 2602. AMOUNT OF TAX.

26 USC 2602.

“(a) **GENERAL RULE.**—The amount of the tax imposed by section 2601 with respect to any transfer shall be the excess of—

“(1) a tentative tax computed in accordance with the rate schedule set forth in section 2001(c) (as in effect on the date of transfer) on the sum of— *Ante*, p. 1846.

“(A) the fair market value of the property transferred determined as of the date of transfer (or in the case of an election under subsection (d), as of the applicable valuation date prescribed by section 2032),

“(B) the aggregate fair market value (determined for purposes of this chapter) of all prior transfers of the deemed transferor to which this chapter applied,

“(C) the amount of the adjusted taxable gifts (within the meaning of section 2001(b)) made by the deemed transferor before this transfer, and

“(D) if the deemed transferor has died at the same time as, or before, this transfer, the taxable estate of the deemed transferor, over

“(2) a tentative tax (similarly computed) on the sum of the amounts determined under subparagraphs (B), (C), and (D) of paragraph (1).

“(b) **MULTIPLE SIMULTANEOUS TRANSFERS.**—If two or more transfers which are taxable under section 2601 and which have the same deemed transferor occur by reason of the same event, the tax imposed by section 2601 on each such transfer shall be the amount which bears the same ratio to— *Supra*.

“(1) the amount of the tax which would be imposed by section 2601 if the aggregate of such transfers were a single transfer, as

“(2) the fair market value of the property transferred in such transfer bears to the aggregate fair market value of all property transferred in such transfers.

“(c) **DEDUCTIONS, CREDITS, ETC.**—

Ante, p. 1879.

26 USC 2055,
2106, 2522.

Ante, p. 1848.

Ante, p. 1846.

“(1) GENERAL RULE.—Except as otherwise provided in this subsection, no deduction, exclusion, exemption, or credit shall be allowed against the tax imposed by section 2601.

“(2) CHARITABLE DEDUCTIONS ALLOWED.—The deduction under section 2055, 2106(a)(2), or 2522, whichever is appropriate, shall be allowed in determining the tax imposed by section 2601.

“(3) UNUSED PORTION OF UNIFIED CREDIT.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the credit under section 2010(a) (relating to unified credit) which exceeds the sum of—

“(A) the tax imposed by section 2001, and

“(B) the taxes theretofore imposed by section 2601 with respect to this deemed transferor, shall be allowed as a credit against the tax imposed by section 2601. The amount of the credit allowed by the preceding sentence shall not exceed the amount of the tax imposed by section 2601.

“(4) CREDIT FOR TAX ON PRIOR TRANSFERS.—The credit under section 2013 (relating to credit for tax on prior transfers) shall be allowed against the tax imposed by section 2601. For purposes of the preceding sentence, section 2013 shall be applied as if so much of the property subject to tax under section 2601 as is not taken into account for purposes of determining the credit allowable by section 2013 with respect to the estate of the deemed transferor passed from the transferor (as defined in section 2013) to the deemed transferor.

“(5) COORDINATION WITH ESTATE TAX.—

“(A) ADJUSTMENTS TO MARITAL DEDUCTION.—If the generation-skipping transfer occurs at the same time as, or within 9 months after, the death of the deemed transferor, for purposes of section 2056 (relating to bequests, etc., to surviving spouse), the value of the gross estate of the deemed transferor shall be deemed to be increased by the amount of such transfer.

“(B) CERTAIN EXPENSES ATTRIBUTABLE TO GENERATION-SKIPPING TRANSFER.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, for purposes of this section, the amount taken into account with respect to such transfer shall be reduced—

“(i) in the case of a taxable termination, by any item referred to in section 2053 or 2054 to the extent that a deduction would have been allowable under such section for such item if the amount of the trust had been includible in the deemed transferor's gross estate and if the deemed transferor had died immediately before such transfer, or

“(ii) in the case of a taxable distribution, by any expense incurred in connection with the determination, collection, or refund of the tax imposed by section 2601 on such transfer.

“(C) CREDIT FOR STATE INHERITANCE TAX.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, there shall be allowed as a credit against the tax imposed by section 2601 an amount equal to that portion of the estate, inheritance, legacy, or succession tax actually paid to any State or the District of Columbia in respect of any property included in the genera-

tion-skipping transfer, but only to the extent of the lesser of—

“(i) that portion of such taxes which is levied on such transfer, or

“(ii) the excess of the limitation applicable under section 2011(b) if the adjusted taxable estate of the decedent had been increased by the amount of the transfer and all prior generation-skipping transfers to which this subparagraph applied which had the same deemed transferor, over the sum of the amount allowable as a credit under section 2011 with respect to the estate of the decedent plus the aggregate amounts allowable under this subparagraph with respect to such prior generation-skipping transfers.

“(d) ALTERNATE VALUATION.—

“(1) IN GENERAL.—In the case of—

“(A) 1 or more generation-skipping transfers from the same trust which have the same deemed transferor and which are taxable terminations occurring at the same time as the death of such deemed transferor; or

“(B) 1 or more generation-skipping transfers from the same trust with different deemed transferors—

“(i) which are taxable terminations occurring on the same day; and

“(ii) which would, but for section 2613(b)(2), have occurred at the same time as the death of the individuals who are the deemed transferors with respect to the transfers;

the trustee may elect to value all of the property transferred in such transfers in accordance with section 2032.

“(2) SPECIAL RULES.—If the trustee makes an election under paragraph (1) with respect to any generation-skipping transfer, section 2032 shall be applied by taking into account (in lieu of the date of the decedent's death) the following date:

“(A) in the case of any generation-skipping transfer described in paragraph (1)(A), the date of the death of the deemed transferor described in such paragraph, or

“(B) in the case of any generation-skipping transfer described in paragraph (1)(B), the date on which such transfer occurred.

“(e) TRANSFERS WITHIN 3 YEARS OF DEATH OF DEEMED TRANSFEROR.—Under regulations prescribed by the Secretary, the principles of section 2035 shall apply with respect to transfers made during the 3-year period ending on the date of the deemed transferor's death. In the case of any transfer to which this subsection applies, the amount of the tax imposed by this chapter shall be determined as if the transfer occurred after the death of the deemed transferor and appropriate adjustments shall be made with respect to the amount of any prior transfer which is taken into account under subparagraph (B) or (C) of subsection (a)(1).

“SEC. 2603. LIABILITY FOR TAX.

26 USC 2603.

“(a) PERSONAL LIABILITY.—

“(1) IN GENERAL.—If the tax imposed by section 2601 is not paid, when due then— *Ante*, p. 1879.

“(A) except to the extent provided in paragraph (2), the trustee shall be personally liable for any portion of such tax which is attributable to a taxable termination, and

“(B) the distributee of the property shall be personally liable for such tax to the extent provided in paragraph (3).

“(2) **LIMITATION OF PERSONAL LIABILITY OF TRUSTEE WHO RELIES ON CERTAIN INFORMATION FURNISHED BY THE SECRETARY.**—

Ante, p. 360.

“(A) **INFORMATION WITH RESPECT TO RATES.**—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the application to the transfer of rates of tax which exceeds the rates of tax furnished by the Secretary to the trustee as being the rates at which the transfer may reasonably be expected to be taxed.

“(B) **AMOUNT OF REMAINING EXCLUSION.**—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the fact that—

“(i) the amount furnished by the Secretary to the trustee as being the amount of the exclusion for a transfer to a grandchild of the grantor of the trust which may reasonably be expected to remain with respect to the deemed transferor, is less than

“(ii) the amount of such exclusion remaining with respect to such deemed transferor.

“(3) **LIMITATION ON PERSONAL LIABILITY OF DISTRIBUTE.**—The distributee of the property shall be personally liable for the tax imposed by section 2601 only to the extent of an amount equal to the fair market value (determined as of the time of the distribution) of the property received by the distributee in the distribution.

“(b) **LIEN.**—The tax imposed by section 2601 on any transfer shall be a lien on the property transferred until the tax is paid in full or becomes unenforceable by reason of lapse of time.

“Subchapter B—Definitions and Special Rules

“Sec. 2611. Generation-skipping transfer.

“Sec. 2612. Deemed transferor.

“Sec. 2613. Other definitions.

“Sec. 2614. Special rules.

26 USC 2611.

“SEC. 2611. GENERATION-SKIPPING TRANSFER.

“(a) **GENERATION-SKIPPING TRANSFER DEFINED.**—For purposes of this chapter, the terms ‘generation-skipping transfer’ and ‘transfer’ mean any taxable distribution or taxable termination with respect to a generation-skipping trust or trust equivalent.

Post, p. 1884.

“(b) **GENERATION-SKIPPING TRUST.**—For purposes of this chapter, the term ‘generation-skipping trust’ means any trust having younger generation beneficiaries (within the meaning of section 2613(c)(1)) who are assigned to more than one generation.

Rules.

“(c) **ASCERTAINMENT OF GENERATION.**—For purposes of this chapter, the generation to which any person (other than the grantor) belongs shall be determined in accordance with the following rules:

“(1) an individual who is a lineal descendent of a grandparent of the grantor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the grantor,

“(2) an individual who has been at any time married to a person described in paragraph (1) shall be assigned to the generation of the person so described and an individual who has been at any

time married to the grantor shall be assigned to the grantor's generation,

"(3) a relationship by the half blood shall be treated as a relationship by the whole blood,

"(4) a relationship by legal adoption shall be treated as a relationship by blood,

"(5) an individual who is not assigned to a generation by reason of the foregoing paragraphs shall be assigned to a generation on the basis of the date of such individual's birth, with—

"(A) an individual born not more than 12½ years after the date of the birth of the grantor assigned to the grantor's generation,

"(B) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the grantor assigned to the first generation younger than the grantor, and

"(C) similar rules for a new generation every 25 years,

"(6) an individual who, but for this paragraph, would be assigned to more than one generation shall be assigned to the youngest such generation, and

"(7) if any beneficiary of the trust is an estate or a trust, partnership, corporation, or other entity (other than an organization described in section 511(a)(2) and other than a charitable trust described in section 511(b)(2)), each individual having an indirect interest or power in the trust through such entity shall be treated as a beneficiary of the trust and shall be assigned to a generation under the foregoing provisions of this subsection.

"(d) GENERATION-SKIPPING TRUST EQUIVALENT.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'generation-skipping trust equivalent' means any arrangement which, although not a trust, has substantially the same effect as a generation-skipping trust.

"(2) EXAMPLES OF ARRANGEMENTS TO WHICH SUBSECTION RELATES.—Arrangements to be taken into account for purposes of determining whether or not paragraph (1) applies include (but are not limited to) arrangements involving life estates and remainders, estates for years, insurance and annuities, and split interests.

"(3) REFERENCES TO TRUST INCLUDE REFERENCES TO TRUST EQUIVALENTS.—Any reference in this chapter in respect of a generation-skipping trust shall include the appropriate reference in respect of a generation-skipping trust equivalent.

"SEC. 2612. DEEMED TRANSFEROR.

26 USC 2612.

"(a) GENERAL RULE.—For purposes of this chapter, the deemed transferor with respect to a transfer is—

"(1) except as provided in paragraph (2), the parent of the transferee of the property who is more closely related to the grantor of the trust than the other parent of such transferee (or if neither parent is related to such grantor, the parent having a closer affinity to the grantor), or

"(2) if the parent described in paragraph (1) is not a younger generation beneficiary of the trust but 1 or more ancestors of the transferee is a younger generation beneficiary related by blood or adoption to the grantor of the trust, the youngest of such ancestors.

"(b) DETERMINATION OF RELATIONSHIP.—For purposes of subsection (a), a parent related to the grantor of the trust by blood or adoption is more closely related than a parent related to such grantor by marriage.

26 USC 2613.

"SEC. 2613. OTHER DEFINITIONS.**"(a) TAXABLE DISTRIBUTION.—**For purposes of this chapter—

"(1) IN GENERAL.—The term 'taxable distribution' means any distribution which is not out of the income of the trust (within the meaning of section 643(b)) from a generation-skipping trust to any younger generation beneficiary who is assigned to a generation younger than the generation assignment of any other person who is a younger generation beneficiary. For purposes of the preceding sentence, an individual who at no time has had anything other than a future interest or future power (or both) in the trust shall not be considered as a younger generation beneficiary.

"(2) SOURCE OF DISTRIBUTION.—If, during the taxable year of the trust, there are distributions out of the income of the trust (within the meaning of section 643(b)) and out of other amounts, for purposes of paragraph (1) the distributions of such income shall be deemed to have been made to the beneficiaries (to the extent of the aggregate distributions made to each such beneficiary during such year) in descending order of generations, beginning with the beneficiaries assigned to the oldest generation.

"(3) PAYMENT OF TAX.—If any portion of the tax imposed by this chapter with respect to any transfer is paid out of the income or corpus of the trust, an amount equal to the portion so paid shall be deemed to be a generation-skipping transfer.

"(4) CERTAIN DISTRIBUTIONS EXCLUDED FROM TAX.—The term 'taxable distribution' does not include—

"(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by subsection (b)(6), and

"(B) any transfer to the extent such transfer is subject to tax imposed by chapter 11 or 12.

"(b) TAXABLE TERMINATION.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'taxable termination' means the termination (by death, lapse of time, exercise or nonexercise, or otherwise) of the interest or power in a generation-skipping trust of any younger generation beneficiary who is assigned to any generation older than the generation assignment of any other person who is a younger generation beneficiary of that trust. Such term does not include a termination of the interest or power of any person who at no time has had anything other than a future interest or future power (or both) in the trust.

"(2) TIME CERTAIN TERMINATIONS DEEMED TO OCCUR.—

"(A) WHERE 2 OR MORE BENEFICIARIES ARE ASSIGNED TO SAME GENERATION.—In any case where 2 or more younger generation beneficiaries of a trust are assigned to the same generation, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to each such beneficiary shall be treated as occurring at the time when the last such termination occurs.

"(B) SAME BENEFICIARY HAS MORE THAN 1 INTEREST OR POWER.—In any case where a younger generation beneficiary of a trust has both an interest and a power, or more than 1 interest or power, in the trust, except to the extent provided in regulations prescribed by the Secretary, the termination with respect to each such interest or power shall be treated as occurring at the time when the last such termination occurs.

"(C) UNUSUAL ORDER OF TERMINATION.—

"(i) IN GENERAL.—If—

“(I) but for this subparagraph, there would have been a termination (determined after the application of subparagraphs (A) and (B)) of an interest or power of a younger generation beneficiary (hereinafter in this subparagraph referred to as the ‘younger beneficiary’), and

“(II) at the time such termination would have occurred, a beneficiary (hereinafter in this subparagraph referred to as the ‘older beneficiary’) of the trust assigned to a higher generation than the generation of the younger beneficiary has a present interest or power in the trust,

then, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to the younger beneficiary shall be treated as occurring at the time when the termination of the last present interest or power of the older beneficiary occurs.

“(ii) SPECIAL RULES.—If clause (i) applies with respect to any younger beneficiary—

“(I) this chapter shall be applied first to the termination of the interest or power of the older beneficiary as if such termination occurred before the termination of the power or interest of the younger beneficiary; and

“(II) the value of the property taken into account for purposes of determining the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the younger beneficiary shall be reduced by the tax (if any) imposed by this chapter with respect to the termination of the interest or power of the older beneficiary.

“(D) SPECIAL RULE.—Subparagraphs (A) and (C) shall also apply where a person assigned to the same generation as, or a higher generation than, the person whose power or interest terminates has a present power or interest immediately after the termination and such power or interest arises as a result of such termination.

“(3) DEEMED TRANSFEREES OF CERTAIN TERMINATIONS.—Where, at the time of any termination, it is not clear who will be the transferee of any portion of the property transferred, except to the extent provided in regulations prescribed by the Secretary, such portion shall be deemed transferred pro rata to all beneficiaries of the trust in accordance with the amount which each of them would receive under a maximum exercise of discretion on their behalf. For purposes of the preceding sentence, where it is not clear whether discretion will be exercised per stirpes or per capita, it shall be presumed that the discretion will be exercised per stirpes.

“(4) TERMINATION OF POWER.—In the case of the termination of any power, the property transferred shall be deemed to be the property subject to the power immediately before the termination (determined without the application of paragraph (2)).

“(5) CERTAIN TERMINATIONS EXCLUDED FROM TAX.—The term ‘taxable termination’ does not include—

“(A) any transfer to the extent such transfer is to a grandchild of the grantor of the trust and does not exceed the limitation provided by paragraph (6), and

26 USC 2001,
2501.

“(B) any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12.

“(6) \$250,000 LIMIT ON EXCLUSION OF TRANSFERS TO GRANDCHILDREN.—In the case of any deemed transferor, the maximum amount excluded from the terms ‘taxable distribution’ and ‘taxable termination’ by reason of provisions exempting from such terms transfers to the grandchildren of the grantor of the trust shall be \$250,000. The preceding sentence shall be applied to transfers from one or more trusts in the order in which such transfers are made or deemed made.

“(7) COORDINATION WITH SUBSECTION (a).—

“(A) TERMINATIONS TAKE PRECEDENCE OVER DISTRIBUTIONS.—If—

“(i) the death of an individual or any other occurrence is a taxable termination with respect to any property, and

“(ii) such occurrence also requires the distribution of part or all of such property in a distribution which would (but for this subparagraph) be a taxable distribution, then a taxable distribution shall be deemed not to have occurred with respect to the portion described in clause (i).

“(B) CERTAIN PRIOR TRANSFERS.—To the extent that—

“(i) the deemed transferor in any prior transfer of the property of the trust being transferred in this transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the deemed transferor in this transfer,

“(ii) the transferee in such prior transfer was assigned to the same generation as (or a higher generation than) the generation assignment of the transferee in this transfer, and

“(iii) such transfers do not have the effect of avoiding tax under this chapter with respect to any transfer, the terms ‘taxable termination’ and ‘taxable distribution’ do not include this later transfer.

“(c) YOUNGER GENERATION BENEFICIARY; BENEFICIARY.—For purposes of this chapter—

“(1) YOUNGER GENERATION BENEFICIARY.—The term ‘younger generation beneficiary’ means any beneficiary who is assigned to a generation younger than the grantor’s generation.

“(2) TIME FOR ASCERTAINING YOUNGER GENERATION BENEFICIARIES.—A person is a younger generation beneficiary of a trust with respect to any transfer only if such person was a younger generation beneficiary of the trust immediately before the transfer (or, in the case of a series of related transfers, only if such person was a younger generation beneficiary of the trust immediately before the first of such transfers).

“(3) BENEFICIARY.—The term ‘beneficiary’ means any person who has a present or future interest or power in the trust.

“(d) INTEREST OR POWER.—For purposes of this chapter—

“(1) INTEREST.—A person has an interest in a trust if such person—

“(A) has a right to receive income or corpus from the trust, or

“(B) is a permissible recipient of such income or corpus.

“(2) POWER.—The term ‘power’ means any power to establish or alter beneficial enjoyment of the corpus or income of the trust.

“(e) LIMITED POWER TO APPOINT AMONG LINEAL DESCENDANTS OF GRANTOR NOT TAKEN INTO ACCOUNT IN CERTAIN CASES.—For purposes of this chapter, if any individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual, then such individual shall be treated as not having any power in the trust.

“(f) EFFECT OF ADOPTION.—For purposes of this chapter, a relationship by legal adoption shall be treated as a relationship by blood.

“SEC. 2614. SPECIAL RULES.

26 USC 2614.

“(a) BASIS ADJUSTMENT.—If property is transferred to any person pursuant to a generation-skipping transfer which occurs before the death of the deemed transferor, the basis of such property in the hands of the transferee shall be increased (but not above the fair market value of such property) by an amount equal to that portion of the tax imposed by section 2601 with respect to the transfer which is attributable to the excess of the fair market value of such property over its adjusted basis immediately before the transfer. If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided by section 1023 without regard to subsection (d) thereof (relating to basis of property passing from a decedent dying after December 31, 1976).

Ante, p. 1872.

“(b) NONRESIDENTS NOT CITIZENS OF THE UNITED STATES.—If the deemed transferor of any transfer is, at the time of the transfer, a nonresident not a citizen of the United States and—

“(1) if the deemed transferor is alive at the time of the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 12, or

26 USC 2501.

“(2) if the deemed transferor has died at the same time as, or before, the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 11.

26 USC 2001.

“(c) DISCLAIMERS.—

“For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518.

“Subchapter C—Administration

“Sec. 2621. Administration.

“Sec. 2622. Regulations.

“SEC. 2621. ADMINISTRATION.

26 USC 2621.

“(a) GENERAL RULE.—Insofar as applicable and not inconsistent with the provisions of this chapter—

“(1) if the deemed transferor is not alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 11 or section 2001 are hereby made applicable in respect of this chapter or section 2601, as the case may be, and

Ante, p. 1846.

“(2) if the deemed transferor is alive at the time of the transfer, all provisions of subtitle F (including penalties) applicable to chapter 12 or section 2501 are hereby made applicable in respect of this chapter or section 2601, as the case may be.

26 USC 6001.

“(b) SECTIONS 6166 AND 6166A NOT APPLICABLE.—For purposes of this chapter, sections 6166 and 6166A (relating to extensions of time

Ante, p. 1862.

for payment of estate tax where estate consists largely of interest in closely held business) shall not apply.

“(c) RETURN REQUIREMENTS.—

Regulations.

“(1) IN GENERAL.—The Secretary shall prescribe by regulations the person who is required to make the return with respect to the tax imposed by this chapter and the time by which any such return must be filed. To the extent practicable, such regulations shall provide that—

“(A) the person who is required to make such return shall be—

“(i) in the case of a taxable distribution, the distributee, or

“(ii) in the case of a taxable termination, the trustee; and

“(B) the return shall be filed—

“(i) in the case of a generation-skipping transfer occurring before the death of the deemed transferor, on or before the 90th day after the close of the taxable year of the trust in which such transfer occurred, or

“(ii) in the case of a generation-skipping transfer occurring at the same time as, or after, the death of the deemed transferor, on or before the 90th day after the last day prescribed by law (including extensions) for filing the return of tax under chapter 11 with respect to the estate of the deemed transferor (or if later, the day which is 9 months after the day on which such generation-skipping transfer occurred).”

Regulations.

“(2) INFORMATION RETURNS.—The Secretary may by regulations require the trustee to furnish the Secretary with such information as he determines to be necessary for purposes of this chapter.

26 USC 2622.

“SEC. 2622. REGULATIONS.

“The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including regulations providing the extent to which substantially separate and independent shares of different beneficiaries in the trust shall be treated as separate trusts.”

(b) TECHNICAL, CLERICAL, AND CONFORMING CHANGES.—

(1) CLERICAL CHANGE.—The table of chapters for subtitle B is amended by adding at the end thereof the following new item:

“CHAPTER 13. Tax on certain generation-skipping transfers.”

26 USC 2013.

(2) CREDIT FOR TAX ON PRIOR TRANSFERS.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

“(g) TREATMENT OF TAX IMPOSED ON CERTAIN GENERATION-SKIPPING TRANSFERS.—If any property was transferred to the decedent in a transfer which is taxable under section 2601 (relating to tax imposed on generation-skipping transfers) and if the deemed transferor (as defined in section 2612) is not alive at the time of such transfer, for purposes of this section—

“(1) such property shall be deemed to have passed to the decedent from the deemed transferor;

“(2) the tax payable under section 2601 on such transfer shall be treated as a Federal estate tax payable with respect to the estate of the deemed transferor; and

“(3) the amount of the taxable estate of the deemed transferor shall be increased by the value of such property as determined for purposes of the tax imposed by section 2601 on the transfer.”

(3) INCOME IN RESPECT OF A DECEDENT.—Subsection (c) of section 691 (relating to deduction for estate tax) is amended by adding at the end thereof the following new paragraph: 26 USC 691.

“(3) SPECIAL RULE FOR GENERATION-SKIPPING TRANSFERS.—For purposes of this section—

“(A) the tax imposed by section 2601 or any State inheritance tax described in section 2602(c)(5)(C) on any generation-skipping transfer shall be treated as a tax imposed by section 2001 on the estate of the deemed transferor (as defined in section 2612(a);

Ante, p. 1846.

“(B) any property transferred in such a transfer shall be treated as if it were included in the gross estate of the deemed transferor at the value of such property taken into account for purposes of the tax imposed by section 2601; and

“(C) under regulations prescribed by the secretary, any item of gross income subject to the tax imposed under section 2601 shall be treated as income described in subsection (a) if such item is not properly includible in the gross income of the trust on or before the date of the generation-skipping transfer (within the meaning of section 2611(a)) and if such transfer occurs at or after the death of the deemed transferor (as so defined).”

(4) SPECIAL RULES FOR GENERATION-SKIPPING TRANSFERS.—Section 303 is amended by adding at the end thereof the following new subsection:

26 USC 303.

“(d) SPECIAL RULES FOR GENERATION-SKIPPING TRANSFERS.—Under regulations prescribed by the Secretary, where stock in a corporation is subject to tax under section 2601 as a result of a generation-skipping transfer (within the meaning of section 2611(a)), which occurs at or after the death of the deemed transferor (within the meaning of section 2612)—

“(1) the stock shall be deemed to be included in the gross estate of the deemed transferor;

“(2) taxes of the kind referred to in subsection (a)(1) which are imposed because of the generation-skipping transfer shall be treated as imposed because of the deemed transferor's death (and for this purpose the tax imposed by section 2601 shall be treated as an estate tax);

“(3) the period of distribution shall be measured from the date of the generation-skipping transfer; and

“(4) the relationship of stock to the decedent's estate shall be measured with reference solely to the amount of the generation-skipping transfer.”

(c) EFFECTIVE DATES.—

26 USC 2601
note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a) of the Internal Revenue Code of 1954) made after April 30, 1976.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any generation-skipping transfer—

(A) under a trust which was irrevocable on April 30, 1976, but only to the extent that the transfer is not made out of corpus added to the trust after April 30, 1976, or

(B) in the case of a decedent dying before January 1, 1982, pursuant to a will (or revocable trust) which was in existence on April 30, 1976, and was not amended at any time after that date in any respect which will result in the creation of, or increasing the amount of, any generation-skipping transfer. For purposes of subparagraph (B), if the decedent on April 30, 1976, was under a mental disability to change the disposition of his property, the period set forth in such subparagraph shall not expire before the date which is 2 years after the date on which he first regains his competence to dispose of such property.

(3) TRUST EQUIVALENTS.—For purposes of paragraph (2), in the case of a trust equivalent within the meaning of subsection (d) of section 2611 of the Internal Revenue Code of 1954, the provisions of such subsection (d) shall apply.

SEC. 2007. ORPHANS' EXCLUSION.

(a) GENERAL RULE.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

26 USC 2057.

“SEC. 2057. BEQUESTS, ETC., TO CERTAIN MINOR CHILDREN.

Ante, p. 1846.

“(a) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, if—

“(1) the decedent does not have a surviving spouse, and

“(2) the decedent is survived by a minor child who, immediately after the death of the decedent, has no known parent, then the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to such child, but only to the extent that such interest is included in determining the value of the gross estate.

“(b) LIMITATION.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) with respect to interests in property passing to any minor child shall not exceed an amount equal to \$5,000 multiplied by the excess of 21 over the age (in years) which such child has attained on the date of the decedent's death.

“(c) LIMITATION IN THE CASE OF LIFE ESTATE OR OTHER TERMINABLE INTEREST.—A deduction shall be allowed under this section with respect to any interest in property passing to a minor child only to the extent that a deduction would have been allowable under section 2056(b) if such interest had passed to a surviving spouse of the decedent. For purposes of this subsection, an interest shall not be treated as terminable solely because the property will pass to another person if the child dies before the youngest child of the decedent attains age 21.

“(d) DEFINITIONS.—For purposes of this section—

“(1) MINOR CHILD.—The term ‘minor child’ means any child of the decedent who has not attained the age of 21 before the date of the decedent's death.

“(2) ADOPTED CHILDREN.—A relationship by legal adoption shall be treated as replacing a relationship by blood.

“(3) PROPERTY PASSING FROM THE DECEDENT.—The determination of whether an interest in property passes from the decedent to any person shall be made in accordance with section 2056(d).”

Post, p. 1894.

(b) CLERICAL AMENDMENT.—The table of sections for part IV of

subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2057. Bequests, etc., to certain minor children."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976. 26 USC 2057 note.

SEC. 2008. ADMINISTRATIVE CHANGES.

(a) **FURNISHING OF STATEMENT EXPLAINING ESTATE OR GIFT VALUATION.**—

(1) **IN GENERAL.**—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7517. FURNISHING ON REQUEST OF STATEMENT EXPLAINING ESTATE OR GIFT VALUATION. 26 USC 7517.

"(a) **GENERAL RULE.**—If the Secretary makes a determination or a proposed determination of the value of an item of property for purposes of the tax imposed under chapter 11, 12, or 13, he shall furnish, on the written request of the executor, donor, or the person required to make the return of the tax imposed by chapter 13 (as the case may be), to such executor, donor, or person a written statement containing the material required by subsection (b). Such statement shall be furnished not later than 45 days after the later of the date of such request or the date of such determination or proposed determination. 26 USC 2001, 2501.

"(b) **CONTENTS OF STATEMENT.**—A statement required to be furnished under subsection (a) with respect to the value of an item of property shall— *Ante*, p. 1879.

"(1) explain the basis on which the valuation was determined or proposed,

"(2) set forth any computation used in arriving at such value, and

"(3) contain a copy of any expert appraisal made by or for the Secretary.

"(c) **EFFECT OF STATEMENT.**—Except to the extent otherwise provided by law, the value determined or proposed by the Secretary with respect to which a statement is furnished under this section, and the method used in arriving at such value, shall not be binding on the Secretary."

(2) **CONFORMING AND CLERICAL AMENDMENTS.**—

(A) Section 2031 (defining gross estate) is amended by adding at the end thereof the following new subsection: 26 USC 2031.

"(c) **CROSS REFERENCE.**—

"For executor's right to be furnished on request a statement regarding any valuation made by the Secretary within the gross estate, see section 7517."

(B) Section 2512 (relating to valuation of gifts) is amended by adding at the end thereof the following new subsection: 26 USC 2512.

"(c) **CROSS REFERENCE.**—

"For individual's right to be furnished on request a statement regarding any valuation made by the Secretary of a gift by that individual, see section 7517."

(C) The table of sections for chapter 77 is amended by adding at the end thereof the following:

"Sec. 7517. Furnishing on request of statement explaining estate or gift valuation."

26 USC 6075. (b) SPECIAL RULE FOR FILING RETURNS WHERE GIFTS IN CALENDAR QUARTER TOTAL \$25,000 OR LESS.—Subsection (b) of section 6075 relating to gift tax returns) is amended to read as follows:

“(b) GIFT TAX RETURNS.—

“(1) GENERAL RULE.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter.

“(2) SPECIAL RULE WHERE GIFTS IN A CALENDAR QUARTER TOTAL \$25,000 OR LESS.—If the total amount of taxable gifts made by a person during a calendar quarter is \$25,000 or less, the return under section 6019 for such quarter shall be filed on or before the 15th day of the second month after—

“(A) the close of the first subsequent calendar quarter in the calendar year in which the sum of—

“(i) the taxable gifts made during such subsequent quarter, plus

“(ii) all other taxable gifts made during the calendar year and for which a return has not yet been required to be filed under this subsection,

exceeds \$25,000, or

“(B) if a return is not required to be filed under subparagraph (A), the close of the fourth calendar quarter of the calendar year.

“(3) NONRESIDENTS NOT CITIZENS OF THE UNITED STATES.—In the case of a nonresident not a citizen of the United States, paragraph (2) shall be applied by substituting ‘\$12,500’ for ‘\$25,000’ each place it appears.”

(c) PUBLIC INDEX OF FILED TAX LIENS.—

(1) INITIAL FILING OF NOTICE.—

26 USC 6323.

(A) Section 6323(f) (relating to filing of notice of lien) is amended by adding at the end thereof the following new paragraph:

“(4) INDEX.—The notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in a public index at the district office of the Internal Revenue Service for the district in which the property subject to the lien is situated.”

(B) Paragraph (2) of section 6323(f) is amended by striking out “paragraph (1)” and inserting in lieu thereof “paragraphs (1) and (4)”.

(2) REFILING OF NOTICE.—Section 6323(g)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

“(A) if such notice of lien is refiled in the office in which the prior notice of lien was filed and the fact of refiling is entered and recorded in an index in accordance with subsection (f)(4); and ”.

(d) EFFECTIVE DATES.—

26 USC 7517
note.

(1) The amendments made by subsection (a)—

26 USC 2001.

(A) insofar as they relate to the tax imposed under chapter 11 of the Internal Revenue Code of 1954, shall apply to the estates of decedents dying after December 31, 1976, and

26 USC 2501.

(B) insofar as they relate to the tax imposed under chapter 12 of such Code, shall apply to gifts made after December 31, 1976.

- (2) The amendment made by subsection (b) shall apply to gifts made after December 31, 1976. 26 USC 6075 note.
- (3) The amendment made by subsection (c) shall take effect— 26 USC 6323 note.
- (A) in the case of liens filed before the date of the enactment of this Act, on the 270th day after such date of enactment, or
- (B) in the case of liens filed on or after the date of enactment of this Act, on the 120th day after such date of enactment.

SEC. 2009. MISCELLANEOUS PROVISIONS.

(a) **INCLUSION OF STOCK IN DECEDENT'S ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS.**—Subsection (a) of section 2036 (relating to transfer with retained life estate) is amended by adding at the end thereof the following new sentence: 26 USC 2036.

“For purposes of paragraph (1), the retention of voting rights in retained stock shall be considered to be a retention of the enjoyment of such stock.”

(b) DISCLAIMERS.—

(1) **AMENDMENT OF GIFT TAX PROVISIONS.**—Subchapter B of chapter 12 (relating to transfers for purposes of the gift tax) is amended by adding at the end thereof the following new section:

“SEC. 2518. DISCLAIMERS.

26 USC 2518.

“(a) **GENERAL RULE.**—For purposes of this subtitle, if a person makes a qualified disclaimer with respect to any interest in property, this subtitle shall apply with respect to such interest as if the interest had never been transferred to such person.

“(b) **QUALIFIED DISCLAIMER DEFINED.**—For purposes of subsection (a), the term ‘qualified disclaimer’ means an irrevocable and unqualified refusal by a person to accept an interest in property but only if—

“(1) such refusal is in writing,

“(2) such writing is received by the transferor of the interest, his legal representative, or the holder of the legal title to the property to which the interest relates not later than the date which is 9 months after the later of—

“(A) the day on which the transfer creating the interest in such person is made, or

“(B) the day on which such person attains age 21,

“(3) such person has not accepted the interest or any of its benefits, and

“(4) as a result of such refusal, the interest passes to a person other than the person making the disclaimer (without any direction on the part of the person making the disclaimer).

“(c) **OTHER RULES.**—For purposes of subsection (a)—

“(1) **DISCLAIMER OF UNDIVIDED PORTION OF INTEREST.**—A disclaimer with respect to an undivided portion of an interest which meets the requirements of the preceding sentence shall be treated as a qualified disclaimer of such portion of the interest.

“(2) **POWERS.**—A power with respect to property shall be treated as an interest in such property.”

(2) **AMENDMENT OF ESTATE TAX PROVISIONS.**—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by adding at the end thereof the following new section:

26 USC 2045. "SEC. 2045. DISCLAIMERS.

"For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518."

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subchapter B of chapter 12 is amended by adding at the end thereof the following:

"Sec. 2518. Disclaimers."

(B) The table of sections for part III of subchapter A of chapter 11 is amended by adding at the end thereof the following:

"Sec. 2045. Disclaimers."

(4) TECHNICAL AND CONFORMING CHANGES.—

26 USC 2041. (A) Paragraph (2) of section 2041(a) (relating to release of general powers of appointment) is amended by striking out the second sentence thereof.

26 USC 2055. (B) The first sentence of subsection (a) of section 2055 (relating to transfers for public, charitable, and religious uses) is amended by striking out "(including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made before the date prescribed for the filing of the estate tax return)".

(C) The second sentence of subsection (a) of section 2055 is amended—

(i) by striking out "an irrevocable" and inserting in lieu thereof "a qualified", and

(ii) by striking out "such irrevocable" and inserting in lieu thereof "such qualified".

26 USC 2056. (D) Section 2056 (relating to bequests, etc., to surviving spouse) is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(E) Subsection (a) of section 2056 is amended by striking out "subsections (b), (c), and (d)" and inserting in lieu thereof "subsections (b) and (c)".

26 USC 2514. (F) Subsection (b) of section 2514 (relating to powers of appointment for purposes of the gift tax) is amended by striking out the second sentence thereof.

(c) CERTAIN RETIREMENT BENEFITS.—

26 USC 2039. (1) EXCLUSION FROM GROSS ESTATE OF INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—Section 2039 (relating to annuities) is amended by adding at the end thereof the following new subsection:

"(e) EXCLUSION OF INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—Notwithstanding the provisions of this section or of any other provision of law, there shall be excluded from the value of the gross estate the value of an annuity receivable by any beneficiary (other than the executor) under—

"(1) an individual retirement account described in section 408(a),

"(2) an individual retirement annuity described in section 408(b), or

"(3) a retirement bond described in section 409(a).

If any payment to an account described in paragraph (1) or for an annuity described in paragraph (2) or a bond described in paragraph

(3) was not allowable as a deduction under section 219 and was not a rollover contribution described in section 402(a)(5), 403(a)(4), 408(d)(3), or 409(b)(3)(C), the preceding sentence shall not apply to that portion of the value of the amount receivable under such account, annuity, or bond (as the case may be) which bears the same ratio to the total value of the amount so receivable as the total amount which was paid to or for such account, annuity, or bond and which was not allowable as a deduction under section 219 and was not such a rollover contribution bears to the total amount paid to or for such account, annuity, or bond. For purposes of this subsection, the term 'annuity' means an annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the executor) for his life or over a period extending for at least 36 months after the date of the decedent's death."

"Annuity."

(2) **EXCLUSION FROM GROSS ESTATE OF SELF-EMPLOYED PLANS.**—The fifth sentence of section 2039(c) (relating to exemption of annuities under certain trusts and plans) is amended to read as follows: "For purposes of this subsection, contributions or payments on behalf of the decedent while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than the decedent and, to the extent not so allowable, shall be considered to be made by the decedent."

26 USC 2039.

(3) **EXCLUSION INAPPLICABLE IN CASE OF LUMP SUM DISTRIBUTIONS.**—The first sentence of subsection (c) of section 2039 (relating to exemption of annuities under certain trusts and plans) is amended by striking out "other payment receivable by any beneficiary" and inserting in lieu thereof "other payment (other than a lump sum distribution described in section 402(e)(4), determined without regard to the next to the last sentence of section 402(e)(4)(A)) receivable by any beneficiary".

(4) **GIFT TAX TREATMENT OF ELECTIONS UNDER CERTAIN RETIREMENT PLANS.**—

(A) **INDIVIDUAL RETIREMENT ACCOUNTS, ETC.**—

(i) Subsection (a) of section 2517 (relating to certain annuities under qualified plans) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by inserting after paragraph (4) the following new paragraph:

26 USC 2517.

"(5) an individual retirement account described in section 408 (a) an individual retirement annuity described in section 408 (b), or a retirement bond described in section 409(a)."

(ii) Subsection (b) of section 2517 (relating to transfers attributable to employee contributions) is amended by striking out "other than paragraph (4)" and inserting in lieu thereof "other than paragraphs (4) and (5)".

(iii) Subsection (c) of section 2517 (defining employee) is amended by adding at the end thereof the following new sentence: "In the case of a retirement plan described in paragraph (5) of subsection (a), such term means the individual for whose benefit the plan was established."

(B) **SELF-EMPLOYED PLANS.**—The last sentence of section 2517(b) (relating to transfers attributable to employee con-

tributions) is amended to read as follows: "For purposes of this subsection, contributions or payments on behalf of an individual while he was an employee within the meaning of section 401(c)(1) made under a trust or plan described in paragraph (1) or (2) of subsection (a) shall, to the extent allowable as a deduction under section 404, be considered to be made by a person other than such individual and, to the extent not so allowable, shall be considered to be made by such individual."

26 USC 2517. (5) GIFT TAX TREATMENT OF CERTAIN COMMUNITY PROPERTY.—Section 2517 (relating to certain annuities under qualified plans) is amended by redesignating subsection (c) (as amended by paragraph (4) (A) (iii)) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) EXEMPTION OF CERTAIN ANNUITY INTERESTS CREATED BY COMMUNITY PROPERTY LAWS.—Notwithstanding any other provision of law, in the case of an employee on whose behalf contributions or payments are made—

"(1) by his employer or former employer under a trust or plan described in paragraph (1) or (2) of subsection (a), or toward the purchase of a contract described in paragraph (3) of subsection (a), which under subsection (b) are not considered as contributed by the employee, or

"(2) by the employee to a retirement plan described in paragraph (5) of subsection (a),
a transfer of benefits attributable to such contributions or payments shall, for purposes of this chapter, not be considered as a transfer by the spouse of the employee to the extent that the value of any interest of such spouse in such contributions or payments or in such trust or plan or such contract—

"(A) is attributable to such contribution or payments, and

"(B) arises solely by reason of such spouse's interest in community income under the community property laws of the State."

26 USC 642. (d) INCOME TAX TREATMENT OF CERTAIN EXPENSES OF ESTATE.—Section 642(g) (relating to disallowance of double deductions) is amended by inserting after "shall not be allowed as a deduction" the following: "(or as an offset against the sales price of property in determining gain or loss)".

(e) EFFECTIVE DATES.—

26 USC 2036 note. (1) FOR SUBSECTION (a).—The amendment made by subsection (a) shall apply to transfers made after June 22, 1976.

26 USC 2518 note. (2) FOR SUBSECTION (b).—The amendments made by subsection (b) shall apply with respect to transfers creating an interest in the person disclaiming made after December 31, 1976.

(3) FOR SUBSECTION (c).—

26 USC 2039 note. (A) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall apply to the estates of decedents dying after December 31, 1976.

26 USC 2517 note. (B) The amendments made by paragraphs (4) and (5) of subsection (c) shall apply to transfers made after December 31, 1976.

26 USC 642 note. (4) FOR SUBSECTION (d).—The amendment made by subsection (d) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 2010. CREDIT AGAINST CERTAIN ESTATE TAXES

(a) **IN GENERAL.**—Subject to the provisions of subsections (b), (c), and (d), credit against the tax imposed by chapter 11 of the Internal Revenue Code of 1954 (relating to estate tax) with respect to the estate of LaVere Redfield shall be allowed by the Secretary of the Treasury or his delegate for the conveyance of real property located within the boundaries of the Toiyabe National Forest. 26 USC 2001.

(b) **AMOUNT OF CREDIT.**—The amount treated as a credit shall be equal to the fair market value of the real property transferred as of the valuation date used for purposes of the tax imposed (and interest thereon) by chapter 11 of the Internal Revenue Code of 1954.

(c) **DEED REQUIREMENTS.**—The provisions of this section shall apply only if the executrixes of the estate execute a deed (in accordance with the laws of the State in which such real estate is situated) transferring title to the United States which is satisfactory to the Attorney General or his designee.

(d) **ACCEPTANCE AS NATIONAL FOREST.**—The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(e) **INTEREST.**—Unless the Secretary of Agriculture determines and certifies to the Secretary of the Treasury that there has been an expeditious transfer of the real property under this section, no interest payable with respect to the tax imposed by chapter 11 of the Internal Revenue Code of 1954 shall be deemed to be waived by reason of the provisions of this section for any period before the date of such transfer.

(f) **EFFECTIVE DATE.**—The provisions of this section shall be effective on the date of the enactment of this Act.

TITLE XXI—MISCELLANEOUS PROVISIONS

SEC. 2101. TAX TREATMENT OF CERTAIN HOUSING ASSOCIATIONS.

(a) **GENERAL RULE.**—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

“PART VII—CERTAIN HOMEOWNERS ASSOCIATIONS

“Sec. 528. Certain homeowners associations.

“SEC. 528. CERTAIN HOMEOWNERS ASSOCIATIONS.

26 USC 528.

“(a) **GENERAL RULE.**—A homeowners association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

“(b) **TAX IMPOSED.**—

“(1) **IN GENERAL.**—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall consist of a normal tax and surtax computed as provided in section 11 as though the homeowners association were a corporation and as though the

26 USC 11.
Ante, p. 1606.

homeowners association taxable income were the taxable income referred to in section 11. For purposes of this subsection, the surtax exemption provided by section 11(d) shall not be allowed.

“(2) **ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.**—If for any taxable year any homeowners association has a net capital gain, then in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

“(A) a partial tax, computed as provided by paragraph (1), on the homeowners association taxable income determined by reducing such income by the amount of such gain, and

“(B) a tax of 30 percent of such gain.

“(c) **HOMEOWNERS ASSOCIATION DEFINED.**—For purposes of this section—

“(1) **HOMEOWNERS ASSOCIATION.**—The term ‘homeowners association’ means an organization which is a condominium management association or a residential real estate management association if—

“(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

“(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from—

“(i) owners of residential units in the case of a condominium management association, or

“(ii) owners of residences or residential lots in the case of a residential real estate management association.

“(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property,

“(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

“(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

“(2) **CONDOMINIUM MANAGEMENT ASSOCIATION.**—The term ‘condominium management association’ means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project substantially all of the units of which are used as residences.

“(3) **RESIDENTIAL REAL ESTATE MANAGEMENT ASSOCIATION.**—The term ‘residential real estate management association’ means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

“(4) **ASSOCIATION PROPERTY.**—The term ‘association property’ means—

“(A) property held by the organization,

“(B) property commonly held by the members of the organization,

“(C) property within the organization privately held by the members of the organization, and

“(D) property owned by a governmental unit and used for the benefit of residents of such unit.

“(d) HOMEOWNERS ASSOCIATION TAXABLE INCOME DEFINED.—

“(1) TAXABLE INCOME DEFINED.—For purposes of this section, the homeowners association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

“(A) the gross income for the taxable year (excluding any exempt function income), over

“(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

“(2) MODIFICATIONS.—For purposes of this subsection—

“(A) there shall be allowed a specific deduction of \$100,

“(B) no net operating loss deduction shall be allowed under section 172, and

“(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

“(3) EXEMPT FUNCTION INCOME.—For purposes of this subsection, the term ‘exempt function income’ means any amount received as membership dues, fees, or assessments from—

“(A) owners of condominium housing units in the case of a condominium management association, or

“(B) owners of real property in the case of a residential real estate management association.”

(b) Section 216(c) (relating to treatment of property subject to depreciation) is amended by adding at the end thereof the following new sentence: “The preceding sentence shall not be construed to limit or deny a deduction for depreciation under 167(a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders.” 26 USC 216.

(c) REQUIREMENT OF RETURN.—Section 6012(a) (relating to persons required to make returns of income) is amended by striking out “and” at the end of paragraph (5), by inserting “and” at the end of paragraph (6), and by inserting after paragraph (6) the following new paragraph: 26 USC 6012.

“(7) Every homeowners association (within the meaning of section 528(c)(1)) which has homeowners association taxable income (within the meaning of section 528(d)) for the taxable year.” *Ante*, p. 1897.

(d) CLERICAL AMENDMENT.—The table of parts for subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

“Part VII. Certain homeowners associations.”

(e) EFFECTIVE DATE.—Except as provided in subsection (f) (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1973. 26 USC 528 note.

(f) CERTAIN STOCK OF COOPERATIVE HOUSING CORPORATIONS.—

(1) Section 216(b) is amended by adding at the end thereof the following new paragraph: 26 USC 216.

“(5) STOCK ACQUIRED THROUGH FORECLOSURE BY LENDING INSTITUTION.—If a bank or other lending institution acquires by foreclosure (or by instrument in lieu of foreclosure) the stock of a tenant-stockholder, and a lease or the right to occupy an apartment or house to which such stock is appurtenant, such bank or other lending institution shall be treated as a tenant-stockholder for a period not to exceed three years from the date of acquisition. The preceding sentence shall apply even though, by agreement with the cooperative housing corporation, the bank (or other lending institution) or its nominee may not occupy the house or apartment without the prior approval of such corporation.”

26 USC 216
note.

(2) The amendment made by paragraph (1) shall apply to stock acquired by banks or other lending institutions after the date of the enactment of this Act.

SEC. 2102. TREATMENT OF CERTAIN DISASTER PAYMENTS.

26 USC 451.

(a) GENERAL RULE.—Subsection (d) of section 451 (relating to special rule for crop insurance proceeds) is amended by inserting after the first sentence the following new sentence: “For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (1) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (2) the inability to plant crops because of such a natural disaster shall be treated as insurance proceeds received as a result of destruction or damage to crops.”

(b) TECHNICAL AMENDMENT.—The subsection heading for such subsection (d) is amended by striking out “Proceeds” and inserting in lieu thereof “Proceeds or Disaster Payments”.

26 USC 451
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after December 31, 1973, in taxable years ending after such date.

26 USC 165
note.

SEC. 2103. TAX TREATMENT OF CERTAIN 1972 DISASTER LOSSES.

(a) APPLICATION OF SECTION.—This section shall apply to any individual—

(1) who was allowed a deduction under section 165 of the Internal Revenue Code of 1954 (relating to losses) for a loss attributable to a disaster occurring during calendar year 1972 which was determined by the President, under section 102 of the Disaster Relief Act of 1970, to warrant disaster assistance by the Federal Government,

42 USC 4402.

(2) who in connection with such disaster—

(A) received income in the form of cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act, or

15 USC 636.

75 Stat. 311.

(B) received income in the form of compensation (not taken into account in computing the amount of the deduction) for such loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster, and

(3) who elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to take the benefits of this section.

(b) EFFECT OF ELECTION.—In the case of any individual to whom this section applies—

(1) the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for the taxable year in which the income taken into account is received or accrued which is attributable to such income shall not exceed the additional tax under such chapter which would have been payable for the year in which the deduction for the loss was taken if such deduction had not been taken for such year, 26 USC 1.

(2) any amount of tax imposed by chapter 1 attributable to the income taken into account which, on October 1, 1975, was unpaid may be paid in 3 equal annual installments (with the first such installment due and payable on April 15, 1977), and

(3) no interest on any deficiency shall be payable for any period before April 16, 1977, to the extent such deficiency is attributable to the receipt of such compensation, and no interest on any installment referred to in paragraph (2) shall be payable for any period before the due date of such installment.

(c) **INCOME TAKEN INTO ACCOUNT.**—For purposes of this section, the income taken into account is—

(1) in the case of an individual described in subsection (a) (2) (A), the amount of income (not in excess of \$5,000) attributable to the cancellation of a disaster loan under section 7 of the Small Business Act or an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act received by reason of the disaster described in subsection (a) (1), or

15 USC 636.
19 USC 1961.

(2) in the case of an individual described in subsection (a) (2) (B), the amount of compensation (not in excess of \$5,000) for the loss in settlement of any claim of the taxpayer against a person for that person's liability in tort for the damage or destruction of that taxpayer's property in connection with the disaster described in subsection (a) (1).

(d) **PHASEOUT WHERE ADJUSTED GROSS INCOME EXCEEDS \$15,000.**—If for the taxable year for which the deduction for the loss was taken the individual's adjusted gross income exceeded \$15,000, the \$5,000 limit set forth in paragraph (1) or (2) of subsection (c) (whichever applies) shall be reduced by one dollar for each full dollar that such adjusted gross income exceeds \$15,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "\$7,500" for "\$15,000".

(e) **STATUTE OF LIMITATIONS.**—If refund or credit of any overpayment of income tax resulting from an election made under this section is prevented on the date of the enactment of this Act, or at any time within one year after such date, by the operation of any law, or rule of law, refund or credit of such overpayment (to the extent attributable to such election) may, nevertheless, be made or allowed if claim therefor is filed within one year after such date. If the taxpayer makes an election under this section and if assessment of any deficiency for any taxable year resulting from such election is prevented on the date of the enactment of this Act, or at any time within one year after such date, by the operation of any law or rule of law, such assessment (to the extent attributable to such election) may, nevertheless, be made if made within one year after such date.

SEC. 2104. TAX TREATMENT OF CERTAIN DEBTS OWED BY POLITICAL PARTIES, ETC., TO ACCRUAL BASIS TAXPAYERS.

(a) **IN GENERAL.**—Section 271 (relating to debts owed by political parties, etc.) is amended by adding at the end thereof the following new subsection: 26 USC 271.

“(c) EXCEPTION.—In the case of a taxpayer who uses an accrual method of accounting, subsection (a) shall not apply to a debt which accrued as a receivable on a bona fide sale of goods or services in the ordinary course of the taxpayer’s trade or business if—

“(1) for the taxable year in which such receivable accrued, more than 30 percent of all receivables which accrued in the ordinary course of the trades and businesses of the taxpayer were due from political parties, and

“(2) the taxpayer made substantial continuing efforts to collect on the debt.”

26 USC 271
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

SEC. 2105. TAX-EXEMPT BONDS FOR STUDENT LOANS.

26 USC 103.

(a) IN GENERAL.—Section 103(a) (relating to interest on certain governmental obligations) is amended by striking out “or” at the end of paragraph (2), striking out the period at the end of paragraph (3) and inserting in lieu thereof “; or”, and by adding at the end thereof the following:

“(4) qualified scholarship funding bonds.”

(b) DEFINITION OF QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 103 is amended by redesignating subsection (f) as (g), and by inserting after subsection (e) the following new subsection:

“(f) QUALIFIED SCHOLARSHIP FUNDING BONDS.—For purposes of subsection (a), the term ‘qualified scholarship funding bonds’ means obligations issued by a corporation which—

20 USC 1001
note.

“(1) is a corporation not for profit established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and

“(2) is organized at the request of a State or one or more political subdivisions thereof or is requested to exercise such power by one or more political subdivisions and required by its corporate charter and bylaws, or required by State law, to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the State or a political subdivision thereof.”

(c) CONFORMING AMENDMENTS.—

(1) Section 103(d) (relating to arbitrage bonds) is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

“(5) STUDENT LOAN INCENTIVE PAYMENTS.—Payments made by the Commissioner of Education pursuant to section 2 of the Emergency Insured Student Loan Act of 1969 are not to be taken into account, for purposes of subsection (d) (2) (A), in determining yields on student loan notes.”

20 USC 1078a.

(2) Section 103(d) (relating to arbitrage bonds) is amended by striking out “(a)(1)” each place it appears in paragraph (1) (including the heading) and paragraph (2) and inserting in lieu thereof “(a)(1) or (4)”.

26 USC 103
note.

(d) EFFECTIVE DATE.—The amendments made by this section apply to obligations issued on or after the date of the enactment of this Act.

SEC. 2106. PERSONAL HOLDING COMPANY INCOME AMENDMENTS.

26 USC 543.

(a) IN GENERAL.—Section 543(a)(6) (relating to definition of personal holding company income) is amended to read as follows:

“(6) USE OF CORPORATE PROPERTY BY SHAREHOLDER.—

“(A) Amounts received as compensation (however designated and from whomever received) for the use of, or the right to use, tangible property of the corporation in any case where, at any time during the taxable year, 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property (whether such right is obtained directly from the corporation or by means of a sublease or other arrangement).

“(B) Subparagraph (A) shall apply only to a corporation which has personal holding company income in excess of 10 percent of its ordinary gross income.

“(C) For purposes of the limitation in subparagraph (B), personal holding company income shall be computed—

“(i) without regard to subparagraph (A) or paragraph (2),

“(ii) by excluding amounts received as compensation for the use of (or right to use) intangible property (other than mineral, oil, or gas royalties or copyright royalties) if a substantial part of the tangible property used in connection with such intangible property is owned by the corporation and all such tangible and intangible property is used in the active conduct of a trade or business by an individual or individuals described in subparagraph (A), and

“(iii) by including copyright royalties and adjusted income from mineral, oil, and gas royalties.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976. 26 USC 543 note.

SEC. 2107. WORK INCENTIVE PROGRAM EXPENSES.

(a) **INCREASE IN LIMITATION BASED ON AMOUNT OF TAX.**—

(1) Paragraph (2) of section 50A(a) (relating to limitation based on amount of tax) is amended by striking out “\$25,000” each place it appears and inserting in lieu thereof “\$50,000”. 26 USC 50A.

(2) Paragraph (4) of section 50A(a) (relating to married individuals) is amended—

(A) by striking out “\$12,500” and inserting in lieu thereof “\$25,000”, and

(B) by striking out “\$25,000” and inserting in lieu thereof “\$50,000”.

(3) Paragraph (5) of section 50A(a) (relating to controlled groups) is amended by striking out “\$25,000” each place it appears therein and inserting in lieu thereof “\$50,000”.

(4) Paragraph (3) of section 50B(e) is amended by striking out “\$25,000” each place it appears therein and inserting in lieu thereof “\$50,000”. 26 USC 50B.

(b) **REDUCTION OF PERIOD DURING WHICH DISCHARGE OF EMPLOYEE CAUSES RECAPTURE.**—Subparagraph (A) of section 50A(c)(1) (relating to work incentive program expenses) is amended— 26 USC 50A.

(1) by striking out “12 months” each place it appears and inserting in lieu thereof “90 days”,

(2) by striking out “12th calendar month” and inserting in lieu thereof “90th calendar day”, and

(3) by striking out “the calendar month” and inserting in lieu thereof “the day”.

- (c) **RECAPTURE NOT TO APPLY WHERE TERMINATION IS RESULT OF DECLINING BUSINESS.**—Subparagraph (A) of section 50A(c) (2) (relating to certain terminations of employment) is amended—
- (1) by striking out “or” at the end of clause (iii),
 - (2) by striking out the period at the end of clause (iv) and inserting in lieu thereof a comma and “or”, and
 - (3) by adding at the end thereof the following:

“(v) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.”
- (d) **EXTENSION OF WELFARE EMPLOYEE INCENTIVES.**—Paragraph (2) of section 50B(a) (relating to definition of Federal welfare recipient employment incentive expenses) is amended by striking out “before July 1, 1976,” and inserting in lieu thereof “before January 1, 1980.”
- (e) **LIMITATION OF FEDERAL WELFARE RECIPIENT EMPLOYMENT INCENTIVE EXPENSES TO FIRST 12 MONTHS OF EMPLOYMENT.**—Subparagraph (B) of section 50B(a) (1) is amended to read as follows:
- “(B) the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive).”
- (f) **CERTIFICATION OF WELFARE RECIPIENT EMPLOYEES BY SECRETARY OF LABOR.**—Subparagraph (A) of section 50B(g) (1) (relating to eligible employees) is amended by inserting “the Secretary of Labor or by” after “certified by”.
- (g) **TECHNICAL AMENDMENTS.**—
- 26 USC 6411. (1) The second sentence of section 6411(a) (relating to application for adjustment) is amended by inserting “(or, in the case of a work incentive program carryback, to an investment credit carryback)” after “capital loss carryback”.
- (2) The following provisions are each amended by inserting “, an investment credit carryback,” after “net operating loss carryback”:
- 26 USC 6501. (A) Section 6501(o).
- 26 USC 6511. (B) Section 6511(d) (7).
- 26 USC 6601. (C) Section 6601(d) (4).
- 26 USC 6611. (D) Section 6611(f) (4).
- SEC. 2108. REPEAL OF EXCISE TAX ON LIGHT-DUTY TRUCK PARTS.**
- 26 USC 6416. (a) **IN GENERAL.**—Section 6416(b) (2) (relating to special cases in which tax payments are considered overpayments) is amended—
- (1) by striking “or” at the end of subparagraph (R);
 - (2) by striking the period at the end of subparagraph (S) and inserting in lieu thereof “; or”; and
 - (3) by adding at the end thereof the following new subparagraph:

“(T) in the case of any article taxable under section 4061 (b), sold on or in connection with the first retail sale of a light-duty truck, as described in section 4061(a) (2), if credit or refund of such tax is not available under any other provisions of law.”
- (b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to parts and accessories sold after the date of the enactment of this Act.
- SEC. 2109. EXCLUSION FROM EXCISE TAX ON CERTAIN ARTICLES RESOLD AFTER MODIFICATION.**
- 26 USC 4063. (a) **IN GENERAL.**—Section 4063 (relating to exemptions from excise tax on motor vehicles) is amended by adding at the end thereof the following new subsection:

“(d) RESALE AFTER CERTAIN MODIFICATIONS.—Under regulations prescribed by the Secretary, the tax imposed by section 4061 shall not apply to the resale of any article described in section 4061(a)(1) if before such resale such article was merely combined with any coupling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor.”

Regulations.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the resale of any article on or after the date of the enactment of this Act.

26 USC 4063 note.

SEC. 2110. FRANCHISE TRANSFERS.

(a) APPLICATION OF FRANCHISE RULES TO PARTNERSHIPS.—Section 751(c) (relating to unrealized receivables of a partnership), as amended by this Act, is amended—

26 USC 751.

(1) by striking out “farm land (as defined in section 1252(a)),” and inserting in lieu thereof “farm land (as defined in section 1252(a)), franchises, trademarks, or trade names (referred to in section 1253(a)),” and

(2) by striking out “1252(a)” and inserting in lieu thereof “1252(a), 1253(a)”.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to transactions described in sections 731, 736, 741, or 751 of the Internal Revenue Code of 1954 which occur after December 31, 1976, in taxable years ending after that date.

26 USC 751 note.

SEC. 2111. EMPLOYER'S DUTIES IN CONNECTION WITH THE RECORD-ING AND REPORTING OF TIPS.

26 USC 6041 note.

(a) SUSPENSION OF RULINGS.—Until January 1, 1979, the law with respect to the duty of an employer under section 6041(a) of the Internal Revenue Code of 1954 to report charge account tips of employees to the Internal Revenue Service (other than charge account tips included in statements furnished to the employer under section 6053(a) of such Code) shall be administered—

(1) without regard to Revenue Rulings 75-400 and 76-231, and

(2) in accordance with the manner in which such law was administered before the issuance of such rulings.

(b) EFFECTIVE DATE.—This section shall take effect on January 1, 1976.

SEC. 2112. TREATMENT OF CERTAIN POLLUTION CONTROL FACILITIES.

(a) AVAILABILITY OF INVESTMENT CREDIT FOR CERTAIN POLLUTION CONTROL FACILITIES.—

(1) **IN GENERAL.**—Section 48(a)(8) (relating to amortized property) is amended by striking out “169,” and by striking out the second sentence thereof.

26 USC 48.

(2) **APPLICABLE PERCENTAGE IN DETERMINING AMOUNT OF CREDIT.**—Section 46(c) (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

26 USC 46.

“(5) **APPLICABLE PERCENTAGE IN THE CASE OF CERTAIN POLLUTION CONTROL FACILITIES.**—Notwithstanding subsection (c)(2), in the case of property—

“(A) with respect to which an election under section 169 applies, and

(B) the useful life of which (determined without regard to section 169) is not less than 5 years, 50 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169."

26 USC 169. (b) DEFINITION OF CERTIFIED POLLUTION CONTROL FACILITIES.—Paragraph (1) of section 169(d) (defining certified pollution control facilities) is amended—

(1) by striking out "January 1, 1969," and inserting in lieu thereof "January 1, 1976,";

(2) by striking out "or storing" and inserting in lieu thereof "storing, or preventing the creation or emission of"; and

(3) by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(C) does not significantly—

"(i) increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

"(ii) alter the nature of the manufacturing or production process or facility."

(c) EXTENSION OF AMORTIZATION.—Paragraph (4) of section 169(d) (relating to new identifiable treatment facility) is amended to read as follows:

"(4) NEW IDENTIFIABLE TREATMENT FACILITY.—

Definition.

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'new identifiable treatment facility' includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which is property—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

"(ii) acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date.

In applying this section in the case of property described in clause (i) there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1968.

"(B) CERTAIN PLANTS, ETC., PLACED IN OPERATION AFTER 1968.—In the case of any treatment facility used in connection with any plant or other property not in operation before January 1, 1969, the preceding sentence shall be applied by substituting December 31, 1975, for December 31, 1968."

(d) EFFECTIVE DATES.—

26 USC 46 note.

(1) The amendments made by subsection (a) shall apply to—
(A) property acquired by the taxpayer after December 31, 1976, and

(B) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1976, (but only to the extent of the basis thereof attributable

to construction, reconstruction, or erection after such date), in taxable years beginning after such date.

(2) The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1975. Such amendments shall not apply in the case of any property with respect to which the amortization period under section 169 of the Internal Revenue Code of 1954 has begun before January 1, 1976. 26 USC 169 note.

SEC. 2113. CLARIFICATION OF STATUS OF CERTAIN FISHERMEN'S ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, etc.) is amended by redesignating subsection (g) as (h) and by inserting after subsection (f) the following new subsection: 26 USC 501.

“(g) DEFINITION OF AGRICULTURAL.—For purposes of subsection (c) (5), the term ‘agricultural’ includes the art or science of cultivating land, harvesting crops or aquatic resources, or raising livestock.”

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years ending after December 31, 1975. 26 USC 501 note.

SEC. 2114. APPLICATION OF SECTION 6013(e) OF THE INTERNAL REVENUE CODE OF 1954.

(a) IN GENERAL.—Section 3 of the Act of January 12, 1971, Public Law 91-679 (84 Stat. 2064), is amended by adding at the end thereof the following new sentences: “Upon application by a taxpayer, the Secretary of the Treasury shall redetermine the liability for tax (including interest, penalties, and other amounts) of such taxpayer for taxable years beginning after December 31, 1961, and ending before January 13, 1971. The preceding sentence shall apply solely to a taxpayer to whom the application of the provisions of section 6013(e) of the Internal Revenue Code of 1954, as added by this Act, for such taxable years is prevented by the operation of res judicata, and such redetermination shall be made without regard to such rule of law. Any overpayment of tax by such taxpayer for such taxable years resulting from the redetermination made under this Act shall be refunded to such taxpayer.” 26 USC 6013 note.

(b) EFFECTIVE DATE.—The application permitted under the amendment made by subsection (a) of this section must be filed with the Secretary of the Treasury during the first calendar year beginning after the date of the enactment of this Act. 26 USC 6013 note.

SEC. 2115. AMENDMENTS TO RULES RELATING TO LIMITATION ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS, TRANSFERS OF OIL AND GAS PROPERTY WITHIN THE SAME CONTROLLED GROUP OR FAMILY.

(a) RETAILER EXCLUSION.—Paragraph (2) of section 613A(d) (relating to the retailer exclusion) is amended by inserting “(excluding bulk sales of such items to commercial or industrial users)” after “natural gas” where it first appears, and by adding at the end thereof the following: 26 USC 613A.

“Notwithstanding the preceding sentence this paragraph shall not apply in any case where the combined gross receipts from the sale of such oil, natural gas, or any product derived therefrom, for the taxable year of all retail outlets taken into account for purposes of this paragraph do not exceed \$5,000,000. For purposes of this paragraph, sales of oil, natural gas, or any product derived from oil or natural gas shall not include sales made of such items outside the United States, if no domestic production of the taxpayer

or a related person is exported during the taxable year or the immediately preceding taxable year.”

(b) **TRANSFER RULE.**—

26 USC 613A.

(1) **IN GENERAL.**—Subparagraph (B) of section 613A(c)(9) (relating to exceptions to the transfer rule) is amended by striking out “or” at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof “, or”, and by adding at the end thereof the following new clause:

“(iii) a change of beneficiaries of a trust by reason of the death, birth, or adoption of any vested beneficiary if the transferee was a beneficiary of such trust or is a lineal descendant of the settlor or any other vested beneficiary of such trust, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust.”

(2) **CONFORMING AMENDMENTS.**—Paragraph (1) of section 613A(d) (relating to the limitation on percentage depletion based upon taxable income) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

“(A) any depletion on production from an oil or gas property which is subject to the provisions of subsection (c),”;

(B) by striking out “and” at the end of subparagraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “, and”, and

(D) by adding at the end thereof the following new subparagraph:

“(D) in the case of a trust, any distributions to its beneficiary, except in the case of any trust where any beneficiary of such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust.”

(c) **PARTNERSHIP RULES.**—

(1) Subparagraph (D) of section 613A(c)(7) (relating to the computation of depletion in the case of partnerships) is amended to read as follows:

“(D) **PARTNERSHIPS.**—In the case of a partnership, the depletion allowance shall be computed separately by the partners and not by the partnership. The partnership shall allocate to each partner his proportionate share of the adjusted basis of each partnership oil or gas property. The allocation

is to be made as of the later of the date of acquisition of the oil or gas property by the partnership, or January 1, 1975. A partner's proportionate share of the adjusted basis of partnership property shall be determined in accordance with his interest in partnership capital or income and, in the case of an agreement described in section 704(c)(2) (relating to effect of a partnership agreement on contributed property), such share shall be determined by taking such agreement into account. Each partner shall separately keep records of his share of the adjusted basis in each oil and gas property of the partnership, adjust such share of the adjusted basis for any depletion taken on such property, and use such adjusted basis each year in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the partnership. For purposes of section 732 (relating to basis of distributed property other than money), the partnership's adjusted basis in mineral property shall be an amount equal to the sum of the partners' adjusted basis in such property as determined under this paragraph."

(2) Subparagraph (G) of section 703(a)(2) (relating to deductions not allowed to a partnership) is amended by striking out "production subject to the provisions of section 613A(c)" and inserting in lieu thereof "wells". 26 USC 703.

(3) Subsection (a) of section 705 (relating to the determination of basis of a partner's interest in a partnership) is amended— 26 USC 705.

(A) by striking out "and" in paragraph (1)(C),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following:

"(3) decreased (but not below zero), by the amount of the partner's deduction for depletion under section 611 with respect to oil and gas wells."

(d) RELATED PERSON.—Paragraph (3) of section 613A(d) (relating to the definition of related person) is amended by adding at the end thereof the following: 26 USC 613A.

"For purposes of determining a significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be."

(e) TRANSFERS OF OIL AND GAS PROPERTY WITHIN THE SAME CONTROLLED GROUP OR FAMILY.—Subparagraph (B) of section 613A(c)(9) (relating to transfer of oil or gas property), as amended by subsection (b)(1), is amended—

(1) by striking out "or" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following:

"(iv) a transfer of property between corporations which are members of the same controlled group of corporations (as defined in paragraph (8)(D)(i)), or

"(v) a transfer of property between business entities which are under common control (within the meaning of paragraph (8)(B)) or between related persons in the same family (within the meaning of paragraph (8)(C)), or

“(vi) a transfer of property between a trust and related persons in the same family (within the meaning of paragraph (8)(C)) to the extent that the beneficiaries of that trust are and continue to be related persons in the family that transferred the property, and to the extent that the tentative oil quantity is allocated among the members of the family (within the meaning of paragraph (8)(C)).

Clause (iv) or (v) shall apply only so long as the tentative oil quantity determined under the table contained in paragraph (3)(B) is allocated under paragraph (8) between the transferor and transferee.”

26 USC 613A
note.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1975, and shall apply to taxable years ending after December 31, 1974.

SEC. 2116. IMPLEMENTATION OF FEDERAL-STATE TAX COLLECTION ACT OF 1972.

26 USC 6361
note.

(a) **ELECTION BY STATES TO PARTICIPATE.**—Section 204(b)(2) of the Federal-State Tax Collection Act of 1972 is amended to read as follows:

“(2) the first January 1 which is more than one year after the first date on which at least one State has notified the Secretary of the Treasury or his delegate of an election to enter into an agreement under section 6363 of such Code.”

(b) **ADJUSTMENTS TO QUALIFIED RESIDENT TAXES FOR PURPOSES OF FEDERAL COLLECTION OF STATE INDIVIDUAL INCOME TAXES.**—

26 USC 6362.

(1) **QUALIFIED RESIDENT TAX BASED ON TAXABLE INCOME.**—

(A) **REQUIRED ADJUSTMENTS.**—Section 6362(b)(1) (relating to required adjustments) is amended—

- (i) by striking out “and” at the end of subparagraph (B),
- (ii) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “, and”, and
- (iii) by adding at the end thereof the following new subparagraph:

“(D) if a credit is allowed against such tax for State or local sales tax in accordance with paragraph (2)(C), by adding an amount equal to the amount of his deduction under section 164(a)(4) for such sales tax.”

(B) **PERMITTED ADJUSTMENTS.**—Section 6362(b)(2) (relating to permitted adjustments) is amended by adding at the end thereof the following new subparagraph:

“(C) A credit is allowed against such tax for all or a portion of any general sales tax imposed by the same State or a political subdivision thereof with respect to sales to the taxpayer or his dependents.”

(2) **QUALIFIED RESIDENT TAX WHICH IS A PERCENTAGE OF THE FEDERAL TAX.**—

(A) **PERMITTED ADJUSTMENTS.**—Section 6362(c)(3) (relating to permitted adjustments) is amended—

- (i) by striking out “both” and inserting in lieu thereof “all”,
- (ii) by striking out “and” at the end of subparagraph (A),

- (iii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof “, and”, and
- (iv) by adding at the end thereof the following new subparagraph:

“(C) if a credit is allowed against such tax for State or local sales tax in accordance with paragraph (4)(B), the liability for tax is increased by the increase in such liability which would result from including as an item of income an amount equal to the amount of his deduction under section 164(a)(4) for such sales tax.”

(B) FURTHER PERMITTED ADJUSTMENTS.—Section 6362(c) 26 USC 6362.
(4) (relating to further permitted adjustments) is amended to read as follows:

“(4) FURTHER PERMITTED ADJUSTMENTS.—A tax which otherwise meets the requirements of paragraphs (1) and (2) shall not be deemed to fail to meet such requirements solely because it provides for one or both of the following adjustments:

“(A) A credit determined under rules prescribed by the Secretary is allowed against such tax for income tax paid to another State or a political subdivision thereof.

“(B) A credit is allowed against such tax for all or a portion of any general sales tax imposed by the same State or a political subdivision thereof with respect to sales to the taxpayer or his dependents.”

(c) PROHIBITION ON CHARGES FOR FEDERAL COLLECTION OF STATE INCOME TAXES.—Section 6361(a) (relating to general rules for Federal collection and administration of State individual income taxes) is amended by inserting, after the first sentence thereof, the following: “No fee or other charge shall be imposed upon any State for the collection or administration of the qualified State individual income taxes of such State or any other State.” 26 USC 6361.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 26 USC 6361 note.

SEC. 2117. CANCELLATION OF CERTAIN STUDENT LOANS.

26 USC 61 note.

(a) IN GENERAL.—In the case of an individual, no amount shall be included in gross income for purposes of section 61 of the Internal Revenue Code of 1954 by reason of the discharge of all or part of the indebtedness of the individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain geographical areas or for certain classes of employers.

(b) STUDENT LOAN.—For purposes of this section the term “student loan” means any loan to an individual to assist the individual in attending an educational organization described in section 170(b)(1) “Student loan.”

(A) (ii) of such Code—

(1) by the United States, or an instrumentality or agency thereof, or a State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia, or

(2) by any such educational organization pursuant to an agreement with the United States, or an instrumentality or agency thereof, or a State, territory, or possession of the United States, or any political subdivision thereof, or the District of Columbia under which the funds from which the loan was made were provided to such educational organization.

26 USC 61 note. (c) **EFFECTIVE DATE.**—The provisions of this section shall apply to discharges of indebtedness made before January 1, 1979.

SEC. 2118. TREATMENT OF GAIN OR LOSS ON SALES OR EXCHANGES IN CONNECTION WITH SIMULTANEOUS LIQUIDATION OF A PARENT AND SUBSIDIARY CORPORATION.

26 USC 337. (a) **IN GENERAL.**—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding the following sentence at the end of subsection (c) (2) thereof:

“This paragraph shall not apply to a sale or exchange by a member of an affiliated group of corporations, as defined in section 1504(a) (but without regard to the exceptions contained in section 1504(b)), if each member of such group (including the common parent corporation) which receives, within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the corporation which made the sale or exchange, a distribution in complete liquidation from any other member of such group is itself completely liquidated within such 12-month period.”

26 USC 337 note. (b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

26 USC 61 note. **SEC. 2119. REGULATIONS RELATING TO TAX TREATMENT OF CERTAIN PREPUBLICATION EXPENDITURES OF PUBLISHERS.**

(a) **GENERAL RULE.**—With respect to taxable years beginning on or before the date on which regulations dealing with prepublication expenditures are issued after the date of the enactment of this Act, the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to any prepublication expenditure shall be administered—

(1) without regard to Revenue Ruling 73-395, and

(2) in the manner in which such sections were applied consistently by the taxpayer to such expenditures before the date of the issuance of such revenue ruling.

(b) **REGULATIONS TO BE PROSPECTIVE ONLY.**—Any regulations issued after the date of the enactment of this Act which deal with the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1954 to prepublication expenditures shall apply only with respect to taxable years beginning after the date on which such regulations are issued.

(c) **PREPUBLICATION EXPENDITURES DEFINED.**—For purposes of this section, the term “prepublication expenditures” means expenditures paid or incurred by the taxpayer (in connection with his trade or business of publishing) for the writing, editing, compiling, illustrating, designing, or other development or improvement of a book, teaching aid, or similar product.

SEC. 2120. CONTRIBUTIONS IN AID OF CONSTRUCTION FOR CERTAIN UTILITIES.

26 USC 118. (a) **IN GENERAL.**—Section 118 (relating to contributions to the capital of a corporation) is amended by redesignating subsection (b) as subsection (c) and inserting immediately after subsection (a) the following new subsection:

“(b) **CONTRIBUTIONS IN AID OF CONSTRUCTION.**—

Definition. “(1) **GENERAL RULE.**—For purposes of this section, the term ‘contribution to the capital of the taxpayer’ includes any amount

of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

“(A) such amount is a contribution in aid of construction,

“(B) where the contribution is in property which is other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

“(C) such amounts (or any property acquired or constructed with such amounts) are not included in the taxpayer's rate base for rate-making purposes.

“(2) **EXPENDITURE RULE.**—An amount meets the requirements of this paragraph if—

“(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

“(i) which was the purpose motivating the contribution, and

“(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

“(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

“(C) accurate records are kept of the amounts contributed and expenditures made on the basis of the project for which the contribution was made and on the basis of the year of contribution or expenditure.

“(3) **DEFINITIONS.**—For purposes of this section—

“(A) **CONTRIBUTION IN AID OF CONSTRUCTION.**—The term ‘contribution in aid of construction’ shall be defined by regulations prescribed by the Secretary; except that such term shall not include amounts paid as customer connection fees (including amounts paid to connect the customer's property to a main water or sewer line and amounts paid as service charges for starting or stopping services).

“(B) **PREDOMINANTLY.**—The term ‘predominantly’ means 80 percent or more.

“(C) **REGULATED PUBLIC UTILITY.**—The term ‘regulated public utility’ has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

“(4) **DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.**—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, the expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.”

(b) **CONFORMING AMENDMENT.**—Section 362(c) (relating to special rule for contributions to capital) is amended by adding the following new paragraph immediately after paragraph (2):

“(3) **EXCEPTION FOR CONTRIBUTIONS IN AID OF CONSTRUCTION.**—

The provisions of this subsection shall not apply to contributions in aid of construction to which section 118(b) applies.”

(c) **EFFECTIVE DATE.**—The amendments made by this section apply to contributions made after January 31, 1976.

26 USC 362.

Ante, p. 1912.
26 USC 118
note.

SEC. 2121. PROHIBITION OF DISCRIMINATORY STATE TAXES ON PRODUCTION AND CONSUMPTION OF ELECTRICITY.

(a) **IN GENERAL.**—The Act entitled “An Act relating to the power of the States to impose net income taxes on income derived from interstate commerce, and authorizing studies by congressional committees of matters pertaining thereto”, approved September 14, 1959 (73 Stat. 555; 15 U.S.C. 381 et seq.) is amended by striking out title II (relating to studies) and inserting in lieu thereof the following:

“TITLE II—DISCRIMINATORY TAXES

15 USC 391.

“Sec. 201. No State, or political subdivision thereof, may impose or assess a tax on or with respect to the generation or transmission of electricity which discriminates against out-of-State manufacturers, producers, wholesalers, retailers, or consumers of that electricity. For purposes of this section a tax is discriminatory if it results, either directly or indirectly, in a greater tax burden on electricity which is generated and transmitted in interstate commerce than on electricity which is generated and transmitted in intrastate commerce.”

15 USC 391
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect beginning June 30, 1974.

SEC. 2122. ALLOWANCE OF DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS FOR THE HANDICAPPED.

(a) **IN GENERAL.**—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

26 USC 190.

“SEC. 190. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.

“(a) **TREATMENT AS EXPENSES.**—

“(1) **IN GENERAL.**—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

“(2) **ELECTION.**—An election under paragraph (1) shall be made at such time and in such manner as the Secretary prescribes by regulations.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.**—The term ‘architectural and transportation barrier removal expenses’ means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

“(2) **QUALIFIED ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSE.**—The term ‘qualified architectural and transportation barrier removal expense’ means, with respect to any such facility or public transportation vehicle, an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Archi-

tectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

“(3) **HANDICAPPED INDIVIDUAL.**—The term ‘handicapped individual’ means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

“(c) **LIMITATION.**—The deduction allowed by subsection (a) for any taxable year shall not exceed \$25,000.

“(d) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section within 180 days after the date of the enactment of the Tax Reform Act of 1976.”

Ante, p. 1520.

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(1) The table of sections for such part VI is amended by adding at the end thereof the following new item:

“Sec. 190. Expenditures to remove architectural and transportation barriers to the handicapped and elderly.”

(2) Section 263(a)(1) (relating to capital expenditures) is amended— 26 USC 263.

(A) by striking out “or” at the end of subparagraph (D) thereof,

(B) by striking out the period at the end of subsection (E) thereof and inserting in lieu thereof a comma and the word “or”, and

(C) by adding at the end thereof the following new subparagraph:

“(F) expenditures for removal of architectural and transportation barriers to the handicapped and elderly which the taxpayer elects to deduct under section 190.”

(3) Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended— 26 USC 1245.

(A) by striking out “or 188” each place it appears in paragraphs (2) and (3) (D) and inserting in lieu thereof “188, or 190”,

(B) by striking out “or 185” in paragraph (2) (D) and inserting in lieu thereof “185, or 190”; and

(C) by adding at the end of paragraph (2) the following new sentence: “For purposes of this section, any deduction allowable under section 190 shall be treated as if it were a deduction allowable for amortization.”

(4) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out “or 188” and inserting in lieu thereof “188, or 190”. 26 USC 1250.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1976, and before January 1, 1980. 26 USC 190 note.

SEC. 2123. HIGH INCOME TAXPAYER REPORT.

26 USC 56 note.

The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth in three ways:

(1) by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income,

(2) by subtracting any investment expenses incurred in the production of such income to the extent of the investment income, and

(3) by making both of the adjustments referred to in paragraphs (1) and (2).

In any event these data are to include the number of such individuals with total income over \$200,000 who owe no Federal income tax (after credits) and the deductions, exclusions or credits used by them to avoid tax.

SEC. 2124. TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.

(a) **AMORTIZATION OF REHABILITATION EXPENDITURES.**—

(1) **ALLOWANCE OF DEDUCTION.**—Part VI of subchapter B of chapter 1 (relating to itemized deductions) is amended by adding at the end thereof the following new section:

26 USC 191.

“SEC. 191. AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES FOR CERTIFIED HISTORIC STRUCTURES.

“(a) **ALLOWANCE OF DEDUCTION.**—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified historic structure (as defined in subsection (d)) based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such basis for such month provided by section 167. The 60-month period shall begin, as to any historic structure, at the election of the taxpayer, with the month following the month in which the basis is acquired, or with the succeeding taxable year.

“(b) **ELECTION OF AMORTIZATION.**—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the basis is acquired, or with the taxable year succeeding the taxable year in which such basis is acquired, shall be made by filing with the Secretary, in such manner, in such form, and within such time as the Secretary may by regulations prescribe, a statement of such election.

“(c) **TERMINATION OF AMORTIZATION DEDUCTION.**—A taxpayer who has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such certified historic structure.

“(d) DEFINITIONS.—For purposes of this section—

“(1) CERTIFIED HISTORIC STRUCTURE.—The term ‘certified historic structure’ means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 which—

“(A) is listed in the National Register,

“(B) is located in a Registered Historic District and is certified by the Secretary of the Interior as being of historic significance to the district, or

“(C) is located in an historic district designated under a statute of the appropriate State or local government if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district.

“(2) AMORTIZABLE BASIS.—The term ‘amortizable basis’ means the portion of the basis attributable to amounts expended in connection with certified rehabilitation.

“(3) CERTIFIED REHABILITATION.—The term ‘certified rehabilitation’ means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

“(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

“(f) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

“(g) CROSS REFERENCES.—

“(1) For rules relating to the listing of buildings and structures in the National Register and for definitions of ‘National Register’ and ‘Registered Historic District’, see section 470 et seq. of title 16 of the United States Code.

“(2) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245.”

(2) GAIN ON DISPOSITION.—Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by striking out “or 190” each place it appears and inserting in lieu thereof “190, or 191”. 26 USC 1245.

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting at the end thereof the following new item:

“Sec. 191. Amortization of certain rehabilitation expenditures for certified historic structures.”

(B) Section 642(f) (relating to amortization deductions of estates and trust) is amended by striking out “and 188” and inserting in lieu thereof “188, and 191”. 26 USC 642.

(C) Section 1082(a)(2)(B) (relating to basis for determining gain or loss) is amended by striking out “or 188” and inserting in lieu thereof “188, or 191”. 26 USC 1082.

26 USC 1250.

Ante, pp. 1914,
1916.
26 USC 191
note.

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 190" and inserting in lieu thereof "190 or 191".

(4) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to additions to capital account made after June 14, 1976 and before June 15, 1981.

(b) **DEMOLITION.**—

(1) **DISALLOWANCE OF DEDUCTIONS.**—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

26 USC 280B.

"SEC. 280B. DEMOLITION OF CERTAIN HISTORIC STRUCTURES.

"(a) **GENERAL RULE.**—In the case of the demolition of a certified historic structure (as defined in section 191(d)(1))—

"(1) no deduction otherwise allowable under this chapter shall be allowed to the owner or lessee of such structure for—

"(A) any amount expended for such demolition, or

"(B) any loss sustained on account of such demolition; and

"(2) amounts described in paragraph (1) shall be treated as properly chargeable to capital account with respect to the land on which the demolished structure was located.

"(b) **SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.**—For purposes of this section, any building or other structure located in a Registered Historic District shall be treated as a certified historic structure unless the Secretary of the Interior has certified, prior to the demolition of such structure, that such structure is not of historic significance to the district."

(2) **CLERICAL AMENDMENT.**—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280B. Demolition of certain historic structures."

26 USC 280B
note.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to demolitions commencing after June 30, 1976, and before January 1, 1981.

(c) **DEPRECIATION OF IMPROVEMENTS.**—

26 USC 167.

(1) **METHOD OF DEPRECIATION.**—Section 167 (relating to depreciation) is amended by redesignating subsection (n) as (p), and by inserting after subsection (m) the following new subsection:

"(n) **STRAIGHT LINE METHOD IN CERTAIN CASES.**—

"(1) **IN GENERAL.**—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (as defined in section 191(d)(1)) which is demolished or substantially altered (other than by virtue of a certified rehabilitation as defined in section 191(d)(3)) after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply,

"Reasonable
allowance."

"(B) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method.

"(2) **EXCEPTION.**—The limitations imposed by this subsection shall not apply to personal property."

26 USC 167
note.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1975, and before January 1, 1981.

(d) **SUBSTANTIALLY REHABILITATED PROPERTY.**—

(1) Section 167 (relating to depreciation) is amended by insert-

ing after subsection (n) (as added by subsection (c) of this section) the following new subsection:

“(o) **SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.**—

“(1) **GENERAL RULE.**—Pursuant to regulations prescribed by the Secretary, the taxpayer may elect to compute the depreciation deduction attributable to substantially rehabilitated historic property as though the original use of such property commenced with him. The election shall be effective with respect to the taxable year referred to in paragraph (2) and all succeeding taxable years.

“(2) **SUBSTANTIALLY REHABILITATED PROPERTY.**—For purposes of paragraph (1), the term ‘substantially rehabilitated historic property’ means any certified historic structure (as defined in section 191(d)(1)) with respect to which the additions to capital account for any certified rehabilitation (as defined in section 191(d)(3)) during the 24-month period ending on the last day of any taxable year, reduced by any amounts allowed or allowable as depreciation or amortization with respect thereto, exceeds the greater of—

Ante, p. 1916.

“(A) the adjusted basis of such property, or

“(B) \$5,000.

The adjusted basis of the property shall be determined as of the beginning of the first day of such 24-month period, or of the holding period of the property (within the meaning of section 1250 (e)), whichever is later.”

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply with respect to additions to capital account occurring after June 30, 1976, and before July 1, 1981.

26 USC 167
note.

(e) **TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.**—

(1) **INCOME TAX DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.**—Section 170(f)(3) (relating to charitable contributions) is amended—

26 USC 170.

(A) by striking out “or” at the end of subparagraph

(B)(i),

(B) by striking out “property.” at the end of subparagraph (B)(ii) and inserting in lieu thereof “property,”

(C) by adding after clause (ii) of subparagraph (B) the following new clauses:

“(iii) a lease on, option to purchase, or easement with respect to real property of not less than 30 years’ duration granted to an organization described in subsection

(b)(1)(A) exclusively for conservation purposes, or

“(iv) a remainder interest in real property which is granted to an organization described in subsection (b)

(1)(A) exclusively for conservation purposes.” and

(D) by adding at the end thereof the following new subparagraph:

“(C) **CONSERVATION PURPOSES DEFINED.**—For purposes of subparagraph (B), the term ‘conservation purposes’ means—

“(i) the preservation of land areas for public outdoor recreation or education, or scenic enjoyment;

“(ii) the preservation of historically important land areas or structures; or

“(iii) the protection of natural environmental systems.”.

(2) **ESTATE TAX DEDUCTION FOR TRANSFER OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATIONS PURPOSES.**—Section 2055(e)(2)

26 USC 2055.

(relating to deductions from gross estate) is amended by striking out “(other than a remainder interest in a personal residence or farm or an undivided portion of the decedent’s entire interest in property)” and inserting in lieu thereof “(other than an interest described in section 170(f)(3)(B))”.

Ante, p. 1919.

26 USC 2522.

(3) **GIFT TAX DEDUCTION FOR TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES.**—Section 2522(c)(2) (relating to deductions from taxable gifts) is amended by striking out “(other than a remainder interest in a personal residence or farm or an undivided portion of the donor’s entire interest in property)” and inserting in lieu thereof “(other than an interest described in section 170(f)(3)(B))”.

26 USC 170
note.

(4) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to contributions or transfers made after June 13, 1976, and before June 14, 1977.

SEC. 2125. AMENDMENT TO SUPPLEMENTAL SECURITY INCOME PROGRAM.

Ante, p. 782.

Section 1612(a)(2)(A)(iii) of the Social Security Act is amended by striking out “fifth month” and inserting in lieu thereof “seventeenth month”.

42 USC 1382a.

SEC. 2126. EXTENSION OF CARRY-OVER PERIOD FOR CUBAN EXPROPRIATION LOSSES

26 USC 172.

Subparagraph (D) of section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out “15” and inserting in lieu thereof “20”.

26 USC 1033.

SEC. 2127. OUTDOOR ADVERTISING DISPLAYS.

(a) **IN GENERAL.**—Section 1033(g) (relating to condemnation of real property held for productive use in trade or business or for investment) is amended by adding at the end thereof the following new paragraph:

“(8) **ELECTION TO TREAT OUTDOOR ADVERTISING DISPLAYS AS REAL PROPERTY.**—

“(A) **IN GENERAL.**—A taxpayer may elect, at such time and in such manner as the Secretary may prescribe, to treat property which constitutes an outdoor advertising display as real property for purposes of this chapter. The election provided by this subparagraph may not be made with respect to any property with respect to which the credit allowed by section 38 (relating to investment in certain depreciable property) is or has been claimed or with respect to which an election under section 179(a) (relating to additional first-year depreciation allowance for small business) is in effect.

“(B) **ELECTION.**—An election made under subparagraph (A) may not be revoked without the consent of the Secretary.

“(C) **OUTDOOR ADVERTISING DISPLAY.**—For purposes of this paragraph, the term ‘outdoor advertising display’ means a rigidly assembled sign, display, or device permanently affixed to the ground or permanently attached to a building or other inherently permanent structure constituting, or used for the display of, a commercial or other advertisement to the public.

“(D) **CHARACTER OF REPLACEMENT PROPERTY.**—For purposes of this subsection, an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display defined in subparagraph (C) (and treated by the taxpayer as real property) shall be

considered property of a like kind as the property converted without regard to whether the taxpayer's interest in the replacement property is the same kind of interest the taxpayer held in the converted property."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1970.

26 USC 1033
note.

SEC. 2128. TAX TREATMENT OF LARGE CIGARS.

(a) **IN GENERAL.**—So much of section 5701(a) (relating to the manner of taxation and the rates of tax on cigars) as follows paragraph (1) is amended to read as follows:

26 USC 5701.

"(2) **LARGE CIGARS.**—On cigars weighing more than 3 pounds per thousand, a tax equal to 8½ percent of the wholesale price, but not more than \$20 per thousand.

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale."

(b) **DEFINITION OF WHOLESALE PRICE.**—Section 5702 is amended by adding at the end thereof the following new subsection:

26 USC 5702.

"(m) **WHOLESALE PRICE.**—'Wholesale price' means the manufacturer's, or importer's, suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by this chapter or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Secretary."

(c) **RECORDKEEPING REQUIREMENT.**—Section 5741 is amended to read as follows:

"SEC. 5741. RECORDS TO BE MAINTAINED.

26 USC 5741.

"Every manufacturer of tobacco products or cigarette papers and tubes, every importer, and every export warehouse proprietor shall keep such records in such manner as the Secretary shall by regulation prescribe. The records required under this section shall be available for inspection by any internal revenue officer during business hours."

(d) **CLERICAL AMENDMENTS.**—

(1) The heading of subchapter D of chapter 52 is amended to read as follows:

"Subchapter D—Records of Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes, and Export Warehouse Proprietors".

(2) The table of subchapters for chapter 52 is amended by striking out the item relating to subchapter D and inserting in lieu thereof the following:

"SUBCHAPTER D. Records of manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors."

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the first month which begins more than 90 days after the date of the enactment of this Act.

26 USC 5701
note.

SEC. 2129. TREATMENT OF GAIN FROM SALES OR EXCHANGES BETWEEN RELATED PARTIES.

(a) **IN GENERAL.**—Section 1239 (relating to gain from sale of certain property between spouses or between an individual and a controlled corporation) is amended to read as follows:

26 USC 1239.

“SEC. 1239. GAIN FROM SALE OF DEPRECIABLE PROPERTY BETWEEN CERTAIN RELATED TAXPAYERS.

“(a) TREATMENT OF GAIN AS ORDINARY INCOME.—In the case of a sale or exchange of property, directly or indirectly, between related persons, any gain recognized to the transferor shall be treated as ordinary income if such property is, in the hands of the transferee, subject to the allowance for depreciation provided in section 167.

“(b) RELATED PERSONS.—For purposes of subsection (a), the term ‘related persons’ means—

“(1) a husband and wife,

“(2) an individual and a corporation 80 percent or more in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual, or

“(3) two or more corporations 80 percent or more in value of the outstanding stock of each of which is owned, directly or indirectly, by or for the same individual.

“(c) CONSTRUCTIVE OWNERSHIP OF STOCK.—Section 318 shall apply in determining the ownership of stock for purposes of this section, except that sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein.”

26 USC 1239
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act. For purposes of the preceding sentence, a sale or exchange is considered to have occurred on or before such date of enactment if such sale or exchange is made pursuant to a binding contract entered into on or before that date.

SEC. 2130. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES.

Subsection (c) of section 4 of the Act entitled an Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes, approved October 26, 1974 (88 Stat. 1457; Public Law 93-483), is amended by striking out “and 1975” and inserting in lieu thereof the following: “and 1975, and, in the case of a member of a uniformed service receiving training in programs described in subsection (a) during calendar year 1976, with respect to amounts received during calendar years 1976, 1977, 1978, and 1979.”

26 USC 117
note.

SEC. 2131. EXCHANGE FUNDS.

(a) CORPORATE REORGANIZATIONS.—Paragraph (2) of section 368(a) (special rules relating to definition of reorganization) is amended by adding at the end thereof the following new subparagraph:

26 USC 368.

“(F) CERTAIN TRANSACTIONS INVOLVING 2 OR MORE INVESTMENT COMPANIES.—

“(i) If immediately before a transaction described in paragraph (1) (other than subparagraph (E) thereof), 2 or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders)

unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of clause (ii).

“(ii) A corporation meets the requirements of this clause if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of 5 or fewer issuers. For purposes of this clause, all members of a controlled group of corporations (within the meaning of section 1563(a)) shall be treated as one issuer.

26 USC 1563.

“Investment company.”

“(iii) For purposes of this subparagraph the term ‘investment company’ means a regulated investment company, a real estate investment trust, or a corporation more than 50 percent of the value of whose total assets are stock and securities and more than 80 percent of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary’s assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

“(iv) For purposes of this subparagraph, in determining total assets there shall be excluded cash and cash items (including receivables). Government securities, and, under regulations prescribed by the Secretary, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of clause (ii) or ceasing to be an investment company.

Total assets.

“(v) This subparagraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

“(vi) If an investment company which is not diversified within the meaning of clause (ii) acquires assets of another corporation, clause (i) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation. If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B) (hereafter referred to as the ‘actual acquisition’), clause (i) shall be applied to the shareholders and security holders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for a percentage of the value of the total outstanding stock of the other corporation equal to the percentage of the value of the total outstanding stock of such investment company which such shareholders own immediately after the actual acquisition. For purposes of section 1001, the deemed acquisition or exchange referred to in the two preceding sentences shall be treated as a sale or exchange of property by the corporation and by the shareholders and security holders to which clause (i) is applied.”

26 USC 721.

(b) **PARTNERSHIPS.**—Section 721 (relating to nonrecognition of gain or loss on transfers to partnerships) is amended to read as follows:

“SEC. 721. NONRECOGNITION OF GAIN OR LOSS ON CONTRIBUTION.

“(a) **GENERAL RULE.**—No gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.

“(b) **SPECIAL RULE.**—Subsection (a) shall not apply to gain realized on a transfer of property to a partnership which would be treated as an investment company (within the meaning of section 351) if the partnership were incorporated.”

26 USC 722,
723.

(c) **CONFORMING AMENDMENT.**—Sections 722 and 723 (relating to tax basis) are each amended by striking out “contribution.” and inserting in lieu thereof “contribution increased by the amount (if any) of gain recognized to the contributing partner at such time.”

26 USC 584.

(d) **COMMON TRUST FUNDS.**—Subsection (e) of section 584 (relating to admission to and withdrawal from a common trust fund) is amended by inserting after the first sentence the following new sentence: “The admission of a participant shall be treated with respect to the participant as the purchase of, or an exchange for, the participating interest.”

(e) **TRUSTS.**—

26 USC 683.

(1) **IN GENERAL.**—Section 683 (relating to applicability of provisions) is amended to read as follows:

“SEC. 683. USE OF TRUST AS AN EXCHANGE FUND.

“(a) **GENERAL RULE.**—Except as provided in subsection (b), if property is transferred to a trust in exchange for an interest in other trust property and if the trust would be an investment company (within the meaning of section 351) if it were a corporation, then gain shall be recognized to the transferor.

“(b) **EXCEPTION FOR POOLED INCOME FUNDS.**—Subsection (a) shall not apply to any transfer to a pooled income fund (within the meaning of section 642(c)(5)).”

(2) **CONFORMING AMENDMENT.**—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by striking out the item relating to section 683 and inserting in lieu thereof the following:

“Sec. 683. Use of trust as an exchange fund.”

(f) **EFFECTIVE DATES.**—

26 USC 368
note.

(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(2) The amendment made by subsection (a) shall not apply to transfers made in accordance with a ruling issued by the Internal Revenue Service before February 18, 1976, holding that a proposed transaction would be a reorganization described in paragraph (1) of section 368(a) of the Internal Revenue Code of 1954.

26 USC 721
note.

(3) Except as provided in paragraph (4), the amendments made by subsections (b) and (c) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(4) The amendments made by subsections (b) and (c) shall not apply to transfers to a partnership made on or before the 90th day after the date of the enactment of this Act if—

(A) either—

- (i) a ruling request with respect to such transfers was filed with the Internal Revenue Service before March 27, 1976, or
- (ii) a registration statement with respect to such transfers was filed with the Securities and Exchange Commission before March 27, 1976,
- (B) the securities transferred were deposited on or before the 60th day after the date of the enactment of this Act, and
- (C) either—
 - (i) the aggregate value (determined as of the close of the 60th day referred to in subparagraph (B), or, if earlier, the close of the deposit period) of the securities so transferred does not exceed \$100,000,000, or
 - (ii) the securities transferred were all on deposit on February 29, 1976, pursuant to a registration statement referred to in subparagraph (A) (ii).

(5) If no registration statement was required to be filed with the Securities and Exchange Commission with respect to the transfer of securities to any partnership, then paragraph (4) shall be applied to such transfers—

26 USC 721
note.

(A) as if paragraph (4) did not contain subparagraph (A) (ii) thereof, and

(B) by substituting “\$25,000,000” for “\$100,000,000” in subparagraph (C) (i) thereof.

(6) The amendments made by subsections (d) and (e) shall take effect on April 8, 1976, in taxable years ending on or after such date.

26 USC 584
note.

SEC. 2132. CONTRIBUTIONS OF CERTAIN GOVERNMENT PUBLICATIONS.

(a) IN GENERAL.—Section 1221 (relating to definition of capital asset) is amended by—

26 USC 1221.

(1) striking out “or” at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof “; or”, and

(3) adding after paragraph (5) the following new paragraph:

“(6) a publication of the United States Government (including the Congressional Record) which is received from the United States Government or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by—

“(A) a taxpayer who so received such publication, or

“(B) a taxpayer in whose hands the basis of such publication is determined, for purposes of determining gain from a sale or exchange, in whole or in part by reference to the basis of such publication in the hands of a taxpayer described in subparagraph (A).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales, exchanges, and contributions made after the date of enactment of this Act.

26 USC 1221
note.

SEC. 2133. TAX INCENTIVES STUDY.

(a) STUDY.—The Joint Committee on Taxation, in consultation with the Treasury, shall make a full and complete study and comparative analysis of the cost effectiveness of different kinds of tax incentives, including an analysis and study of the most effective way to use tax cuts in a period of business recession to provide a stimulus to the economy.

26 USC 8022
note.

(b) **REPORT.**—The Joint Committee on Taxation shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives a final report of its study and investigation together with its recommendations, including recommendations for legislation, as it deems advisable.

(c) **REPORTING DATE.**—The final report called for in subsection (b) of this section shall be submitted no later than September 30, 1977.

SEC. 2134. PREPAID LEGAL EXPENSES.

(a) **EXCLUSION.**—Part III of subchapter B of chapter 1 is amended by inserting after section 119 the following new section:

26 USC 120.

“SEC. 120. AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

“(a) EXCLUSION BY EMPLOYEE FOR CONTRIBUTIONS AND LEGAL SERVICES PROVIDED BY EMPLOYER.—Gross income of an employee, his spouse, or his dependents, does not include—

“(1) amounts contributed by an employer on behalf of an employee, his spouse, or his dependents under a qualified group legal services plan (as defined in subsection (b)); or

“(2) the value of legal services provided, or amounts paid for legal services, under a qualified group legal services plan (as defined in subsection (b)) to, or with respect to, an employee, his spouse, or his dependents.

“(b) QUALIFIED GROUP LEGAL SERVICES PLAN.—For purposes of this section, a qualified group legal services plan is a separate written plan of an employer for the exclusive benefit of his employees or their spouses or dependents to provide such employees, spouses, or dependents with specified benefits consisting of personal legal services through prepayment of, or provision in advance for, legal fees in whole or in part by the employer, if the plan meets the requirements of subsection (c).

“(c) REQUIREMENTS.—

“(1) DISCRIMINATION.—The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, shareholders, self-employed individuals, or highly compensated.

“(2) ELIGIBILITY.—The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are described in paragraph (1). For purposes of this paragraph, there shall be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that group legal services plan benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

“(3) CONTRIBUTION LIMITATION.—Not more than 25 percent of the amounts contributed under the plan during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

“(4) NOTIFICATION.—The plan shall give notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of the status of a qualified group legal services plan.

“(5) CONTRIBUTIONS.—Amounts contributed under the plan shall be paid only (A) to insurance companies, or to organizations or persons that provide personal legal services, or indemnification against the cost of personal legal services, in exchange for a prepayment or payment of a premium, (B) to organizations or trusts described in section 501(c)(20), (C) to organizations described in section 501(c) which are permitted by that section to receive payments from an employer for support of one or more qualified group legal services plan or plans, except that such organizations shall pay or credit the contribution to an organization or trust described in section 501(c)(20), (D) as prepayments to providers of legal services under the plan, or (E) a combination of the above.

Infra.

“(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) SELF-EMPLOYED INDIVIDUAL; EMPLOYEE.—The term ‘self-employed individual’ means, and the term ‘employee’ includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

“(2) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).

“(3) ALLOCATIONS.—Allocations of amounts contributed under the plan shall be made in accordance with regulations prescribed by the Secretary and shall take into account the expected relative utilization of benefits to be provided from such contributions or plan assets and the manner in which any premium or other charge was developed.

“(4) DEPENDENT.—The term ‘dependent’ has the meaning given to it by section 152. “Dependent.”

“(5) EXCLUSIVE BENEFIT.—In the case of a plan to which contributions are made by more than one employer, in determining whether the plan is for the exclusive benefit of an employer’s employees or their spouses or dependents, the employees of any employer who maintains the plan shall be considered to be the employees of each employer who maintains the plan.

“(6) ATTRIBUTION RULES.—For purposes of this section—

“(A) ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)), and

“(B) the interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

“(7) TIME OF NOTICE TO SECRETARY.—A plan shall not be a qualified group legal services plan for any period prior to the time notification was provided to the Secretary in accordance with subsection (c)(4), if such notice is given after the time prescribed by the Secretary by regulations for giving such notice.”

(b) EXEMPT STATUS.—Section 501(c) (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph: 26 USC 501.

“(20) an organization or trust created or organized in the United States, the exclusive function of which is to form part of

Ante, p. 1926.

Ante, p. 1927.

a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in section 501(c)(20) merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan."

(c) **TECHNICAL AMENDMENT.**—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 119 the following new item:

"Sec. 120. Amounts received under qualified group legal services plans."

26 USC 120
note.

(d) **STUDY AND REPORT BY SECRETARIES OF TREASURY AND LABOR.**—

(1) A complete study and investigation with respect to the desirability and feasibility of continuing the exclusion from income of certain prepaid group legal services benefits under section 120 of the Internal Revenue Code of 1954 shall be made by the Secretary of Labor and by the Secretary of the Treasury.

Report to
President and
Congress.

(2) The Secretary of Labor and the Secretary of the Treasury shall report to the President and the Congress with respect to the study and investigation conducted under paragraph (1) not later than December 31, 1980.

26 USC 120
note.

(e) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1976, and ending before January 1, 1982.

(2) **NOTICE REQUIREMENT.**—For purposes of section 120(d)(6) of the Internal Revenue Code of 1954, the time prescribed by the Secretary of the Treasury by regulations for giving the notice required by section 120(c)(4) of such Code shall not expire before the 90th day after the day on which regulations prescribed under such section 120(c)(4) first become final.

(3) **EXISTING PLANS.**—

(A) For purposes of section 120 of the Internal Revenue Code of 1954, a written group legal services plan which was in existence on June 4, 1976, shall be considered as satisfying the requirements of subsections (b) and (c) of such section 120 for the period ending with the compliance date (determined under subparagraph (B)).

"Compliance
date."

(B) **COMPLIANCE DATE.**—For purposes of this paragraph, the term "compliance date" means—

(i) the date occurring 180 days after the date of the enactment of this Act, or

(ii) if later, in the case of a plan which is maintained pursuant to one or more agreements which the Secretary of Labor finds to be collective bargaining agreements, the earlier of December 31, 1981, or the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

SEC. 2135. SPECIAL RULE FOR CERTAIN CHARITABLE CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.

26 USC 170.

(a) **IN GENERAL.**—Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.—

"(A) QUALIFIED CONTRIBUTIONS.—For purposes of this paragraph, a qualified contribution shall mean a charitable contribution of property described in paragraph (1) or (2) of section 1221, by a corporation (other than a corporation which is an electing small business corporation within the meaning of section 1371(b)) to an organization which is described in section 501(c)(3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), but only if—

26 USC 1221.

"(i) the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501 and the property is to be used by the donee solely for the care of the ill, the needy, or infants;

"(ii) the property is not transferred by the donee in exchange for money, other property, or services;

"(iii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (i) and (ii); and

"(iv) in the case where the property is subject to regulation under the Federal Food, Drug, and Cosmetic Act, as amended, such property must fully satisfy the applicable requirements of such Act and regulations promulgated thereunder on the date of transfer and for one hundred and eighty days prior thereto.

26 USC 301.

"(B) AMOUNT OF REDUCTION.—The reduction under paragraph (1)(A) for any qualified contribution (as defined in subparagraph (A)) shall be no greater than the sum of—

"(i) one-half of the amount computed under paragraph (1)(A) (computed without regard to this paragraph), and

"(ii) the amount (if any) by which the charitable contribution deduction under this section for any qualified contribution (computed by taking into account the amount determined in clause (i), but without regard to this clause) exceeds twice the basis of such property.

"(C) This paragraph shall not apply to so much of the amount of the gain described in paragraph (1)(A) which would be long-term capital gain but for the application of sections 617, 1245, 1250, 1251, or 1252."

(b) EFFECTIVE DATE.—The amendment made by this section applies to charitable contributions made after the date of enactment of this Act, in taxable years ending after such date.

26 USC 170 note.

SEC. 2136. TAX TREATMENT OF THE GRANTOR OF OPTIONS OF STOCK, SECURITIES, AND COMMODITIES.

(a) Section 1234 (relating to options to buy or sell) is amended to read as follows:

26 USC 1234.

"SEC. 1234. OPTIONS TO BUY OR SELL.

"(a) TREATMENT OF GAIN OR LOSS IN THE CASE OF THE PURCHASER.—

"(1) GENERAL RULE.—Gain or loss attributable to the sale or exchange of, or loss attributable to failure to exercise, an option

to buy or sell property shall be considered gain or loss from the sale or exchange of property which has the same character as the property to which the option relates has in the hands of the taxpayer (or would have in the hands of the taxpayer if acquired by him).

“(2) SPECIAL RULE FOR LOSS ATTRIBUTABLE TO FAILURE TO EXERCISE OPTION.—For purposes of paragraph (1), if loss is attributable to failure to exercise an option, the option shall be deemed to have been sold or exchanged on the day it expired.

“(3) NONAPPLICATION OF SUBSECTION.—This subsection shall not apply to—

“(A) an option which constitutes property described in paragraph (1) of section 1221;

“(B) in the case of gain attributable to the sale or exchange of an option, any income derived in connection with such option which, without regard to this subsection, is treated as other than gain from the sale or exchange of a capital asset; and

“(C) a loss attributable to failure to exercise an option described in section 1233(c).

“(b) TREATMENT OF GRANTOR OF OPTION IN THE CASE OF STOCK, SECURITIES, OR COMMODITIES.—

“(1) GENERAL RULE.—In the case of the grantor of the option, gain or loss from any closing transaction with respect to, and gain on lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held not more than 6 months.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) CLOSING TRANSACTION.—The term ‘closing transaction’ means any termination of the taxpayer’s obligation under an option in property other than through the exercise or lapse of the option.

“(B) PROPERTY.—The term ‘property’ means stocks and securities (including stocks and securities dealt with on a ‘when issued’ basis), commodities, and commodity futures.

“(3) NONAPPLICATION OF SUBSECTION.—This subsection shall not apply to any option granted in the ordinary course of the taxpayer’s trade or business of granting options.”

26 USC 1234
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options granted after September 1, 1976.

SEC. 2137. EXEMPT-INTEREST DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

26 USC 852.

(a) GENERAL.—Section 852(a) (1) (relating to regulated investment companies) is amended to read as follows:

“(1) the deduction for dividends paid during the taxable year (as defined in section 561, but without regard to capital gain dividends) equals or exceeds the sum of—

“(A) 90 percent of its investment company taxable income for the taxable year determined without regard to subsection (b) (2) (D); and

“(B) 90 percent of the excess of (i) its interest income excludable from gross income under section 103(a) (1) over (ii) its deductions disallowed under sections 265, 171(a) (2), and”.

(b) DIVIDENDS PAID DEDUCTION.—Section 852(b) (2) (D) (relating to taxable income) is amended to read as follows:

“(D) the deduction for dividends paid (as defined in section 561) shall be allowed, but shall be computed without regard to capital gain dividends and exempt-interest dividends.”

(c) **EXEMPT-INTEREST DIVIDENDS.**—Section 852(b) (relating to method of taxation of regulated investment companies and shareholders) is amended by inserting after paragraph (4) the following new paragraph (5): 26 USC 852.

“(5) **EXEMPT-INTEREST DIVIDENDS.**—If, at the close of each quarter of its taxable year, at least 50 percent of the value (as defined in section 851(c)(4)) of the total assets of the regulated investment company consists of obligations described in section 103(a)(1), such company shall be qualified to pay exempt-interest dividends, as defined herein, to its shareholders.

“(A) **DEFINITION.**—An exempt-interest dividend means any dividend or part thereof (other than a capital gain dividend) paid by a regulated investment company and designated by it as an exempt-interest dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including exempt-interest dividends paid after the close of the taxable year as described in section 855) is greater than the excess of—

“(i) the amount of interest excludable from gross income under section 103(a)(1), over

“(ii) the amounts disallowed as deductions under sections 265 and 171(a)(2),
the portion of such distribution which shall constitute an exempt-interest dividend shall be only that proportion of the amount so designated as the amount of such excess for such taxable year bears to the amount so designated.

“(B) **TREATMENT OF EXEMPT-INTEREST DIVIDENDS BY SHAREHOLDERS.**—An exempt-interest dividend shall be treated by the shareholders for all purposes of this subtitle as an item of interest excludable from gross income under section 103(a)(1). Such purposes include but are not limited to—

“(i) the determination of gross income and taxable income,

“(ii) the determination of distributable net income under subchapter J,

“(iii) the allowance of, or calculation of the amount of, any credit or deduction, and

“(iv) the determination of the basis in the hands of any shareholder of any share of the company.”

(d) **TECHNICAL AMENDMENT.**—Section 103(g), as redesignated by section 1305 of this Act (relating to exclusions from gross income of interest on certain government obligations) is amended by inserting after paragraph (23) the following new paragraph: 26 USC 103.

“(24) **Exempt-interest dividends.**—For treatment of exempt-interest dividends, see section 852(b)(5)(B).”

(e) **DISALLOWANCE OF DEDUCTIONS.**—Section 265 (relating to non-allowance of deductions for expenses and interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraphs: 26 USC 265.

“(3) CERTAIN REGULATED INVESTMENT COMPANIES.—In the case of a regulated investment company which distributes during the taxable year an exempt-interest dividend (including exempt-interest dividends paid after the close of the taxable year as described in section 855), that portion of any amount otherwise allowable as a deduction which the amount of the income of such company wholly exempt from taxes under this subtitle bears to the total of such exempt income and its gross income (excluding from gross income, for this purpose, capital gain net income, as defined in section 1222(9)).

Ante, p. 1787.

“(4) INTEREST RELATED TO EXEMPT-INTEREST DIVIDENDS.—Interest on indebtedness incurred or continued to purchase or carry shares of stock of a regulated investment company which during the taxable year of the holder thereof distributes exempt-interest dividends.”

26 USC 852
note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

SEC. 2138. COMMON TRUST FUND TREATMENT OF CERTAIN CUSTODIAL ACCOUNTS.

26 USC 584.

(a) IN GENERAL.—Section 584(a) (1) (relating to definition of common trust fund) is amended to read as follows:

“(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity—

“(A) as a trustee, executor, administrator, or guardian, or

“(B) as a custodian of accounts—

“(i) which the Secretary determines are established pursuant to a State law which is substantially similar to the Uniform Gifts to Minors Act as published by the American Law Institute, and

“(ii) with respect to which the bank establishes, to the satisfaction of the Secretary, that it has duties and responsibilities similar to duties and responsibilities of a trustee or guardian; and”.

SEC. 2139. SUPPORT TEST FOR DEPENDENT CHILDREN OF DIVORCED ETC., PARENTS.

26 USC 152.

(a) IN GENERAL.—Section 152 (relating to definition of dependents) is amended by striking the word “all” in subsection (e) (2) (B) (i) thereof and inserting in lieu thereof “each”.

26 USC 152
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2140. INVOLUNTARY CONVERSION OF REAL PROPERTY.

26 USC 1033.

(a) IN GENERAL.—Section 1033(g) (relating to involuntary conversions), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

“(4) SPECIAL RULE.—In the case of a compulsory or involuntary conversion described in paragraph (1), subsection (a) (3) (B) (i) shall be applied by substituting ‘3 years’ for ‘2 years’.”.

26 USC 1033
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any disposition of converted property (within the meaning of section 1033(a) (2) of the Internal Revenue Code of 1954) after December 31, 1974, unless a condemnation proceeding with respect to such property began before the date of the enactment of this Act.

SEC. 2141. LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) **IN GENERAL.**—Section 451 (relating to general rules for taxable year of inclusion) is amended by adding at the end thereof the following new subsection: 26 USC 451.

“(e) **SPECIAL RULE FOR PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.**—

“(1) **IN GENERAL.**—In the case of income derived from the sale or exchange of livestock (other than livestock described in section 1231(b)(3)) in excess of the number the taxpayer would sell if he followed his usual business practices, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs if he establishes that, under his usual business practices, the sale or exchange would not have occurred in the taxable year in which it occurred if it were not for drought conditions, and that these drought conditions had resulted in the area being designated as eligible for assistance by the Federal Government.

“(2) **LIMITATION.**—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3)).”

(b) **EFFECTIVE DATE.**—The amendment made by this section applies to taxable years beginning after December 31, 1975. 26 USC 451 note.

Approved October 4, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-658 (Comm. on Ways and Means) and No. 94-1515 (Comm. of Conference).

SENATE REPORTS: No. 94-938 and No. 94-938, Part 2 (Comm. on Finance) and No. 94-1236 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 3, 4, considered and passed House.

Vol. 122 (1976): June 16-18, 21-25, 28-30, July 1, 20-23, 26-30, Aug. 3-6, considered and passed Senate, amended.

Sept. 16, House and Senate agreed to conference report, resolved amendments in disagreement.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 41 (1976): Oct. 4, Presidential statement.

Public Law 94-456
94th Congress

An Act

Oct. 4, 1976
[S. 3651]

To amend the Alaska Native Claims Settlement Act to provide for the withdrawal of lands for the village of Klukwan, Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 16(a) of the Alaska Native Claims Settlement Act (85 Stat. 688, 705, as amended; 43 U.S.C. 1604, 1615) is further amended by striking "Klukwan, Southeast."

(b) Section 16(d) of such Act is amended to read as follows:

"(d)(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 3 of this Act, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h)(8) of this Act: *Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957 (71 Stat. 597), after December 18, 1971, and prior to January 2, 1976.

"(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of the date of enactment of this paragraph and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for selection by, any other Native Corporation organized pursuant to this Act, or located on Admiralty Island."

Klukwan
Village, Alaska.
Additional land.

Withdrawal of
public lands.

43 USC 1602.

43 USC 1618.

43 USC 1613.

SEC. 2. Notwithstanding any other provision of law, the Secretary is hereby authorized and directed to convey immediately to the State of Alaska, subject to valid existing rights, the following described lands for park, recreation, airport, or other public purposes:

Seward Meridan, Alaska

T. 13 N., R. 4 W.

Section 28, $E\frac{1}{2}W\frac{1}{2}$, $E\frac{1}{2}W\frac{1}{2}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$,
 $E\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}$, $E\frac{1}{2}W\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$,
 $E\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$.

Containing 265 acres, more or less.

SEC. 3. The first sentence of subsection 12(b) of the Act of January 2, 1976 (89 Stat. 1145, 1151), is amended by changing the matter preceding the first colon to read as follows:

43 USC 1611
note.

“(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled ‘Terms and Conditions for Land Consolidation and Management in Cook Inlet Area’, which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, and clarified on August 31, 1976, the terms of which, as clarified, are hereby incorporated herein and ratified as to the duties and obligations of the United States and the Region, as a matter of Federal law.”.

SEC. 4. (a) The Secretary is authorized to convey lands under application for selection by Village Corporations within Cook Inlet Region to the Cook Inlet Region, Incorporated, for reconveyance by the Region to such Village Corporations. Such lands shall be conveyed as partial satisfaction of the statutory entitlement of such Village Corporations from lands withdrawn pursuant to section 11(a) (3) of the Alaska Native Claims Settlement Act (hereinafter, “The Settlement Act”), and with the consent of the Region affected, as provided in section 12 of the Act of January 2, 1976 (89 Stat. 1145, 1150), from lands outside the boundaries of Cook Inlet Region. This authority shall not be employed to increase or decrease the statutory entitlement of any Village Corporation or Cook Inlet Region, Incorporated. For the purposes of counting acres received in computing statutory entitlement, the Secretary shall count the number of acres or acre selections surrendered by Village Corporations in any exchange for any other lands or selections.

Land conveyance.
43 USC 1611
note.

43 USC 1610.

(b) The Secretary shall not be required to survey any land conveyed pursuant to subsection 4(a) until the Village Corporation entitlement for all eligible Village Corporations has been conveyed. With respect to the conveyances made by the Secretary in the manner authorized by subsection 4(a), the Secretary shall survey the exterior boundaries of each entire area conveyed to Cook Inlet Region, Incorporated, pursuant to subsection 4(a) and monument to boundary lines at angle points and intervals of approximately two miles on straight lines. The Secretary shall not be required to provide ground survey or monumentation along meanderable water boundaries. Each township corner located within the exterior boundary of land conveyed shall be located and monumented. Any areas within such tracts

Survey.

43 USC 1613.

43 USC 1601
note.43 USC 1611
note.43 USC 1611
note.

that are to be reconveyed pursuant to section 14(C) (1) and (2) of the Settlement Act shall also be surveyed pursuant to 43 C.F.R. 2650.

(c) Conveyances made under the authority of subsection (a) of this section shall be considered conveyances under the Settlement Act and subject to the provisions of that Act, except as provided by this Act.

SEC. 5. (a) The Secretary shall, within sixty days after the effective date of this Act, tender conveyance of the land described in subsection (b), subject to valid existing rights, to Cook Inlet Region, Incorporated. If the conveyance is accepted by the Region, such lands shall be considered 1,687.2 acre-equivalents within the meaning of paragraph I(C) (2) (e) (iii) of the Terms and Conditions as clarified August 31, 1976, and the Secretary's obligations under paragraph I(C) of those Terms and Conditions will be reduced accordingly. If, however, said section 12 of the Act of January 2, 1976, does not take effect then the entitlement of Cook Inlet Region, Incorporated, under section 12(c) shall be reduced by 8,346 acres.

(b) The land referred to in subsection (a) is described as a parcel of land located in section 7 of township 13 north, range 2 west of the Seward Meridian, Third Judicial District, State of Alaska; said parcel being all of Government lots 5 and 7 and that portion of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ lying north of the north right-of-way line of the Glenn Highway, State of Alaska, Department of Highways Project No. F-042-1 (2), and more particularly described as follows:

"Commencing at the north quarter corner of said section 7;

"thence south 00 degrees 12 minutes east, a distance of 1,320.0 feet, more or less, to the northeast corner of said southeast quarter northwest quarter;

"thence west along the north line of southeast quarter northwest quarter a distance of 94.0 feet, more or less, to the north right-of-way line of the Glenn Highway and the true point of beginning;

"thence south 53 degrees 16 minutes 15 seconds west along said north right-of-way line, a distance of 1,415.0 feet, more or less, to a point of curve being at right angles to centerline Station 216 plus 51.35;

"thence continuing along said north right-of-way line along a curve to the right with a central angle of 12 degrees 51 minutes 34 seconds, having a radius of 5,595.58 feet for an arc distance of 105.0 feet, more or less, to a point of intersection of said north right-of-way line with the west line of said southeast quarter northwest quarter;

"thence north 00 degrees 12 minutes west along said west line, being common with the east line of Government lot 5, a distance of

910.0 feet, more or less, to the northwest corner of said southeast quarter northwest quarter;

“thence east along the north line of said southeast quarter northwest quarter, a distance of 1,225.0 feet, more or less, to the point of beginning; containing 56.24 acres, more or less.”.

Approved October 4, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-1170 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 1, considered and passed Senate.

Sept. 23, considered and passed House.

Public Law 94-457
94th Congress

An Act

Oct. 5, 1976
[S. 3734]

To approve the sale of certain naval vessels, and for other purposes.

Naval vessels,
sale approval.
Presidential
terms and
conditions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President may sell, subject to such terms and conditions as he may determine and at a price not less than the value thereof in United States dollars, three destroyers to the Government of Argentina; two landing ships dock and one auxiliary repair dry dock to the Government of the Republic of China; one destroyer to the Government of Colombia; four destroyers to the Government of the Federal Republic of Germany; seven destroyers and two tank landing ships to the Government of Greece; one repair ship and one auxiliary repair dry dock to the Government of Iran; seven destroyers and one landing craft repair ship to the Government of the Republic of Korea; two destroyers to the Government of Pakistan; one landing craft repair ship and one inshore patrol craft to the Government of the Philippines; five destroyers and three tank landing ships to the Government of Spain; one landing craft repair ship, one tank landing ship, and one auxiliary repair dry dock to the Government of Venezuela.

Expenses.
Authority
termination.

(b) All expenses involved in the sales authorized by this Act shall be charged to funds provided by the recipient government. The authority of the President to sell vessels under this Act shall terminate two years after the date of enactment of this Act.

SEC. 2. Subsection (b) (1) of section 7307 of title 10, United States Code, is amended by striking out "2,000" and inserting in lieu thereof "3,000".

Approved October 5, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1646 (Comm. on Armed Services).
SENATE REPORT No. 94-1123 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Aug. 25, considered and passed Senate.
Sept. 27, considered and passed House.

Public Law 94-458
94th Congress

An Act

To amend the Act approved August 18, 1970, providing for improvement in the administration of the National Park System by the Secretary of the Interior and clarifying authorities applicable to the National Park System, and for other purposes.

Oct. 7, 1976
[S. 3430]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 3 of the Act approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.), is amended as follows:

National Park
System.
Administration;
authority
clarification.
16 USC 1a-2.

(1) In subsection (e), after "within an area of the national park system," insert "as long as such activity does not jeopardize or unduly interfere with the primary natural or historic resource of the area involved."

(2) At the end of subsection (g), change the period to a semicolon and add the following new subsections:

"(h) promulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States: *Provided*, That any regulations adopted pursuant to this subsection shall be complementary to, and not in derogation of, the authority of the United States Coast Guard to regulate the use of waters subject to the jurisdiction of the United States;

Regulations.
16 USC 1a-2.

"(i) provide meals and lodging, as the Secretary deems appropriate, for members of the United States Park Police and other employees of the National Park Service, as he may designate, serving temporarily on extended special duty in areas of the National Park System, and for this purpose he is authorized to use funds appropriated for the expenses of the Department of the Interior."

U.S. Park
Police, meals
and lodging.

SEC. 2. Such Act of August 18, 1970, is further amended by adding the following new sections:

"SEC. 5. Section 11 of the Act of May 26, 1930 (46 Stat. 383; 16 U.S.C. 17j), is amended to read as follows:

"SEC. 11. In the administration of the National Park System, the Secretary of the Interior is authorized, under regulations prescribed by him, to pay (a) the traveling expenses of employees, including the costs of packing, crating, and transporting (including draying) their personal property, upon permanent change of station of such employees and (b) the traveling expenses as aforesaid of dependents of deceased employees (i) to the nearest housing reasonably available and of a standard not less than that which is vacated, and to include compensation for not to exceed sixty days rental cost thereof, in the case of an employee who occupied Government housing and the death of such employee requires that housing to be promptly vacated, and (ii) to the nearest port of entry in the conterminous forty-eight States in the case of an employee whose last permanent station was outside the conterminous forty-eight States."

Employees,
traveling
expenses.

"SEC. 6. Notwithstanding any other provision of law, the Secretary of the Interior may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, part of the legislative juris-

Legislative
jurisdiction,
relinquishment.
16 USC 1a-3.

Proposed
agreement,
submittal to
congressional
committees.

diction of the United States over National Park System lands or interests therein in that State, Commonwealth, territory, or possession: *Provided*, That prior to consummating any such relinquishment, the Secretary shall submit the proposed agreement to the Committees on Interior and Insular Affairs of the United States Congress, and shall not finalize such agreement until sixty calendar days after such submission shall have elapsed. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide. The Secretary shall diligently pursue the consummation of arrangements with each State, Commonwealth, territory, or possession within which a unit of the National Park System is located to the end that insofar as practicable the United States shall exercise concurrent legislative jurisdiction within units of the National Park System.

Uniform
allowance.
16 USC 1a-4.

"SEC. 7. Notwithstanding subsection 5901 (a) of title 5, United States Code (80 Stat. 508), as amended, the uniform allowance for uniformed employees of the National Park Service may be up to \$400 annually.

Investigation
and study.
16 USC 1a-5.

"SEC. 8. The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of listing are not included in the National Park System. The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document.

Reports to
Speaker of the
House and
President of
the Senate.

Annual listing,
transmittal to
Speaker of the
House and
President of
the Senate.

Printing as
House
document.

"SEC. 9. Section 3 of the Act of August 21, 1935 (49 Stat. 666, 667; 16 U.S.C. 461, 463), is amended to read as follows:

National Park
System
Advisory
Board.
Establishment.
16 USC 463.

"SEC. 3. (a) A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed eleven persons, citizens of the United States, to include but not be limited to representatives competent in the fields of history, archaeology, architecture, and natural science, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary

but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument.

“(b) The National Park System Advisory Board shall continue to exist until January 1, 1990. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.”

Termination.

5 USC app. I.

“SEC. 10. (a) The arrest authority relating to the National Park Service is hereby amended in the following respects:

“(1) Section 3 of the Act of March 3, 1897 (29 Stat. 621; 16 U.S.C. 415), as supplemented; relating to certain arrest authority relative to national military parks, is hereby repealed;

Repeal.

“(2) The first paragraph of that portion designated ‘GENERAL EXPENSES—FOREST SERVICE’ of the Act of March 3, 1905 (33 Stat. 872; 16 U.S.C. 10, 559), as amended, relating in part to arrest authority relative to laws and regulations applicable to forest reserves and national parks, is amended by deleting the words ‘and national park service’, ‘and national parks’, and ‘or national parks’;

“(3) Section 2 of the Act of March 2, 1933 (47 Stat. 1420; 16 U.S.C. 10a), as amended, relating to certain arrest authority for certain employees of the National Park Service, is hereby repealed; and

Repeal.

“(4) The second paragraph of section 6 of the Act of October 8, 1964 (78 Stat. 1041; 16 U.S.C. 460n-5), as amended, relating to certain arrest authority relative to the Lake Mead National Recreation Area, is hereby repealed.

Repeal.

16 USC 460m-5.

“(b) In addition to any other authority conferred by law, the Secretary of the Interior is authorized to designate, pursuant to standards prescribed in regulations by the Secretary, certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System. In the performance of such duties, the officers or employees, so designated, may—

Law and order, officers or employees to maintain.
16 USC 1a-6.

“(1) carry firearms and make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony, provided such arrests occur within that system or the person to be arrested is fleeing therefrom to avoid arrest;

“(2) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law arising out of an offense committed in that system or, where the person subject to the warrant or process is in that system, in connection with any Federal offense; and

“(3) conduct investigations of offenses against the United States committed in that system in the absence of investigation thereof by any other Federal law enforcement agency having investigative jurisdiction over the offense committed or with the concurrence of such other agency.

“(c) The Secretary of the Interior is hereby authorized to—

“(1) designate officers and employees of any other Federal agency or law enforcement personnel of any State or political subdivision thereof, when deemed economical and in the public interest and with the concurrence of that agency or that State or subdivision, to act as special policemen in areas of the National Park System when supplemental law enforcement personnel may be needed, and to exercise the powers and authority provided by paragraphs (1), (2), and (3) of subsection (b) of this section;

Cooperation.

“(2) cooperate, within the National Park System, with any State or political subdivision thereof in the enforcement of supervision of the laws or ordinances of that State or subdivision; and

“(3) provide limited reimbursement, to a State or its political subdivisions, in accordance with such regulations as he may prescribe, where the State has ceded concurrent legislative jurisdiction over the affected area of the system, for expenditures incurred in connection with its activities within that system which were rendered pursuant to paragraph (1) of this subsection.

“(4) the authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.

Law
enforcement
officer.

“(d)(1) Except as otherwise provided in this subsection, a law enforcement officer of any State or political subdivision thereof designated to act as a special policeman under subsection (c) of this section shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including, but not limited to, those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal benefits.

5 USC 8101.

“(2) For purposes of the tort claim provisions of title 28, United States Code, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section, be considered a Federal employee.

“(3) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or political subdivision thereof shall, when acting as a special policeman under subsection (c) of this section be deemed a civil service employee of the United States within the meaning of the term ‘employee’ as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

“(e) Nothing contained in this Act shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the National Park Service, and nothing shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction within the National Park System.

“SEC. 11. Section 101(a) of title I of Public Law 89-655 (80 Stat. 915; 16 U.S.C. 470a), is amended by adding thereto a new paragraph to read as follows:

“(4) to withhold from disclosure to the public, information relating to the location of sites or objects listed on the National Register whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects.”

Program,
transmittal to
congressional
committees.
16 USC 1a-7.

“SEC. 12. (a) Not later than January 15 of each calendar year, the Secretary of the Interior shall transmit to the Committees on Interior and Insular Affairs a detailed program for the development of facili-

ties, structures, or buildings for each unit of the National Park System consistent with the general management plans required in subsection (b) of this section.

“(b) General management plans for the development of each unit of the National Park System, including the areas within the national capital region, shall be prepared by the Director of the National Park Service and transmitted to the Committees on Interior and Insular Affairs. Such plans shall include:

General management plans, transmittal to congressional committees.

“(1) the facilities which the Director finds necessary to accommodate the health, safety, and recreation needs of the visiting public, including such facilities as he may deem appropriate to provide in accordance with the provisions of the Act of October 9, 1965 (79 Stat. 969);

“(2) the location and estimated cost of all such facilities; and

“(3) the projected need for any additional facilities required for such unit.

“(c) The Secretary of the Interior shall hereafter transmit to the Committees on Interior and Insular Affairs all proposed awards of concession leases and contracts involving a gross annual business of \$100,000 or more, or exceeding five years in duration (including renewals thereof), and all proposed rules and regulations relating thereto, sixty days before such awards are made or such rules and regulations are promulgated. The Act of July 14, 1956 (70 Stat. 543) is hereby repealed.”.

Concession leases and contracts, proposed awards, transmittal to congressional committees.

Repeal.
16 USC 17b-1.

Approved October 7, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1569 accompanying H.R. 11887 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1190 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 17, considered and passed Senate.

Sept. 21, considered and passed House, amended, in lieu of H.R. 11887.

Sept. 23, Senate agreed to House amendment.

Public Law 94-459
94th Congress

An Act

Oct. 8, 1976
[S. 3843]

To name the Visitors' Center at the Sleeping Bear Dunes National Lakeshore the "Philip A. Hart Visitors' Center".

Philip A. Hart
Visitors' Center,
Mich.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Visitors' Center at the Sleeping Bear Dunes National Lakeshore shall hereinafter be known as, and is hereby designated as, the "Philip A. Hart Visitors' Center".

Approved October 8, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 22, considered and passed Senate.

Sept. 27, considered and passed House.

Public Law 94-460
94th Congress

An Act

To amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations.

Oct. 8, 1976
[H.R. 9019]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Maintenance Organization Amendments of 1976".

(b) Whenever in title I an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Health
Maintenance
Organization
Amendments
of 1976.
42 USC 300e
note.

42 USC 201
note.

TITLE I—AMENDMENTS TO TITLE XIII OF THE PUBLIC
HEALTH SERVICE ACT

SUPPLEMENTAL HEALTH SERVICES

SEC. 101. (a) Section 1301(b) (1) is amended by adding at the end the following: "A health maintenance organization may include a health service, defined as a supplemental health service by section 1302(2), in the basic health services provided its members for a basic health services payment described in the first sentence."

42 USC 300e.

(b) The first sentence of section 1301(b) (2) is amended by striking out "the organization shall provide" and all that follows in that sentence and substituting "the organization may provide to each of its members any of the health services which are included in supplemental health services (as defined in section 1302(2))."

42 USC 300e-1.

(c) Section 1301(b) (4) is amended by striking out "and supplemental health services in the case of the members who have contracted therefor" and substituting "and only such supplemental health services as members have contracted for".

STAFFING

SEC. 102. (a) (1) The first sentence of section 1301(b) (3) is amended (A) by striking out "or through" and by substituting "through", (B) by striking out "(or groups) or" and substituting "(or groups), through an", and (C) by inserting after "(or associations)" the following: "through health professionals who have contracted with the health maintenance organization for the provision of such services, or through any combination of such staff, medical group (or groups), individual practice association (or associations), or health professionals under contract with the organization".

42 USC 300e.

(2) Section 1301(b) (3) is amended by adding after the first sentence the following: "A health maintenance organization may also, during the thirty-six month period beginning with the month follow-

ing the month in which the organization becomes a qualified health maintenance organization (within the meaning of section 1310(d)), provide basic and supplemental health services through an entity which but for the requirement of section 1302(4)(C)(i) would be a medical group for purposes of this title. After the expiration of such period, the organization may provide basic or supplemental health services through such an entity only if authorized by the Secretary in accordance with regulations which take into consideration the unusual circumstances of such entity. A health maintenance organization may not, in any of its fiscal years, enter into contracts with health professionals or entities other than medical groups or individual practice associations if the amounts paid under such contracts for basic and supplemental health services exceed fifteen percent of the total amount to be paid in such fiscal year by the health maintenance organization to physicians for the provision of basic and supplemental health services, or, if the health maintenance organization principally serves a rural area, thirty percent of such amount, except that this sentence does not apply to the entering into of contracts for the purchase of basic and supplemental health services through an entity which but for the requirements of section 1302(4)(C)(i) would be a medical group for purposes of this title. Contracts between a health maintenance organization and health professionals for the provision of basic and supplemental health services shall include such provisions as the Secretary may require (including provisions requiring appropriate continuing education).”

42 USC 300e-1. (b) (1) Section 1302(4)(C) is amended (A) by striking out clause (iv), (B) by redesignating clause (v) as clause (iv), and (C) by inserting “and” at the end of clause (iii).

(2) Section 1302(5)(B) is amended (A) by striking out clause (i), and (B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

OPEN ENROLLMENT

42 USC 300e. SEC. 103. (a) Section 1301(c) is amended by amending paragraph (4) to read as follows:

“(4) have an open enrollment period in accordance with the provisions of subsection (d);”.

(b) Section 1301 is amended by adding at the end thereof the following:

“(d) (1) (A) A health maintenance organization which—

“(i) has for at least 5 years provided comprehensive health services on a prepaid basis, or

“(ii) has an enrollment of at least 50,000 members, shall have at least once during each fiscal year next following a fiscal year in which it did not have a financial deficit an open enrollment period (determined under subparagraph (B)) during which it shall accept individuals for membership in the order in which they apply for enrollment and, except as provided in paragraph (2), without regard to preexisting illness, medical condition, or degree of disability.

“(B) An open enrollment period for a health maintenance organization shall be the lesser of—

“(i) 30 days, or

“(ii) the number of days in which the organization enrolls a number of individuals at least equal to 3 percent of its total net increase in enrollment (if any) in the fiscal year preceding the fiscal year in which such period is held.

For the purpose of determining the total net increase in enrollment in a health maintenance organization, there shall not be included any individual who is enrolled in the organization through a group which had a contract for health care services with the health maintenance organization at the time that such health maintenance organization was determined to be a qualified health maintenance organization under section 1310.

42 USC 300e-9.

“(2) Notwithstanding the requirements of paragraph (1) a health maintenance organization shall not be required to enroll individuals who are confined to an institution because of chronic illness, permanent injury, or other infirmity which would cause economic impairment to the health maintenance organization if such individual were enrolled.

“(3) A health maintenance organization may not be required to make the effective date of benefits for individuals enrolled under this subsection less than 90 days after the date of enrollment.

“(4) The Secretary may waive the requirements of this subsection for a health maintenance organization which demonstrates that compliance with the provisions of this subsection would jeopardize its economic viability in its service area.”.

Waiver.

DEFINITION OF SERVICES

SEC. 104. (a) (1) Paragraph (1) (H) of section 1302 is amended to read as follows:

42 USC 300e-1.

“(H) preventive health services (including (i) immunizations, (ii) well-child care from birth, (iii) periodic health evaluations for adults, (iv) voluntary family planning services, (v) infertility services, and (vi) children’s eye and ear examinations conducted to determine the need for vision and hearing correction).”.

(2) Paragraph (1) of section 1302 is amended by striking out “or podiatrist” each place it occurs and substituting “podiatrist, or other health care personnel”.

(b) Paragraph (2) of such section is amended—

(1) by striking out “under paragraph (1) (A) or (1) (H)” in subparagraphs (B) and (C);

(2) by striking out “and” at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and substituting “; and”, and by adding after subparagraph (F) the following:

“(G) other health services which are not included as basic health services and which have been approved by the Secretary for delivery as supplemental health services.”;

(3) by striking out “or podiatrist” each place it occurs and substituting “podiatrist, or other health care personnel”.

COMMUNITY RATING

SEC. 105. (a) (1) Section 1301(b) (1) is amended by adding at the end thereof the following new sentence: “In the case of an entity which before it became a qualified health maintenance organization (within the meaning of section 1310(d)) provided comprehensive health services on a prepaid basis, the requirement of clause (C) shall not apply to such entity until the expiration of the forty-eight month period beginning with the month following the month in which the entity became such a qualified health organization.”.

42 USC 300e.

- 42 USC 300e. (2) The last sentence of section 1301(b)(2) is amended by inserting before the period the following: "except that, in the case of an entity which before it became a qualified health maintenance organization
- 42 USC 300e-9. (within the meaning of section 1310(d)) provided comprehensive health services on a prepaid basis, the requirement of this sentence shall not apply to such entity during the forty-eight month period beginning with the month following the month in which the entity became such a qualified health maintenance organization".
- 42 USC 300e-5. (3) Section 1306(b) is amended (A) by striking out "and" at the end of paragraph (6), (B) by redesignating paragraph (7) as paragraph (8), and (C) by inserting after paragraph (6) the following new paragraph:
- "(7) the application contains such assurances as the Secretary may require respecting the intent and the ability of the applicant to meet the requirements of paragraphs (1) and (2) of section 1301(b) respecting the fixing of basic health services payments and supplemental health services payments under a community rating system; and"
- 42 USC 300e-1. (b) Section 1302(8)(A) is amended by inserting "differences in marketing costs and" after "reflect".
- (c) Subparagraph (B) of section 1302(8) is redesignated as subparagraph (C) and the following new subparagraph is inserted after subparagraph (A):
- "(B) Nominal differentials in such rates may be established to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers."

MEDICAL GROUP REQUIREMENTS

- 42 USC 300e-1. SEC. 106. (a) Section 1302(4)(C) is amended by striking out "(i) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for a health maintenance organization" and substituting "(i) as their principal professional activity engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility for the delivery of health services to members of a health maintenance organization".
- (b) Section 1302(4)(C)(ii) is amended by striking out "plan" and substituting "similar plan unrelated to the provision of specific health services".
- (c) 1302(4)(C) (as amended by section 102(b)(1)) is amended by—
- (1) striking "and" before "(iv)", and
 - (2) striking the period at the end of subparagraph (C) and substituting "; and (v) establish an arrangement whereby a member's enrollment status is not known to the health professional who provides health services to the member."

INCREASE IN LIMITS ON ASSISTANCE FOR FEASIBILITY SURVEYS, PLANNING, INITIAL DEVELOPMENT, AND INITIAL OPERATION

- 42 USC 300e-2. SEC. 107. (a) Section 1303(e) is amended by striking "\$50,000" and substituting "\$75,000".
- 42 USC 300e-3. (b) (1) Section 1304(f)(1)(A) is amended by striking "\$125,000" and substituting "\$200,000".
- (2) Section 1304(f)(2)(A) is amended by inserting after "\$1,000,000" the following: "or, in the case of a project for a health maintenance organization which will provide services to an additional

service area (as defined by the Secretary) or which will provide services in one or more areas which are not contiguous, \$1,600,000”.

(c) Section 1305(a) is amended by striking out “first thirty-six months” each place it occurs and substituting “first sixty months”. 42 USC 300e-4.

LOAN GUARANTEES FOR PRIVATE ENTITIES

SEC. 108. (a) Section 1304(a)(2) is amended to read as follows: 42 USC 300e-3.

“(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

“(A) nonprofit private entities for planning projects for the establishment or expansion of health maintenance organizations, or

“(B) other private entities for such projects for health maintenance organizations which will serve medically underserved populations.”.

(b) Section 1304(b)(1)(B) is amended to read as follows:

“(B) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

“(i) nonprofit private entities for projects for the initial development of health maintenance organizations, or

“(ii) other private entities for such projects for health maintenance organizations which will serve medically underserved populations.”.

(c) Section 1305(a)(3) is amended to read as follows: 42 USC 300e-4.

“(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to—

“(A) nonprofit private health maintenance organizations for the amounts referred to in paragraph (1) or (2), or

“(B) other private health maintenance organizations for such amounts but only if the health maintenance organization will serve a medically underserved population.”.

(d) (1) Section 1304(d) is amended by adding at the end the following new sentence: “In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for projects for health maintenance organizations which will serve medically underserved populations.”.

Special consideration.

(2) Section 1305 is amended by adding at the end thereof the following new subsection:

“(f) In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for health maintenance organizations which will serve medically underserved populations.”.

MISCELLANEOUS AMENDMENTS

SEC. 109. (a)(1) Section 1305(a) is amended by striking out “in the period of” in paragraphs (1) and (2) and substituting “during a period not to exceed”. 42 USC 300e-4.

(2) The last sentence of 1305(b)(1) is amended to read as follows: “In any fiscal year the amount disbursed to a health maintenance organization under this section (either directly by the Secretary or by an escrow agent under the terms of an escrow agreement or by a lender under a loan guaranteed under this section) may not exceed \$1,000,000.”.

Limitation.

- 42 USC 300e-6. (b) (1) Section 1307 (e) is amended—
 (A) by inserting “for a private health maintenance organization (other than a private nonprofit health maintenance organization)” after “may be made”, and
 (B) by inserting “for private health maintenance organizations (other than private nonprofit health maintenance organizations)” after “guaranteed”.
- 42 USC 300e-7. (2) Section 1308 (c) is amended by adding after paragraph (4) the following new paragraph:
 “(5) Any reference in this title (other than in this subsection and in subsection (d)) to a loan guarantee under this title does not include a loan guarantee made under this subsection.”
 (c) (1) Section 1308 (a) (1) (A) is amended by striking out “for similar loans” and substituting “for loans with similar maturities, terms, conditions, and security”.
 (2) Section 1308 (b) (2) (D) is amended by striking out “loans guaranteed under this title” and substituting “marketable obligations of the United States of comparable maturities, adjusted to provide for appropriate administrative charges”.
- 42 USC 300e-2. (d) (1) The last sentence of section 1303 (i) is amended—
 (A) by striking “the fiscal year ending June 30, 1974, or June 30, 1975,” and substituting “any fiscal year”; and
 (B) by striking “for projects other than those described in clause (1) of such sentence” and substituting “for any project, with priority being given to projects described in clause (1) of such sentence”.
- 42 USC 300e-3. (2) The last sentence of section 1304 (k) (1) is amended—
 (A) by striking “the fiscal year ending June 30, 1974, or June 30, 1975,” and substituting “any fiscal year”; and
 (B) by striking “for projects other than those described in clause (A) of such sentence” and substituting “for any project, with priority being given to projects described in clause (A) of such sentence”.
 (3) The last sentence of section 1304 (k) (2) is amended—
 (A) by striking “the fiscal year ending June 30, 1974, or in either of the next two fiscal years” and substituting “any fiscal year”; and
 (B) by striking “for projects other than those described in clause (A) of such sentence” and substituting “for any project, with priority being given to projects described in clause (A) of such sentence”.
 (e) Section 1304 (b) (2) (D) is amended by striking out “for such an organization” and substituting “who will engage in practice principally for the health maintenance organization”.

EMPLOYEE HEALTH BENEFITS PLANS

- 42 USC 300e-9. SEC. 110. (a) Section 1310 is amended—
 (1) by amending subsection (a) to read as follows:
 “SEC. 1310. (a) (1) In accordance with regulations which the Secretary shall prescribe—
 “(A) each employer—
 “(i) which is now or hereafter required during any calendar quarter to pay its employees the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay its employees such wage but for section 13 (a) of such Act), and
- 29 USC 206.
 29 USC 213.

“(ii) which during such calendar quarter employed an average number of employees of not less than 25, shall include in any health benefits plan, and

“(B) any State and each political subdivision thereof which during any calendar quarter employed an average number of employees of not less than 25, as a condition of the payment to the State of funds under section 314(d), 317, 318, 1002, 1525, or 1613, shall include in any health benefits plan,

42 USC 246,
247b, 247c,
300a, 300m-4,
300p-3.

offered to such employees in the calendar year beginning after such calendar quarter the option of membership in qualified health maintenance organizations which are engaged in the provision of basic health services in health maintenance organization service areas in which at least 25 of such employees reside.

“(2) If any of the employees of an employer or State or political subdivision thereof described in paragraph (1) are represented by a collective bargaining representative or other employee representative designated or selected under any law, offer of membership in a qualified health maintenance organization required by paragraph (1) to be made in a health benefits plan offered to such employees (A) shall first be made to such collective bargaining representative or other employee representative, and (B) if such offer is accepted by such representative, shall then be made to each such employee.”;

(2) by amending paragraphs (1) and (2) of subsection (b) to read as follows:

“(1) one or more of such organizations provides basic health services (A) without the use of an individual practice association and (B) without the use of contracts (except for contracts for unusual or infrequently used services) with health professionals, and

“(2) one or more of such organizations provides basic health services through (A) an individual practice association (or associations), (B) health professionals who have contracted with the health maintenance organization for the provision of such services, or (C) a combination of such association (or associations) or health professionals under contract with the organization,”;

(3) by striking out the last sentence of subsection (c); and

(4) by adding after subsection (d) the following new subsections:

“(e) (1) Any employer who knowingly does not comply with one or more of the requirements of subsection (a) shall be subject to a civil penalty of not more than \$10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court.

Civil penalty.

“(2) In any proceeding by the Secretary to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary of a noncompliance.

Notice.

“(3) In any civil action brought to review the assessment of a civil penalty assessed under this subsection, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty and in any civil action to collect such a civil

penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty unless in a prior civil action to review the assessment of such penalty the court held a trial de novo on such assessment.

“Employer.”

“(f) For purposes of this section, the term ‘employer’ does not include (1) the Government of the United States, the government of the District of Columbia or any territory or possession of the United States, a State or any political subdivision thereof, or any agency or instrumentality (including the United States Postal Service and Postal Rate Commission) of any of the foregoing; or (2) a church, convention or association of churches, or any organization operated, supervised or controlled by a church, convention or association of churches which organization (A) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, and (B) does not discriminate (i) in the employment, compensation, promotion, or termination of employment of any personnel, or (ii) in the extension of staff or other privileges to any physician or other health personnel, because such persons seek to obtain or obtained health care, or participate in providing health care, through a health maintenance organization.

26 USC 501.

Notice and hearing.

“(g) If the Secretary, after reasonable notice and opportunity for hearing to a State, finds that it or any of its political subdivisions has failed to comply with one or more of the requirements of subsection (a), the Secretary shall terminate payments to such State under sections 314(d), 317, 318, 1002, 1525, and 1613 and notify the Governor of such State that further payments under such sections will not be made to the State until the Secretary is satisfied that there will no longer be any such failure to comply.

42 USC 246,
247b, 247c,
300a, 300m-4
300p-3.

Administration.

“(h) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a qualified health maintenance organization within the meaning of subsection (d), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 1312(a).”

42 USC 300e-11.

(b) Section 8902 of title 5, United States Code, relating to Federal employee health insurance, is amended by adding at the end thereof the following new subsection:

“Qualified health maintenance carrier.”

42 USC 300e-9.

“(1) The Commission shall contract under this chapter for a plan described in section 8903(4) of this title with any qualified health maintenance carrier which offers such a plan. For the purpose of this subsection, ‘qualified health maintenance carrier’ means any qualified carrier which is a qualified health maintenance organization within the meaning of section 1310(d)(1) of title XIII of the Public Health Service Act (42 U.S.C. 300e-9(d)).”

ENFORCEMENT REQUIREMENTS

42 USC 300e-11.

SEC. 111. (a) Section 1312(a) is amended by striking out all of the section following paragraph (3) and substituting the following: “the Secretary may take the action authorized by subsection (b).”

Determination, notification.

(b) Section 1312(b) is amended to read as follows:

“(b)(1) If the Secretary makes, with respect to any entity which provided assurances to the Secretary under section 1310(d)(1), a determination described in subsection (a), the Secretary shall notify the entity in writing of the determination. Such notice shall specify the manner in which the entity has not complied with such assurances

and direct that the entity initiate (within 30 days of the date the notice is issued by the Secretary or within such longer period as the Secretary determines is reasonable) such action as may be necessary to bring (within such period as the Secretary shall prescribe) the entity into compliance with the assurances. If the entity fails to initiate corrective action within the period prescribed by the notice or fails to comply with the assurances within such period as the Secretary prescribes (A) the entity shall not be a qualified health maintenance organization for purposes of section 1310 until such date as the Secretary determines that it is in compliance with the assurances, and (B) each employer which has offered membership in the entity in compliance with section 1310, each lawfully recognized collective bargaining representative or other employee representative which represents the employees of each such employer, and the members of such entity shall be notified by the entity that the entity is not a qualified health maintenance organization for purposes of such section. The notice required by clause (B) of the preceding sentence shall contain, in readily understandable language, the reasons for the determination that the entity is not a qualified health maintenance organization. The Secretary shall publish in the Federal Register each determination referred to in this paragraph.

Notification.

42 USC 300e-9.

Publication in
Federal Register.

“(2) If the Secretary makes, with respect to an entity which has received a grant, contract, loan, or loan guarantee under this title, a determination described in subsection (a), the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with the assurances it furnished respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made in connection with its application under this title for the grant, contract, loan, or loan guarantee.”

(c) Section 1312 is amended by adding at the end the following new subsection:

42 USC 300e-11.

“(c) The Secretary, acting through the Assistant Secretary for Health, shall administer subsections (a) and (b) in the Office of the Assistant Secretary for Health.”

Administration.

HMO'S AND FEDERAL HEALTH BENEFITS PROGRAMS

SEC. 112. Section 1307(d) is amended by adding after and below paragraph (2) the following new sentence: “An entity which provides health services to a defined population on a prepaid basis and which has members who are enrolled under the health benefits program authorized by chapter 89 of title 5, United States Code, may be considered as a health maintenance organization for purposes of receiving assistance under this title if with respect to its other members it provides health services in accordance with section 1301(b) and is organized and operated in the manner prescribed by section 1301(c).”

42 USC 300e-6.

5 USC 8901
et seq.

42 USC 300e.

EXTENSIONS AND AUTHORIZATIONS

SEC. 113. (a) Section 1304(j) is amended (1) by striking out “September 30, 1976” and substituting “September 30, 1978”, and (2) by striking out “September 30, 1977” and substituting “September 30, 1979”.

42 USC 300e-3.

(b) Subsection (d) of section 1305 is amended to read as follows: “(d) No loan may be made or guaranteed under this section after September 30, 1980.”

42 USC 300e-4.

42 USC 300e-8.

(c) Section 1309(a) is amended—

(1) by striking out “and” after “1975,”

(2) by inserting after “1976” the following: “, \$45,000,000 for the fiscal year ending September 30, 1977, and \$45,000,000 for the fiscal year ending September 30, 1978”;

(3) by striking out “ending June 30, 1977” and substituting “ending September 30, 1977”, and

(4) by striking out “\$85,000,000” the first time it occurs and substituting “\$40,000,000”, and by striking out “\$85,000,000” the second time it occurs and substituting “\$50,000,000”.

RESTRICTIVE STATE LAWS

42 USC 300e-10.

Digest.

SEC. 114. Section 1311 is amended by adding at the end the following new subsection:

“(c) The Secretary shall, within 6 months after the date of the enactment of this subsection, develop a digest of State laws, regulations, and practices pertaining to development, establishment, and operation of health maintenance organizations which shall be updated at least quarterly and relevant sections of which shall be provided to the Governor of each State annually. Such digest shall indicate which State laws, regulations, and practices appear to be inconsistent with the operation of this section. The Secretary shall also insure that appropriate legal consultative assistance is available to the States for the purpose of complying with the provisions of this section.”

PROGRAM EVALUATION BY THE COMPTROLLER GENERAL

42 USC 300e-13.

SEC. 115. So much of section 1314(a) as precedes paragraph (1) thereof is amended to read as follows:

“SEC. 1314. (a) The Comptroller General shall evaluate the operations of at least ten or one-half (whichever is greater) of the health maintenance organizations for which assistance was provided under sections 1303, 1304, and 1305, and which, by December 31, 1976, have been designated by the Secretary under section 1310(d) as qualified health maintenance organizations. The Comptroller General shall report to the Congress the results of the evaluation by June 30, 1978. Such report shall contain findings—”.

42 USC 300e-2-300e-4.

Report to Congress.

ADMINISTRATION OF PROGRAMS

SEC. 116. Title XIII is amended by adding after section 1315 the following new section:

“ADMINISTRATION OF PROGRAM

42 USC 300e-15.

42 USC 300e-9, 300e-11.

“SEC. 1316. The Secretary shall administer this title (other than sections 1310 and 1312) through a single identifiable administrative unit of the Department.”.

CONFORMING AMENDMENTS

42 USC 300n-1.

SEC. 117. (a) Section 1532(c) is amended by adding the following sentence at the end thereof: “The criteria established by any health systems agency or State Agency under paragraph (8) shall be consistent with the standards and procedures established by the Secretary

42 USC 300e-5.

under section 1306(c) of this Act.”.

- (b) (1) Paragraph (6) of section 1302 is amended to read as follows: 42 USC 300e-1.
 “(6) The term ‘health systems agency’ means an entity which is 42 USC 300e-1.
 designated in accordance with section 1515 of this Act.”.
- (2) Paragraph (7) of section 1302 is amended by—
 (A) striking “section 314(a) State health planning agency 42 USC 300e-2.
 whose section 314(a) plan” and substituting “State health plan-
 ning and development agency which”; and
 (B) striking “section 314(b) areawide health planning agency
 whose section 314(b) plan”, and substituting “health systems
 agency designated for a health service area which”.
- (3) Paragraph (1) of section 1303(b) is amended by striking “sec- 42 USC 300e-2.
 tion 314(b) areawide health planning agency (if any) whose section
 314(b) plan” and substituting “each health systems agency designated
 for a health service area which”.
- (4) Paragraph (1) of section 1304(c) is amended by striking “sec- 42 USC 300e-3.
 tion 314(b) areawide health planning agency (if any) whose section
 314(b) plan” and substituting “each health systems agency designated
 for a health service area which”.
- (5) Section (b) (5) of section 1306 is amended to read as follows: 42 USC 300e-5.
 “(5) each health systems agency designated for a health service
 area which covers (in whole or in part) the area to be served by
 the health maintenance organization for which such application
 is submitted.”.
- (6) Subsection (c) of section 1306 is amended by striking “section
 314(b) areawide health planning agencies and section 314(a) State
 health planning agencies” and substituting “health systems agencies”.

EFFECTIVE DATES

- SEC. 118. (a) Except as provided in subsection (b), the amend- 42 USC 300e
 ments made by this title shall take effect on the date of the enactment 42 USC 300e-1.
 of this Act.
- (b) (1) The amendments made by sections 101, 102, 103, 104, and 42 USC 300e-2-300e-4.
 106 shall (A) apply with respect to grants, contracts, loans, and loan
 guarantees made under sections 1303, 1304, and 1305 of the Public 42 USC 300e-9.
 Health Service Act for fiscal years beginning after September 30, 42 USC 300e-11.
 1976, (B) apply with respect to health benefit plans offered under
 section 1310 of such Act after such date, and (C) for purposes of sec- 42 USC 300e-11.
 tion 1312 take effect October 1, 1976.
- (2) Subsection (d) of section 1301 of the Public Health Service 42 USC 300e-11.
 Act (added by section 103(b) of this Act) shall take effect with
 respect to fiscal years of health maintenance organizations beginning
 on or after the date of the enactment of this Act.
- (3) The amendments made by section 107 shall apply with respect
 to grants, contracts, loans, and loan guarantees made under sections
 1303, 1304, and 1305 of the Public Health Service Act for fiscal years
 beginning after September 30, 1976.
- (4) The amendments made by sections 109(a) (1) and 109(c) shall
 apply with respect to loan guarantees made under section 1305 of the
 Public Health Service Act after September 30, 1976.
- (5) The amendment made by section 109(e) shall apply with respect
 to projects assisted under section 1304 of the Public Health Service
 Act after September 30, 1976.
- (6) The amendments made by paragraphs (1) and (2) of section
 110(a) shall apply with respect to calendar quarters which begin
 after the date of the enactment of this Act.

(7) The amendments made by paragraphs (3) and (4) of section 110 shall apply with respect to failures of employers to comply with section 1310(a) of the Public Health Service Act after the date of the enactment of this Act.

(8) The amendment made by section 111 shall apply with respect to determinations of the Secretary of Health, Education, and Welfare described in section 1312(a) of the Public Health Service Act and made after the date of the enactment of this Act.

TITLE II—AMENDMENTS TO SOCIAL SECURITY ACT

MEDICARE AMENDMENTS

42 USC 1395mm. SEC. 201. (a) Section 1876(b) of the Social Security Act is amended to read as follows:

“Health maintenance organization.” “(b) (1) The term ‘health maintenance organization’ means a legal entity which provides health services on a prepayment basis to individuals enrolled with such organizations and which—

42 USC 1395x. “(A) provides to its enrollees who are insured for benefits under parts A and B of this title or for benefits under part B alone, through institutions, entities, and persons meeting the applicable requirements of section 1861, all of the services and benefits covered under such parts (to the extent applicable under subparagraph (A) or (B) of subsection (a) (1)) which are available to individuals residing in the geographic area served by the organization;

42 USC 300e. “(B) provides such services in the manner prescribed by section 1301(b) of the Public Health Service Act, except that solely for the purposes of this section—

“Basic health services.” “(i) the term ‘basic health services’ and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this title;

“(ii) the organization shall not be required to fix the basic health services payment under a community rating system;

“(iii) the additional nominal payments authorized by section 1301(b) (1) (D) of such Act shall not exceed the limits applicable under subsection (g) of this section; and

“(iv) payment for basic health services provided by the organization to its enrollees under this section or for services such enrollees receive other than through the organization shall be made as provided for by this title;

“(C) is organized and operated in the manner prescribed by section 1301(c) of the Public Health Service Act, except that solely for the purposes of this section—

“(i) the term ‘basic health services’ and references thereto shall be deemed to refer to the services and benefits included under parts A and B of this title;

“(ii) the organization shall not be reimbursed for the cost of reinsurance except as permitted by subsection (i) of this section; and

“(iii) the organization shall have an open enrollment period as provided for in subsection (k) of this section.

Administration. “(2) (A) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a ‘health maintenance organization’ within the meaning of paragraph (1), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the admin-

istration of such duties and functions shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.

“(B) Except as provided in subparagraph (A), the Secretary shall administer the provisions of this section through the Commissioner of Social Security.”

(b) Section 1876(h) of such Act is amended to read as follows:

“(h) (1) Except as provided in paragraph (2), each health maintenance organization with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who have not attained age 65.

“(2) The Secretary may waive the requirement imposed in paragraph (1) for a period of not more than three years from the date a health maintenance organization first enters into an agreement with the Secretary pursuant to subsection (i), but only for so long as such organization demonstrates to the satisfaction of the Secretary by the submission of its plan for each year that it is making continuous efforts and progress toward compliance with the provisions of paragraph (1) within such three-year period.”

(c) Section 1876(i)(6)(B) of such Act is amended by striking out “(other than those with respect to out-of-area services)” and inserting in lieu thereof “(other than costs with respect to out-of-area services and, in the case of an organization which has entered into a risk-sharing contract with the Secretary pursuant to paragraph (2)(A), the cost of providing any member with basic health services the aggregate value of which exceeds \$5,000 in any year)”.

(d) Section 1876 is amended by adding at the end thereof the following—

“(k) Each health maintenance organization with which the Secretary enters into a contract under this section shall have an open enrollment period at least every year under which it accepts up to the limits of its capacity and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment (unless to do so would result in failure to meet the requirements of subsection (h)) or would result in enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by such health maintenance organization.”

(e) The amendments made by this section shall be effective with respect to contracts entered into between the Secretary and health maintenance organizations under section 1876 of the Social Security Act on and after the first day of the first calendar month which begins more than 30 days after the date of enactment of this Act.

42 USC 300e-11.

42 USC 1395mm.

Waiver.

Open enrollment period.

Effective date.
42 USC 1395mm note.

MEDICAID AMENDMENTS

SEC. 202. (a) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(m) (1) (A) The term ‘health maintenance organization’ means a legal entity which provides health services to individuals enrolled in such organization and which—

“(i) provides to its enrollees who are eligible for benefits under this title the services and benefits described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905, and, to the extent required by section 1902(a)(13)(A)(ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a);

42 USC 1396b.

“Health maintenance organization.”

42 USC 1396d.
42 USC 1396a.

"Basic health services."

42 USC 300e.

42 USC 1396d.

42 USC 1396a.

"(ii) provides such services and benefits in the manner prescribed in section 1301(b) of the Public Health Service Act (except that, solely for purposes of this paragraph, the term 'basic health services' and references thereto, when employed in such section, shall be deemed to refer to the services and benefits described in paragraphs (1), (2), (3), (4) (C), and (5) of section 1905(a), and, to the extent required by section 1902(a) (13) (A) (ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a)); and

"(iii) is organized and operated in the manner prescribed by section 1301(c) of the Public Health Service Act (except that solely for purposes of this paragraph, the term 'basic health services' and references thereto, when employed in such section shall be deemed to refer to the services and benefits described in section 1905(a) (1), (2), (3), (4) (C), and (5), and to the extent required by section 1902(a) (13) (A) (ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a)).

Administration.

"(B) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a health maintenance organization within the meaning of subparagraph (A), shall be administered through the Assistant Secretary for Health and in the Office of the Assistant Secretary for Health, and the administration of such duties and functions shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.

42 USC 300e-11.

"(2) (A) Except as provided in subparagraphs (B) and (C), no payment shall be made under this title to a State with respect to expenditures incurred by it for payment for services provided by any entity—

"(i) which is responsible for the provision of—

"(I) inpatient hospital services and any other service described in paragraph (2), (3), (4), (5), or (7) of section 1905(a), or

"(II) any three or more of the services described in such paragraphs,

when payment for such services is determined under a prepaid capitation risk basis or under any other risk basis;

"(ii) which the Secretary (or the State as authorized by paragraph (3)) has not determined to be a health maintenance organization as defined in paragraph (1); and

"(iii) more than one-half of the membership of which consists of individuals who are insured under parts A and B of title XVIII or recipients of benefits under this title.

"(B) Subparagraph (A) does not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services provided by an entity which—

"(i) (I) received a grant of at least \$100,000 in the fiscal year ending June 30, 1976, under section 319(d) (1) (A) or 330(d) (1) of the Public Health Service Act, and (II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title has been the recipient of a grant under either such section; and

42 USC 247d, 254c.

“(II) provides to its enrollees, on a prepaid capitation risk basis or on any other risk basis, all of the services and benefits described in paragraphs (1), (2), (3), (4) (C), and (5) of section 1905(a) and, to the extent required by section 1902(a) (13) (A) (ii) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of such section; or

42 USC 1396d.

42 USC 1396a.

“(ii) is a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission)—

“(I) which received in the fiscal year ending June 30, 1976, at least \$100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

40 USC app. 1.

“(II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services under a contract (initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract) with a State agency under this title on a prepaid capitation risk basis or on any other risk basis; or

“(iii) which has contracted with the single State agency for the provision of services (but not including inpatient hospital services) to persons eligible under this title on a prepaid risk basis prior to 1970.

“(C) Subparagraph (A) (iii) shall not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services by an entity during the three-year period beginning on the date of enactment of this subsection or beginning on the date the entity enters into a contract with the State under this title for the provision of health services on a prepaid risk basis, whichever occurs later, but only if the entity demonstrates to the satisfaction of the Secretary by the submission of plans for each year of such three-year period that it is making continuous efforts and progress toward achieving compliance with subparagraph (A) (iii).

“(3) A State may, in the case of an entity which has submitted an application to the Secretary for determination that it is a health maintenance organization within the meaning of paragraph (1) and for which no such determination has been made within 90 days of the submission of the application, make a provisional determination for the purposes of this title that such entity is such a health maintenance organization. Such provisional determination shall remain in force until such time as the Secretary makes a determination regarding the entity's qualification under paragraph (1).”

(b) The amendment made by subsection (a) shall apply with respect to payments under title XIX of the Social Security Act to States for services provided—

42 USC 1396b
note.

42 USC 1396.

(1) after the date of enactment of subsection (a) under contracts under such title entered into or renegotiated after such date, or

(2) after the expiration of the 1-year period beginning on such date of enactment,
whichever occurs first.

TITLE III—MISCELLANEOUS AMENDMENTS

CENTER FOR HEALTH SERVICES POLICY ANALYSIS

42 USC 242c.

SEC. 301. Section 305(d)(1) of the Public Health Service Act is amended (1) by striking out “two national special emphasis centers” and substituting “three national special emphasis centers”, (2) by striking out “and one” and substituting “one”, and (3) by inserting before the last close parenthesis a semicolon and the following: “and one of which (to be designated as the Health Services Policy Analysis Center) shall focus on the development and evaluation of national policies with respect to health services, including the development of health maintenance organizations and other forms of group practice, with a view toward improving the efficiencies of the health services delivery system”.

HOME HEALTH EXTENSION

42 USC 1395x
note.

SEC. 302. (a) Section 602(a)(5) of Public Law 94-63 is amended by inserting “, \$2,000,000 for the period July 1, 1976, through September 30, 1976, \$8,000,000 for the fiscal year ending September 30, 1977” after “1976”.

(b) Section 602(b)(4) of Public Law 94-63 is amended by inserting “, \$1,000,000 for the period July 1, 1976, through September 30, 1976, and \$4,000,000 for the fiscal year ending September 30, 1977” after “1976”.

EXTENSION OF REPORTING DATE

42 USC 289k-2
note.

SEC. 303. Section 603(b) of Public Law 94-63 is amended by striking “Within one year” and substituting “Not later than 2 years”.

TECHNICAL

21 USC 360d.

SEC. 304. Section 514(a) of the Federal Food, Drug, and Cosmetic Act is amended by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

Approved October 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-518 (Comm. on Interstate and Foreign Commerce) and No. 94-1513 (Comm. of Conference).

SENATE REPORT No. 94-844 accompanying S. 1926 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 7, considered and passed House.

Vol. 122 (1976): June 14, considered and passed Senate, amended, in lieu of S. 1926.

Sept. 16, Senate agreed to conference report.

Sept. 23, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 42 (1976): Oct. 9, Presidential statement.

Public Law 94-461
94th Congress

An Act

To improve the national sea grant program and for other purposes.

Oct. 8, 1976

[H.R. 13035]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Sea Grant Program Improvement Act of 1976”.

SEC. 2. AMENDMENT TO THE NATIONAL SEA GRANT COLLEGE AND PROGRAM ACT OF 1966.

Title II of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) is amended to read as follows:

Sea Grant
Program
Improvement
Act of 1976.
33 USC 1121
note.

“TITLE II—NATIONAL SEA GRANT PROGRAM

“SEC. 201. SHORT TITLE.

“This title may be cited as the ‘National Sea Grant Program Act’.

National
Sea Grant
Program Act.
33 USC 1121
note.

“SEC. 202. DECLARATION OF POLICY.

“(a) **FINDINGS.**—The Congress finds and declares the following:

33 USC 1121.

“(1) The vitality of the Nation and the quality of life of its citizens depend increasingly on the understanding, assessment, development, utilization, and conservation of ocean and coastal resources. These resources supply food, energy, and minerals and contribute to human health, the quality of the environment, national security, and the enhancement of commerce.

“(2) The understanding, assessment, development, utilization, and conservation of such resources require a broad commitment and an intense involvement on the part of the Federal Government in continuing partnership with State and local governments, private industry, universities, organizations, and individuals concerned with or affected by ocean and coastal resources.

“(3) The National Oceanic and Atmospheric Administration, through the national sea grant program, offers the most suitable locus and means for such commitment and involvement through the promotion of activities that will result in greater such understanding, assessment, development, utilization, and conservation. Continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant regional consortia, institutions of higher education, institutes, laboratories, and other appropriate public and private entities is the most cost-effective way to promote such activities.

“(b) **OBJECTIVE.**—The objective of this title is to increase the understanding, assessment, development, utilization, and conservation of the Nation’s ocean and coastal resources by providing assistance to promote a strong educational base, responsive research and training activities, and broad and prompt dissemination of knowledge and techniques.

“(c) **PURPOSE.**—It is the purpose of the Congress to achieve the objective of this title by extending and strengthening the national sea

grant program, initially established in 1966, to promote research, education, training, and advisory service activities in fields related to ocean and coastal resources.

"SEC. 203. DEFINITIONS.

33 USC 1122.

"As used in this title—

"(1) The term 'Administration' means the National Oceanic and Atmospheric Administration.

"(2) The term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration.

"(3) The term 'Director' means the Director of the national sea grant program, appointed pursuant to section 204(b).

"(4) The term 'field related to ocean and coastal resources' means any discipline or field (including marine science (and the physical, natural, and biological sciences, and engineering, included therein), marine technology, education, economics, sociology, communications, planning, law, international affairs, and public administration) which is concerned with or likely to improve the understanding, assessment, development, utilization, or conservation of ocean and coastal resources.

"(5) The term 'includes' and variants thereof should be read as if the phrase 'but is not limited to' were also set forth.

"(6) The term 'marine environment' means the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, and waters of the territorial sea of the United States; the waters of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of and beyond the outer Continental Shelf.

"(7) The term 'ocean and coastal resource' means any resource (whether living, nonliving, manmade, tangible, intangible, actual, or potential) which is located in, derived from, or traceable to, the marine environment. Such term includes the habitat of any such living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitation, commercial, economic, or conservation values. Living resources include natural and cultured plant life, fish, shellfish, marine mammals, and wildlife. Nonliving resources include energy sources, minerals, and chemical substances.

"(8) The term 'panel' means the sea grant review panel established under section 209.

"(9) The term 'person' means any individual; any public or private corporation, partnership, or other association or entity (including any sea grant college, sea grant regional consortium, institution of higher education, institute, or laboratory); or any State, political subdivision of a State, or agency or officer thereof.

"(10) The term 'sea grant college' means any public or private institution of higher education which is designated as such by the Secretary under section 207.

"(11) The term 'sea grant program' means any program which—

"(A) is administered by any sea grant college, sea grant regional consortium, institution of higher education, institute, laboratory, or State or local agency; and

"(B) includes two or more projects involving one or more of the following activities in fields related to ocean and coastal resources:

- “(i) research,
- “(ii) education,
- “(iii) training, or
- “(iv) advisory services.

“(12) The term ‘sea grant regional consortium’ means any association or other alliance which is designated as such by the Secretary under section 207.

“(13) The term ‘Secretary’ means the Secretary of Commerce.

“(14) The term ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States.

“SEC. 204. NATIONAL SEA GRANT PROGRAM.

“(a) IN GENERAL.—The Secretary shall maintain, within the Administration, a program to be known as the national sea grant program. The national sea grant program shall consist of the financial assistance and other activities provided for in this title. The Secretary shall establish long-range planning guidelines and priorities for, and adequately evaluate, this program.

33 USC 1123.

Planning
guidelines and
priorities.

“(b) DIRECTOR.—(1) The Secretary shall appoint a Director of the national sea grant program who shall be a qualified individual who has—

“(A) knowledge or expertise in fields related to ocean and coastal resources; and

“(B) appropriate administrative experience.

“(2) The Director shall be appointed and compensated, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, at a rate not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

5 USC 3301
et seq.

5 USC 5332
note.

“(c) DUTIES.—The Director shall administer the national sea grant program subject to the supervision of the Secretary and the Administrator. In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

“(1) apply the long-range planning guidelines and the priorities established by the Secretary under subsection (a);

“(2) advise the Administrator with respect to the expertise and capabilities which are available within or through the national sea grant program, and provide (as directed by the Administrator) those which are or could be of use to other offices and activities within the Administration;

“(3) evaluate activities conducted under grants and contracts awarded pursuant to sections 205 and 206 to assure that the objective set forth in section 202(b) is implemented;

“(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national sea grant program, on a cooperative or other basis;

“(5) advise the Secretary on the designation of sea grant colleges and sea grant regional consortia and, in appropriate cases, if any, on the termination or suspension of any such designation; and

“(6) encourage the formation and growth of sea grant programs.

“(d) POWERS.—To carry out the provisions of this title, the Secretary may—

5 USC 3301 <i>et seq.</i> 5 USC 5332 note.	<p>“(1) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with the civil service laws; except that five positions may be established without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, but the pay rates for such positions may not exceed the maximum rate for GS-18 of the General Schedule under section 5332 of such title;</p> <p>“(2) make appointments with respect to temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;</p>
Publication.	<p>“(3) publish or arrange for the publication of, and otherwise disseminate, in cooperation with other services, offices, and programs in the Administration, any information of research, educational, training, and other value in fields related to ocean and coastal resources and with respect to ocean and coastal resources, without regard to section 501 of title 44, United States Code;</p> <p>“(4) enter into contracts, cooperative agreements, and other transactions without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) ;</p> <p>“(5) accept donations and voluntary and uncompensated services, notwithstanding section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b)) ; and</p> <p>“(6) issue such rules and regulations as may be necessary and appropriate.</p>
Rules and regulations.	<p>“SEC. 205. CONTRACTS AND GRANTS.</p>
33 USC 1124.	<p>“(a) IN GENERAL.—The Secretary may make grants and enter into contracts under this subsection to assist any sea grant program or project if the Secretary finds that such program or project will—</p> <p>“(1) implement the objective set forth in section 202(b) ; and</p> <p>“(2) be responsive to the needs or problems of individual States or regions.</p> <p>The total amount paid pursuant to any such grant or contract may equal 66⅔ percent, or any lesser percent, of the total cost of the sea grant program or project involved.</p> <p>“(b) SPECIAL GRANTS.—The Secretary may make special grants under this subsection to implement the objective set forth in section 202(b). The amount of any such grant may equal 100 percent, or any lesser percent, of the total cost of the project involved. No grant may be made under this subsection unless the Secretary finds that—</p> <p>“(1) no reasonable means is available through which the applicant can meet the matching requirement for a grant under subsection (a) ;</p> <p>“(2) the probable benefit of such project outweighs the public interest in such matching requirement ; and</p> <p>“(3) the same or equivalent benefit cannot be obtained through the award of a contract or grant under subsection (a) or section 206.</p> <p>The total amount which may be provided for grants under this subsection during any fiscal year shall not exceed an amount equal to 1 percent of the total funds appropriated for such year pursuant to section 212.</p> <p>“(c) ELIGIBILITY AND PROCEDURE.—Any person may apply to the Secretary for a grant or contract under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Secretary shall by regulation prescribe. The Secretary shall act upon each such application within 6 months after the date on which all required information is received.</p>
Application.	

“(d) **TERMS AND CONDITIONS.**—(1) Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in paragraphs (2), (3), and (4) and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

“(2) No payment under any grant or contract under this section may be applied to—

“(A) the purchase or rental of any land; or

“(B) the purchase, rental, construction, preservation, or repair of any building, dock, or vessel;

except that payment under any such grant or contract may, if approved by the Secretary, be applied to the purchase, rental, construction, preservation, or repair of non-self-propelled habitats, buoys, platforms, and other similar devices or structures, or to the rental of any research vessel which is used in direct support of activities under any sea grant program or project.

“(3) The total amount which may be obligated for payment pursuant to grants made to, and contracts entered into with, persons under this section within any one State in any fiscal year shall not exceed an amount equal to 15 percent of the total funds appropriated for such year pursuant to section 212.

“(4) Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep such records as the Secretary shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for 3 years after the completion of such a program or project. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General, may be related or pertinent to such grants and contracts.

Record
retention.
Regulation.

Audit.

“SEC. 206. NATIONAL PROJECTS.

“(a) **IN GENERAL.**—The Secretary shall identify specific national needs and problems with respect to ocean and coastal resources. The Secretary may make grants or enter into contracts under this section with respect to such needs or problems. The amount of any such grant or contract may equal 100 percent, or any lesser percent, of the total cost of the project involved.

33 USC 1125.
Grants and
contracts.

“(b) **ELIGIBILITY AND PROCEDURE.**—Any person may apply to the Secretary for a grant or contract under this section. In addition, the Secretary may invite applications with respect to specific national needs or problems identified under subsection (a). Application shall be made in such form and manner, and with such content and other submissions, as the Secretary shall by regulation prescribe. The Secretary shall act upon each such application within 6 months after the date on which all required information is received. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 205(d) (2) and (4) and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

Application.

“(c) **AUTHORIZATION FOR APPROPRIATIONS.**—There is authorized to be appropriated for purposes of carrying out this section not to exceed \$5,000,000 for the fiscal year ending September 30, 1977. Such sums as may be appropriated pursuant to this subsection shall remain available

until expended. The amounts obligated to be expended for the purposes set forth in subsection (a) shall not, in any fiscal year, exceed an amount equal to 10 percent of the sums appropriated for such year pursuant to section 212.

"SEC. 207. SEA GRANT COLLEGES AND SEA GRANT REGIONAL CONSORTIA.

33 USC 1126.

"(a) DESIGNATION.—(1) The Secretary may designate—

"(A) any institution of higher education as a sea grant college; and

"(B) any association or other alliance of two or more persons (other than individuals) as a sea grant regional consortium.

"(2) No institution of higher education may be designated as a sea grant college unless the Secretary finds that such institution—

"(A) is maintaining a balanced program of research, education, training, and advisory services in fields related to ocean and coastal resources and has received financial assistance under section 205 of this title or under section 204(c) of the National Sea Grant College and Program Act of 1966;

33 USC 1124,
1123.

"(B) will act in accordance with such guidelines as are prescribed under subsection (b) (2); and

"(C) meets such other qualifications as the Secretary deems necessary or appropriate.

33 USC 1121
note.

Ante, p. 1961.

The designation of any institution as a sea grant college under the authority of such Act of 1966 shall, if such designation is in effect on the day before the date of the enactment of the Sea Grant Program Improvement Act of 1976, be considered to be a designation made under paragraph (1) so long as such institution complies with subparagraphs (B) and (C).

"(3) No association or other alliance of two or more persons may be designated as a sea grant regional consortium unless the Secretary finds that such association or alliance—

"(A) is established for the purpose of sharing expertise, research, educational facilities, or training facilities, and other capabilities in order to facilitate research, education, training, and advisory services, in any field related to ocean and coastal resources;

"(B) will encourage and follow a regional approach to solving problems or meeting needs relating to ocean and coastal resources, in cooperation with appropriate sea grant colleges, sea grant programs, and other persons in the region;

"(C) will act in accordance with such guidelines as are prescribed under subsection (b) (2); and

"(D) meets such other qualifications as the Secretary deems necessary or appropriate.

"(b) REGULATIONS.—The Secretary shall by regulation prescribe—

"(1) the qualifications required to be met under paragraphs (2) (C) and (3) (D) of subsection (a); and

"(2) guidelines relating to the activities and responsibilities of sea grant colleges and sea grant regional consortia.

Hearing.

"(c) SUSPENSION OR TERMINATION OF DESIGNATION.—The Secretary may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a).

"SEC. 208. SEA GRANT FELLOWSHIPS.

33 USC 1127.

"(a) IN GENERAL.—The Secretary shall support a sea grant fellowship program to provide educational and training assistance to qualified individuals at the undergraduate and graduate levels of education

in fields related to ocean and coastal resources. Such fellowships shall be awarded pursuant to guidelines established by the Secretary. Sea grant fellowships may only be awarded by sea grant colleges, sea grant regional consortia, institutions of higher education, and professional associations and institutes.

Guidelines.

“(b) **LIMITATION ON TOTAL FELLOWSHIP GRANTS.**—The total amount which may be provided for grants under the sea grant fellowship program during any fiscal year shall not exceed an amount equal to 5 percent of the total funds appropriated for such year pursuant to section 212.

“**SEC. 209. SEA GRANT REVIEW PANEL.**

“(a) **ESTABLISHMENT.**—There shall be established an independent committee to be known as the sea grant review panel. The panel shall, on the 60th day after the date of the enactment of the Sea Grant Program Improvement Act of 1976, supersede the sea grant advisory panel in existence before such date of enactment.

33 USC 1128.

Ante, p. 1961.

“(b) **DUTIES.**—The panel shall take such steps as may be necessary to review, and shall advise the Secretary, the Administrator, and the Director with respect to—

“(1) applications or proposals for, and performance under, grants and contracts awarded under sections 205 and 206;

“(2) the sea grant fellowship program;

“(3) the designation and operation of sea grant colleges and sea grant regional consortia, and the operation of sea grant programs;

“(4) the formulation and application of the planning guidelines and priorities under section 204 (a) and (c) (1); and

“(5) such other matters as the Secretary refers to the panel for review and advice.

The Secretary shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

“(c) **MEMBERSHIP, TERMS, AND POWERS.**—(1) The panel shall consist of 15 voting members who shall be appointed by the Secretary. The Director shall serve as a nonvoting member of the panel. Not less than five of the voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields included in marine science. The other voting members shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning, or any other activity which is appropriate to, and important for, any effort to enhance the understanding, assessment, development, utilization, or conservation of ocean and coastal resources. No individual is eligible to be a voting member of the panel if the individual is (A) the director of a sea grant college, sea grant regional consortium, or sea grant program; (B) an applicant for, or beneficiary (as determined by the Secretary) of, any grant or contract under section 205 or 206; or (C) a full-time officer or employee of the United States.

“(2) The term of office of a voting member of the panel shall be 3 years, except that of the original appointees, five shall be appointed for a term of 1 year, five shall be appointed for a term of 2 years, and five shall be appointed for a term of 3 years.

“(3) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

No individual may be appointed as a voting member after serving one full term as such a member. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office, or until 90 days after such date, whichever is earlier.

Chairman,
Vice Chairman.

“(4) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

Compensation.
5 USC 5332
note.

“(5) Voting members of the panel shall—

“(A) receive compensation at the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and

“(B) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

“(6) The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Director.

“(7) The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).

“SEC. 210. INTERAGENCY COOPERATION.

33 USC 1129.

“Each department, agency, or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, matters relating to ocean and coastal resources—

“(1) may, upon a written request from the Secretary, make available, on a reimbursable basis or otherwise any personnel (with their consent and without prejudice to their position and rating), service, or facility which the Secretary deems necessary to carry out any provision of this title;

“(2) shall, upon a written request from the Secretary, furnish any available data or other information which the Secretary deems necessary to carry out any provision of this title; and

“(3) shall cooperate with the Administration and duly authorized officials thereof.

“SEC. 211. ANNUAL REPORT AND EVALUATION.

Submittal to
Congress and
President.
33 USC 1130.

“(a) ANNUAL REPORT.—The Secretary shall submit to the Congress and the President, not later than February 15 of each year, a report on the activities of, and the outlook for, the national sea grant program.

“(b) EVALUATION.—The Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy, in the Executive Office of the President, shall have the opportunity to review each report prepared pursuant to subsection (a). Such Directors may submit, for inclusion in such report, comments and recommendations and an independent evaluation of the national sea grant program. Such material shall be transmitted to the Secretary not later than February 1 of each year, and the Secretary shall cause it to be published as a separate section in the annual report submitted pursuant to subsection (a).

“SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

33 USC 1131.

“There is authorized to be appropriated for purposes of carrying out the provisions of this title (other than section 206) not to exceed

\$50,000,000 for the fiscal year ending September 30, 1977. Such sums as may be appropriated under this section shall remain available until expended.”.

SEC. 3. INTERNATIONAL COOPERATION ASSISTANCE.

(a) **IN GENERAL.**—The Secretary of Commerce (hereafter in this section referred to as the “Secretary”) may enter into contracts and make grants under this section to—

Contracts.
33 USC 1124a.

(1) enhance the research and development capability of developing foreign nations with respect to ocean and coastal resources, as such term is defined in section 203 of the National Sea Grant Program Act; and

(2) promote the international exchange of information and data with respect to the assessment, development, utilization, and conservation of such resources.

(b) **ELIGIBILITY AND PROCEDURE.**—Any sea grant college and sea grant regional consortium (as defined in section 203 of the National Sea Grant Program Act) and any institution of higher education, laboratory, or institute (if such institution, laboratory, or institute is located within any State (as defined in such section 203)) may apply for and receive financial assistance under this section. Each grant or contract under this section shall be made pursuant to such requirements as the Secretary shall, after consultation with the Secretary of State, by regulation prescribe. Application shall be made in such form, and with such content and other submissions, as may be so required. Before approving any application for a grant or contract under this section, the Secretary shall consult with the Secretary of State. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 205(d) (2) and (4) of the National Sea Grant Program Act and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

Regulation.

Consultation.

(c) **AUTHORIZATION FOR APPROPRIATIONS.**—There is authorized to be appropriated for purposes of carrying out this section not to exceed \$3,000,000 for the fiscal year ending September 30, 1977. Such sums as may be appropriated under this section shall remain available until expended.

SEC. 4. CONFORMING AND MISCELLANEOUS PROVISIONS.

(a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(65) Administrator, National Oceanic and Atmospheric Administration.”.

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

“(109) Deputy Administrator, National Oceanic and Atmospheric Administration.

“(110) Associate Administrator, National Oceanic and Atmospheric Administration.”.

(c) (1) Section 2(d) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090) is amended by striking out “Level V” and “(5 U.S.C. 5316)” and inserting in lieu thereof “Level IV” and “(5 U.S.C. 5315)”, respectively.

5 USC app. II;
15 USC 1511
note.

5 USC app. II.

(2) The individual serving as the Associate Administrator of the National Oceanic and Atmospheric Administration (pursuant to section 2(d) of Reorganization Plan Numbered 4 of 1970) on the date of the enactment of this Act shall continue as the Associate Administrator, notwithstanding the provisions of paragraph (1).

Approved October 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1048 (Comm. on Merchant Marine and Fisheries) and No. 94-1556 (Comm. of Conference).

SENATE REPORT No. 94-848 accompanying S. 3165 (Committees on Labor and Public Welfare and Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 3, considered and passed House.

June 14, considered and passed Senate, amended, in lieu of S. 3165.

Sept. 17, Senate agreed to conference report.

Sept. 23, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 42:

Oct. 10, Presidential statement.

Public Law 94-462
94th Congress

An Act

To amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes.

Oct. 8, 1976
[H.R. 12838]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arts, Humanities, and Cultural Affairs Act of 1976".

Arts,
Humanities,
and Cultural
Affairs Act of
1976.
20 USC 951 note.

TITLE I—ARTS AND HUMANITIES

SCOPE OF PROGRAMS CARRIED OUT BY CHAIRMAN OF NATIONAL ENDOWMENT
FOR THE ARTS

SEC. 101. Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by striking out "in the United States".

20 USC 954.

ALLOTMENTS FOR PROJECTS AND PRODUCTIONS RELATING TO THE ARTS

SEC. 102. Section 5(g)(4)(A) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by inserting immediately after "(4)(A)" the following new sentence: "The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1).".

APPOINTMENT OF MEMBERS OF NATIONAL COUNCIL ON ARTS AND NATIONAL
COUNCIL ON HUMANITIES

SEC. 103. (a) The first sentence of section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by inserting ", by and with the advice and consent of the Senate," immediately after "President".

20 USC 955.

(b) The first sentence of section 8(b) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by inserting ", by and with the advice and consent of the Senate," immediately after "President".

20 USC 957.

STATE HUMANITIES PROGRAM

SEC. 104. (a) Section 7 of the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new subsection:

20 USC 956.

"(f) (1) The Chairman, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

Grants-in-aid
program.

Application and
plan for
financial
assistance.

“(2) In order to receive Federal financial assistance under this subsection in any fiscal year, any appropriate entity desiring to receive such assistance shall submit an application for such grants at such time as shall be specified by the Chairman. Each such application shall be accompanied by a plan which the Chairman finds—

“(A) provides assurances that the grant recipient will comply with the requirements of paragraph (3) of this subsection;

“(B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c) of this section;

“(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;

“(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

“(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient and which complies with the provisions of paragraph (3)(C) of this subsection;

“(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

“(G) establishes procedures to assure public access to information relating to such activities; and

“(H) provides that such grant recipient shall make reports to the Chairman, in such form, at such times, and containing such information, as the Chairman may require.

“(3) (A) Whenever a State desires that an appropriate officer or agency of such State appoint 50 per centum of the membership of the governing body of the grant recipient involved, such State shall—

“(i) for the first fiscal year with respect to which such State desires to make such appointments, match, from State funds, 50 per centum of that portion of the Federal financial assistance received by such grant recipient under this subsection which exceeds \$100,000;

“(ii) for the second fiscal year with respect to which such State desires to make such appointments, match, from State funds, that portion of the Federal financial assistance received by such grant recipient under this subsection which exceeds \$100,000; and

“(iii) with respect to each fiscal year thereafter, match, from State funds, the total amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.

“(B) In any State in which the State does not desire to comply with the requirements of subparagraph (A) of this paragraph, the grant recipient shall—

“(i) establish a procedure which assures that two members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State; and

“(ii) provide, from any source, an amount equal to the total amount of Federal financial assistance received by such grant recipient under this subsection in the fiscal year involved.

“(C) In any fiscal year in which a State fails to meet the matching requirement from State funds made by subparagraph (A) of this paragraph, the number of members on the governing body of the grant recipient who were appointed by an appropriate officer or agency of such State shall be reduced so that the governing body complies with the provisions of subparagraph (B) of this paragraph.

“(4) Of the sums available to carry out this subsection for any fiscal year, each grant recipient which has a plan approved by the Chairman shall be allotted at least \$200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such grant recipients in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

Allotments.

“(A) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available to the Chairman for making grants under this subsection to entities applying for such grants;

“(B) the amount of such excess, if any, which remains after reserving in full for the Chairman the amount required under subparagraph (A) shall be allotted among the grant recipients which have plans approved by the Chairman in equal amounts, but in no event shall any grant recipient be allotted less than \$200,000.

“(5) (A) Whenever the provisions of paragraph (3) (B) of this subsection apply in any State, that part of any allotment made under paragraph (4) for any fiscal year—

“(i) which exceeds \$125,000, but

“(ii) which does not exceed 20 per centum of such allotment, shall be available, at the discretion of the Chairman, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

“(B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairman for making grants to regional groups.

“(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

Use to supplant non-Federal funds, prohibition. “Regional group.”

“(D) For the purposes of this paragraph, the term ‘regional group’ means any multistate group, whether or not representative of contiguous States.

“(6) All amounts allotted or made available under paragraph (4) for a fiscal year which are not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c).

“(7) Whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

Notice and hearing.

“(A) a grant recipient is not complying substantially with the provisions of this subsection;

“(B) a grant recipient is not complying substantially with terms and conditions of its plan approved under this subsection; or

“(C) any funds granted to any grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid,

Notification.

the Chairman shall immediately notify the Secretary of the Treasury and the grant recipient with respect to which such finding was made

that no further grants will be made under this subsection to such grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

“(8) Except as provided in paragraphs (4), (5), and (6), the Chairman may not make grants under this subsection to more than one entity in any State.”

Effective date.
20 USC 956
note.

(b) The amendment made by subsection (a) shall be effective with respect to fiscal year 1977 and succeeding fiscal years.

PAYMENT OF PERFORMERS AND SUPPORTING PERSONNEL

Ante, p. 1971.

SEC. 105. Section 7 of the National Foundation on the Arts and the Humanities Act of 1965, as amended by section 104(a), is further amended by adding at the end thereof the following new subsection:

“(g) It shall be a condition of the receipt of any grant under this section that the group, individual, or State entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection.”

Standards,
regulations and
procedures.

AUTHORIZATIONS OF APPROPRIATIONS

20 USC 960.

SEC. 106. (a) (1) (A) Section 11(a) (1) (A) of the National Foundation on the Arts and the Humanities Act of 1965 is amended to read as follows:

20 USC 954.

“SEC. 11. (a) (1) (A) For the purpose of carrying out section 5(c), there are authorized to be appropriated \$93,500,000 for fiscal year 1977, \$105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 5(g).”

(B) Section 11(a) (1) (B) of such Act is amended by striking out all that follows “Humanities” and inserting in lieu thereof the following: “\$93,500,000 for fiscal year 1977, \$105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 7(f).”

Ante, p. 1971.

(2) Section 11 (a) (2) of such Act is amended (A) by striking out

"July 1, 1976" and inserting in lieu thereof "October 1, 1980"; and (B) by striking out all that follows "not exceed" and inserting in lieu thereof "\$20,000,000 for fiscal year 1977, \$25,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980."

(3) Section 11(c) of such Act is amended by inserting before the period a comma and the following: "or any other program for which the Chairman of the National Endowment for the Arts or the Chairman of the National Endowment for the Humanities is responsible".

(b) The amendments made by subsection (a) shall be effective with respect to fiscal year 1977 and succeeding fiscal years.

20 USC 960.

Effective date.
20 USC 960
note.Museum
Services Act.

TITLE II—MUSEUM SERVICES

SHORT TITLE

SEC. 201. This title may be cited as the "Museum Services Act".

20 USC 961
note.

PURPOSE

SEC. 202. It is the purpose of this title to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

20 USC 961.

INSTITUTE OF MUSEUM SERVICES

SEC. 203. There is hereby established, within the Department of Health, Education, and Welfare, an Institute of Museum Services. The Institute shall consist of a National Museum Services Board and a Director of the Institute.

Establishment.
20 USC 962.

NATIONAL MUSEUM SERVICES BOARD

SEC. 204. (a)(1) The Board shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate. Such members shall be broadly representative of various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens, of the curatorial, educational, and cultural resources of the United States, and of the general public.

Appointed
members.
20 USC 963.

(2)(A) In addition to members appointed by the President under paragraph (1), the following persons shall serve as members of the Board—

Additional
nonvoting
members.

- (i) the Chairman of the National Endowment for the Arts;
- (ii) the Chairman of the National Endowment for the Humanities;
- (iii) the Secretary of the Smithsonian Institution;
- (iv) the Director of the National Science Foundation; and
- (v) the Commissioner of Education.

(B) The members of the Board listed in clause (i) through clause (v) of subparagraph (A) shall be nonvoting members.

(b) The term of office of the appointed members of the Board shall be five years, except that—

Term.

(1) any such member appointed to fill a vacancy shall serve only such portion of a term as shall not have expired at the time of such appointment; and

(2) in the case of initial members, three shall serve for terms of five years, three shall serve for terms of four years, three shall serve for terms of three years, three shall serve for terms of two years, and three shall serve for terms of one year, as designated by the President at the time of nomination for appointment.

Any appointed member who has been a member of the Board for more than seven consecutive years shall thereafter be ineligible for reappointment to the Board during the three-year period following the expiration of the last such consecutive year.

Chairman.

(c) The Chairman of the Board shall be designated by the President from among the appointed members of the Board. Eight appointed members of the Board shall constitute a quorum.

Quorum.

(d) The Board shall meet at the call of the Chairman, except that—

(1) it shall meet not less than four times each year; and

(2) it shall meet whenever one-third of the appointed members request a meeting in writing, in which event eight of the appointed members shall constitute a quorum.

Compensation.

(e) Members of the Board who are not in the regular full-time employ of the United States shall receive, while engaged in the business of the Board, compensation for service at a rate to be fixed by the President, except that such rate shall not exceed the rate specified at the time of such service for grade GS-18 set forth in section 5332 of title 5, United States Code, including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed in Government service.

5 USC 5332
note.

General policies.

(f) The Board shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this title. The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(g) The Board shall, with the advice of the Director, take steps to assure that the policies and purposes of the Institute are coordinated with other activities of the Federal Government.

DIRECTOR OF THE INSTITUTE

Appointment.
20 USC 964.

SEC. 205. (a) (1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall perform such duties and exercise such powers as the Board may prescribe.

Report to HEW
Secretary.

(2) The Director shall report to the Secretary of Health, Education, and Welfare with respect to the activities of the Institute. The Director shall not delegate any of his functions to any other officer who is not directly responsible to the Director.

(b) The Director shall advise the Board regarding policies of the Institute to assure coordination of the Institute's activities with other agencies and organizations of the Federal Government having interest in and responsibilities for the improvement of museums. Such Government agencies shall include the National Endowment for the Arts, the National Endowment for the Humanities, the National Science

Foundation, appropriate units in the Department of Health, Education, and Welfare, the Library of Congress, and the Smithsonian Institution and related organizations.

ACTIVITIES OF THE INSTITUTE

SEC. 206. (a) The Director, subject to the policy direction of the Board, is authorized to make grants to museums to increase and improve museum services, through such activities as— Grants.
20 USC 965.

(1) programs to enable museums to construct or install displays, interpretations, and exhibitions in order to improve their services to the public;

(2) assisting them in developing and maintaining professionally-trained or otherwise experienced staff to meet their needs;

(3) assisting them to meet their administrative costs in preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public through the use of their collections;

(4) assisting museums in cooperation with each other in the development of traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

(5) assisting them in conservation of artifacts and art objects; and

(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions.

(b) Grants under this section for any fiscal year may not exceed 50 per centum of the cost of the program for which the grant is made, except that not more than 20 per centum of the funds available under this section for any fiscal year may be available for grants in such fiscal year without regard to such limitation.

CONTRIBUTIONS

SEC. 207. The Institute shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Institute. Such grants, gifts, or bequests, after acceptance by the Institute, shall be paid by the donor or his representative to the Treasurer of the United States whose receipt shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Institute for the purposes in each case specified. 20 USC 966.

FUNCTIONS OF FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 208. Section 9(c) of the National Foundation on the Arts and the Humanities Act of 1965 is amended— 20 USC 958.

(1) by redesignating paragraph (2) through paragraph (4) as paragraph (3) through paragraph (5), respectively, and by inserting immediately after paragraph (1) the following new paragraph:

“(2) advise and consult with the National Museum Services Board and with the Director of the Institute of Museum Services on major problems arising in carrying out the purposes of such Institute;”;

(2) in paragraph (3) thereof, as so redesignated by paragraph (1), by striking out “and” immediately after “Arts” and inserting in lieu thereof a comma, and by inserting “and the Institute of Museum Services,” immediately after “Humanities,”; and

(3) in paragraph (4) thereof, as so redesignated by paragraph (1), by inserting “and the Institute of Museum Services” immediately after “Foundation”.

AUTHORIZATION OF APPROPRIATIONS

20 USC 967.

SEC. 209. (a) For the purpose of making grants under section 206 (a), there are authorized to be appropriated \$15,000,000 for fiscal year 1977, \$25,000,000 for fiscal year 1978, and such sums as may be necessary for each of fiscal years 1979 and 1980.

(b) There are authorized to be appropriated such sums as may be necessary to administer the provisions of this title.

(c) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended.

(d) For the purpose of enabling the Institute to carry out its functions under this title, during the period beginning on the date of the enactment of this Act and ending October 1, 1980, there is authorized to be appropriated an amount equal to the amount contributed during such period to the Institute under section 207.

DEFINITIONS

20 USC 968.

SEC. 210. For the purpose of this title, the term—

(1) “Board” means the National Museum Services Board established under section 203;

(2) “Director” means the Director of the Institute established under section 203;

(3) “Institute” means the Institute of Museum Services established under section 203; and

(4) “museum” means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or esthetic purposes, which, utilizing a professional staff, owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis.

TITLE III—CHALLENGE GRANT PROGRAMS

ESTABLISHMENT OF PROGRAMS

20 USC 954.

SEC. 301. (a) Section 5 of the National Foundation of the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new subsection:

“(1) (1) The Chairman of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of—

“(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions;

“(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

“(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

“(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located; and

“(E) fostering greater citizen involvement in planning the cultural development of a community.

“(2) The total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

Limitation.

“(3) In carrying out the program authorized by this subsection, the Chairman of the National Endowment for the Arts shall have the same authority as is established in section 5(c) and section 10.”.

20 USC 954,
959.

(b) Section 7 of the National Foundation on the Arts and the Humanities Act of 1965, as amended by section 105, is further amended by adding at the end thereof the following new subsection:

Ante, p. 1974.

“(h) (1) The Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of—

“(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program of such organizations or institutions;

“(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

“(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

“(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

“(E) fostering greater citizen involvement in planning the cultural development of a community; and

“(F) for bicentennial programs, assessing where our society and Government stand in relation to the founding principles of the Republic, primarily focused on projects which will bring together the public and private citizen sectors in an effort to find new processes for solving problems facing our Nation in its third century.

“(2) (A) Except as provided in subparagraph (B) of this paragraph, the total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

Limitation.

“(B) The Chairman, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagraph (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such clause, could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section 11(a)(3), unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated in any fiscal year

Waiver.

20 USC 960.

and available to the National Endowment on the Humanities for the purpose of this subsection.

“(3) In carrying out the program authorized by this subsection, the Chairman of the National Endowment for the Humanities shall have the same authority as is established in section 7(c) and section 10.”.

20 USC 956.
959.

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new paragraph:

20 USC 960.

“(3) (A) There is authorized to be appropriated for each fiscal year ending before October 1, 1980, to the National Endowment for the Arts an amount equal to the total amounts received by such Endowment for the purposes set forth in section 5(l)(1) pursuant to the authority of section 10(a)(2), except that the amount so appropriated to such Endowment shall not exceed \$12,000,000 for fiscal year 1977, and \$18,000,000 for fiscal year 1978. Such sums as may be necessary are authorized to be appropriated for fiscal years 1979 and 1980.

Ante, p. 1978.
20 USC 959.

“(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1980, to the National Endowment for the Humanities an amount equal to the total amounts received by such Endowment for the purposes set forth in section 7(h)(1) pursuant to the authority of section 10(a)(2), except that the amount so appropriated to such Endowment shall not exceed \$12,000,000 for fiscal year 1977, and \$18,000,000 for fiscal year 1978. Such sums as may be necessary are authorized to be appropriated for fiscal years 1979 and 1980.

Ante, p. 1979.
20 USC 959.

“(C) If either Chairman determines at the end of the ninth month of any fiscal year that funds which would otherwise be available under this paragraph to an Endowment cannot be used, he shall transfer such funds to the other Endowment for the purposes described in section 5(l)(1) or section 7(h)(1), as may be necessary.

Transfer of funds.

“(D) Sums appropriated pursuant to subparagraph (A) and subparagraph (B) for any fiscal year shall remain available for obligation and expenditure until expended.”

TITLE IV—AMERICAN BICENTENNIAL PHOTOGRAPHY AND FILM PROJECT

AMERICAN BICENTENNIAL PHOTOGRAPHY AND FILM PROJECT

SEC. 401. (a) Section 5 of the National Foundation on the Arts and the Humanities Act of 1965, as amended by section 301(a), is further amended by adding at the end thereof the following new subsection:

Ante, p. 1978.

“(m)(1) From funds appropriated to the Endowment and apportioned to each State pursuant to section 11(a)(4), the Endowment is authorized to provide, by grant or contract, financial assistance to the State arts agency of each State, pursuant to such regulations and guidelines as the Endowment shall establish, to permit such State agency to support one or more photography or film projects meeting the purposes of this subsection. Such assistance shall also be available for acquiring essential supplies, and for administrative or supervisory personnel, and for processing and cataloging, and for the display (and related activities) of the photographs and films produced with assistance under this subsection.

20 USC 960.

“(2) (A) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information, as the Endowment determines is reasonably necessary.

“(B) In providing financial assistance under this subsection, each State shall give consideration to proposals which involve promising and qualified photographers or film makers who are unemployed or underemployed.

“(3) From funds allotted to the Endowment pursuant to section 11(a)(4), the Endowment shall pay the costs of administration, provide for collection and dissemination of a representative collection of photographs and films produced pursuant to this subsection, and provide direct assistance to applicants for photography or film projects of special merit which meet the purposes of this subsection. The Endowment shall assure that representative photographs and films (including, where appropriate, negatives) produced with assistance furnished under this subsection are made available for the permanent collection of the Library of Congress.”

Infra.

(b) Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965, as amended by section 302, is further amended by adding at the end thereof the following new paragraph:

Ante, p. 1980.

“(4)(A) For the purposes of carrying out section 5(m), there are authorized to be appropriated to the National Endowment for the Arts \$4,000,000 for fiscal year 1977 and \$2,000,000 for fiscal year 1978. Sums appropriated pursuant to this subparagraph shall remain available until expended.

“(B) Not more than 75 per centum of the amounts appropriated pursuant to subparagraph (A) shall be allocated among the States in equal amounts for fiscal year 1977, and not more than 50 per centum of the amounts appropriated pursuant to subparagraph (A) shall be allocated among the States in equal amounts for fiscal year 1978.”

TITLE V—ARTS EDUCATION

AMENDMENT TO THE EDUCATION AMENDMENTS OF 1974

SEC. 501. Section 409 of the Education Amendments of 1974 is amended by inserting “(a)” after the section designation and by adding at the end thereof the following new subsection:

20 USC 1867.

“(b) Notwithstanding the provisions of section 402(b)(3)(G) and section 402(b)(4) of this Act, and in addition to sums reserved under that section and made available under subsection (a) of this section, there are authorized to be appropriated \$2,000,000 for fiscal year 1978 to carry out the purposes of this section.”

20 USC 1861.

Approved October 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1024 (Comm. on Education and Labor) and No. 94-1631 (Comm. of Conference).

SENATE REPORTS: No. 94-880 accompanying S. 3440, No. 94-881 (both from Comm. on Labor and Public Welfare) and No. 94-1260 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 26, considered and passed House.

May 20, considered and passed Senate, amended, in lieu of S. 3440.

Sept. 22, Senate agreed to conference report.

Sept. 27, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 42:

Oct. 10, Presidential statement.

Public Law 94-463
94th Congress

An Act

Oct. 8, 1976
[H.R. 10339]

To encourage the direct marketing of agricultural commodities from farmers to consumers.

Farmer-to-
Consumer
Direct
Marketing Act
of 1976.
7 USC 3001
note.
7 USC 3001.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farmer-to-Consumer Direct Marketing Act of 1976".

PURPOSE

SEC. 2. It is the purpose of this Act to promote, through appropriate means and on an economically sustainable basis, the development and expansion of direct marketing of agricultural commodities from farmers to consumers. To accomplish this objective, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall initiate and coordinate a program designed to facilitate direct marketing from farmers to consumers for the mutual benefit of consumers and farmers.

DEFINITION

7 USC 3002.

SEC. 3. For purposes of this Act, the term "direct marketing from farmers to consumers" shall mean the marketing of agricultural commodities at any marketplace (including, but not limited to, roadside stands, city markets, and vehicles used for house-to-house marketing of agricultural commodities) established and maintained for the purpose of enabling farmers to sell (either individually or through a farmers' organization directly representing the farmers who produced the commodities being sold) their agricultural commodities directly to individual consumers, or organizations representing consumers, in a manner calculated to lower the cost and increase the quality of food to such consumers while providing increased financial returns to the farmers.

SURVEY

7 USC 3003.

SEC. 4. The Secretary shall provide, through the Economic Research Service of the United States Department of Agriculture, or whatever agency or agencies the Secretary considers appropriate, a continuing survey of existing methods of direct marketing from farmers to consumers in each State. The initial survey, which shall be completed no later than one year following the date of enactment of this Act, shall include the number of types of such marketing methods in existence, the volume of business conducted through each such marketing method, and the impact of such marketing methods upon financial returns to farmers (including their impact upon improving the economic viability of small farmers) and food quality and costs to consumers.

DIRECT MARKETING ASSISTANCE WITHIN THE STATES

Funds,
utilization.
7 USC 3004.

SEC. 5. (a) In order to promote the establishment and operation of direct marketing from farmers to consumers, the Secretary shall provide that funds appropriated to carry out this section be utilized by

State departments of agriculture and the Extension Service of the United States Department of Agriculture for the purpose of conducting or facilitating activities which will initiate, encourage, develop, or coordinate methods of direct marketing from farmers to consumers within or among the States. Such funds shall be allocated to a State on the basis of the feasibility of direct marketing from farmers to consumers within that State as compared to other States and shall be allocated within a State to the State department of agriculture and to the Extension Service on the basis of the types of activities which are needed in the State and on the basis of which of these two agencies, or combination thereof, can best perform these activities. The activities shall include, but shall not be limited to—

Funds,
allocation.

(1) sponsoring conferences which are designed to facilitate the sharing of information (among farm producers, consumers, and other interested persons or groups) concerning the establishment and operation of direct marketing from farmers to consumers;

(2) compiling laws and regulations relevant to the conduct of the various methods of such direct marketing within the State, formulating drafts of enabling legislation needed to facilitate such direct marketing, determining feasible locations for additional facilities for such direct marketing, and preparing and disseminating practical information on the establishment and operation of such direct marketing; and

(3) providing technical assistance for the purpose of aiding interested individuals or groups in the establishment of arrangements for direct marketing from farmers to consumers.

(b) In the implementation of this section, the Secretary shall take into account consumer preferences and needs which may bear upon the establishment and operation of arrangements for direct marketing from farmers to consumers.

ANNUAL REPORT

SEC. 6. The Secretary shall periodically review the activities carried out under this Act and shall report to the Committee on Agriculture, United States House of Representatives, and the Committee on Agriculture and Forestry, United States Senate, within one year of the date of enactment of this Act, and annually thereafter, with respect to the effectiveness of this Act. The Secretary shall include in such report a State-by-State summary of the results of the survey conducted under this Act, and a summary of the activities and accomplishments of the Extension Service and the State departments of agriculture in the development of direct marketing from farmers to consumers during the previous year.

Review;
report to
congressional
committees.
7 USC 3005.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) For purposes of carrying out the provisions of sections 4 and 6, there are authorized to be appropriated such sums as are necessary.

7 USC 3006.

(b) For purposes of carrying out the provisions of section 5, there is authorized to be appropriated \$1,500,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978.

EMERGENCY HAY PROGRAM

SEC. 8. In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in

Transportation
costs,
repayment.
42 USC 5145
note.
42 USC 5145.

Expiration and
effective
dates.

such area, the President shall direct the Secretary of Agriculture to pay 80 percent of the cost of transporting hay (not to exceed \$50 per ton) from areas in which hay is in plentiful supply to the area in which such farmers or ranchers are located. The provisions of this section shall expire on October 1, 1977, and shall become effective on October 1, 1976, or on the date of enactment of this Act, whichever is later.

Approved October 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-612 (Comm. on Agriculture) and No. 94-1516 (Comm. of Conference).

SENATE REPORT No. 94-1022 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Nov. 4, considered and passed House.

Vol. 122 (1976): July 30, considered and passed Senate, amended.

Sept. 15, Senate agreed to conference report.

Sept. 23, House receded and concurred in certain Senate amendments; receded and concurred in certain others with amendments.

Sept. 27, Senate concurred in House amendments.

Public Law 94-464
94th Congress

An Act

To provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of medical personnel of the armed forces, the Defense Department, the Central Intelligence Agency, and the National Aeronautics and Space Administration, and for other purposes.

Oct. 8, 1976

[H.R. 3954]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 55 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

Medical
malpractice
suits
against the
United States.
Protection.
10 USC 1089.

‘§ 1089. Defense of certain suits arising out of medical malpractice

“(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the armed forces, the Department of Defense, or the Central Intelligence Agency in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding.

“(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person’s immediate superior or to whomever was designated by the head of the agency concerned to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the action or proceeding is brought, to the Attorney General and to the head of the agency concerned.

“(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person’s duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is

28 USC 1.

one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

“(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

“(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to any cause of action arising out of a negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

Liability
insurance
for persons
assigned to
a foreign
country or
non-Federal
agency.

“(f) The head of the agency concerned or his designee may, to the extent that he or his designee deems appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

“Head of
agency
concerned.”

“(g) In this section, ‘head of the agency concerned’ means—

“(1) the Director of Central Intelligence, in the case of an employee of the Central Intelligence Agency;

“(2) the Secretary of Transportation, in the case of a member or employee of the Coast Guard when it is not operating as a service in the Navy; and

“(3) the Secretary of Defense, in all other cases.”.

(b) The table of sections at the beginning of such chapter 55 is amended by adding at the end thereof the following:

“1089. Defense of certain suits arising out of medical malpractice.”.

32 USC 334
note.

SEC. 2. (a) The Congress finds—

(1) that the Army National Guard and the Air National Guard are critical components of the defense posture of the United States;

(2) that a medical capability is essential to the performance of the mission of the National Guard when in Federal service;

(3) that the current medical malpractice crisis poses a serious threat to the availability of sufficient medical personnel for the National Guard; and

(4) that in order to insure that such medical personnel will continue to be available to the National Guard, it is necessary for the Federal Government to assume responsibility for the payment of malpractice claims made against such personnel arising out of actions or omissions on the part of such personnel while they are performing certain training exercises.

(b) Chapter 3 of title 32, United States Code, is amended by adding at the end thereof a new section as follows:

32 USC 334.

§ 334. Payment of malpractice liability of National Guard Medical personnel

(a) Upon the final disposition of any claim for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any medical personnel of the National Guard in furnishing medical care or treatment while acting within the scope of

his duties for the National Guard during a training exercise, the liability of such medical personnel for any costs, settlement, or judgment shall become, subject to the provisions of this section, the liability of the United States and shall be payable under the provisions of section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a), or out of funds appropriated for the payment of such liability.

“(b) The liability for any claim for damages under this section against any medical personnel shall become the liability of the United States only to the extent that the liability of such medical personnel is not covered by insurance, and such liability shall not constitute coinsurance for any purpose.

“(c) Liability of the United States for damages against any medical personnel referred to in subsection (a) shall be subject to the condition that the medical personnel against whom any claim for such damages is made shall—

“(1) promptly notify the Attorney General of the claim, and in case of any civil action or proceeding brought in any court against any such personnel, deliver all process served upon such personnel (or an attested true copy thereof) to the immediate superior of such personnel or to such other person designated by the appropriate Adjutant General to receive such papers, who shall promptly transmit such papers to the Attorney General.

Notification
to Attorney
General.

“(2) furnish to the Attorney General such other information and documents as the Attorney General may request, and

“(3) comply with the instructions of the Attorney General relative to the final disposition of a claim for damages.

“(d) The liability of the United States under this section shall also be subject to the condition that the settlement of any claim described in subsection (a) of this section be approved by the Attorney General prior to its finalization.

“(e) The provisions of this section shall not apply in the case of any claim for damages against any medical personnel settled under the provisions of section 715 of title 32.

“(f) As used in this section, the term—

Definitions.

“(1) ‘Medical personnel’ means any physician, dentist, nurse, pharmacist, paramedical, or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Army National Guard or the Air National Guard.

“(2) ‘Training exercise’ means training or duty performed by medical personnel under section 316, 502, 503, 504, or 505 of this title or under any other provision of law for which such personnel are entitled to or has waived pay under section 206 of title 37.

32 USC 316,
502-505.

“(3) ‘Final disposition’ means—

“(A) a final judgment of any court from which the Attorney General decides there will be no appeal,

“(B) the settlement of any claim, or

“(C) a determination at any stage of a claim for damages in favor of a medical personnel and from which determination no appeal can be made.

“(4) ‘Settlement’ means any compromise of a claim for damages which is agreed to by the claimant and approved by the Attorney General prior to its finalization.

“(5) ‘Costs’ includes any costs which are taxed by any court against any medical personnel, normal litigation expenses, attorney’s fees incurred by any medical personnel, and such interest as any medical personnel may be obligated to pay by any court order or by statute.

“(6) ‘Claim for damages’ means any claim or any legal or administrative action in connection with any claim described in subsection (a) of this section.

“(7) ‘Attorney General’ means the Attorney General of the United States.”.

(c) The table of sections at the beginning of such chapter 3 is amended by adding at the end thereof the following:

“334. Payment of malpractice liability of National Guard medical personnel.”.

42 USC 2459. SEC. 3. Title III of the National Aeronautics and Space Act of 1958, as amended, is amended by redesignating section 307 as 308 and by inserting after section 306 a new section 307 as follows:

“DEFENSE OF CERTAIN MALPRACTICE AND NEGLIGENCE SUITS

42 USC 2458a.

“SEC. 307. (a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Administration in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding.

“(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person’s immediate superior or to whomever was designated by the Administrator to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States Attorney for the district embracing the place wherein the proceeding is brought to the Attorney General and to the Administrator.

28 USC 1.

“(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person’s duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

“(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.

“(e) For purposes of this section, the provisions of section 2680(h) of title 28, United States Code, shall not apply to any cause of action arising out of a negligent or wrongful act of omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

“(f) The Administrator or his designee may, to the extent that the Administrator or his designee deem appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 2679(b) of title 28, United States Code, for such damage or injury.”.

SEC. 4. This Act shall become effective on the date of its enactment and shall apply only to those claims accruing on or after such date of enactment.

Liability insurance for persons assigned to a foreign country or non-Federal agency.

Effective date.
10 USC 1089 note.

Approved October 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-333 (Comm. on Armed Services).

SENATE REPORT No. 94-1264 (Comm. on Armed Services).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 21, considered and passed House.

Vol. 122 (1976): Sept. 24, considered and passed Senate, amended.

Sept. 27, House concurred in Senate amendment.

Public Law 94-465
94th Congress

An Act

Oct. 8, 1976
[S. 2981]

To authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes.

Indian Claims
Commission.
Appropriation
authorization.

Termination
date, extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act (25 U.S.C. 70), during fiscal year 1977, not to exceed \$1,650,000.

SEC. 2. Section 23 of the Act entitled "An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (60 Stat. 1049, 1055), as amended (86 Stat. 115; 25 U.S.C. 70v), is hereby amended by striking said section and inserting in lieu thereof the following:

"DISSOLUTION OF THE COMMISSION AND DISPOSITION OF PENDING CLAIMS

"SEC. 23. The existence of the Commission shall terminate at the end of fiscal year 1978 on September 30, 1978, or at such earlier time as the Commission shall have made its final report to the Congress on all claims filed with it. Upon its dissolution, the records and files of the Commission in all cases in which a final determination has been entered shall be delivered to the Archivist of the United States. No later than December 31, 1976, the Indian Claims Commission may certify and transfer to the Court of Claims all cases which the Commission determines it cannot completely adjudicate by September 30, 1978. In addition, the Commission may, at any time prior to September 30, 1978, certify and transfer to the Court of Claims any case which it determines cannot be completely adjudicated prior to the dissolution of the Commission. Jurisdiction is hereby conferred upon the Court of Claims to adjudicate all such cases under the provisions of section 2 of the Indian Claims Commission Act: *Provided*, That section 2 of said Act shall not apply to any cases filed originally in the Court of Claims under section 1505 of title 28, United States Code. Upon dissolution of the Commission, all pending cases including those on appeal shall be transferred to the Court of Claims for adjudication on the same basis as those authorized to be transferred by this section."

Report to
congressional
committees.

SEC. 3. Section 28 of such Act of August 13, 1946, as amended (25 U.S.C. 70v-2), is amended by striking said section and inserting in lieu thereof the following:

“STATUS REPORT TO CONGRESS

“SEC. 28. The Commission shall, on the first day of the 95th Congress, submit a report to the Committees on Interior and Insular Affairs of the Senate and House of Representatives on those cases which it has transferred pursuant to section 23 of this Act, as amended. In addition, the Commission shall submit a report to said Committees at six month intervals thereafter showing the progress made and the work remaining to be completed by the Commission, as well as the status of each remaining case, along with the projected date for its completion.” 25 USC 70v.

Approved October 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1150 accompanying H.R. 11909 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-737 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 9, considered and passed Senate.

Aug. 3, considered and passed House, amended, in lieu of H.R. 11909.

Sept. 28, Senate agreed to conference report.

Sept. 29, House agreed to conference report.

Public Law 94-466
94th Congress

An Act

Oct. 8, 1976

[H.R. 13374]

Minnesota
Valley National
Wildlife
Refuge Act.
16 USC 668kk
note.
16 USC 668kk.

To provide for a national wildlife refuge in the Minnesota River Valley, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Minnesota Valley National Wildlife Refuge Act”.

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares the following:

(1) The Lower Minnesota River Valley, which provides habitat for a large number of migratory waterfowl, fish, and other wildlife species, is a unique environmental resource.

(2) This valley is located close to a large metropolitan area and, accordingly, it is of great value as a source of environmental education, recreational opportunities, and interpretive programs for hundreds of thousands of urban dwellers.

(3) This valley is currently threatened with spoilation, removal from public access, and ecological downgrading, through commercial and industrial development.

(4) Despoilment of this valley and its flood plain will result in the permanent loss of unique social, educational, and environmental assets.

(b) POLICY.—It is therefore declared to be the policy of the Congress in this Act to preserve the Minnesota River Valley through the establishment of the Minnesota Valley National Wildlife Refuge.

DEFINITIONS

16 USC 668ll.

SEC. 3. As used in this Act:

(1) The terms “conserve” and “conservation” mean to use, and the use of, methods and procedures which are necessary to assure, to the maximum extent practicable, the continued existence of populations of fish and wildlife. Such methods and procedures may include, but are not limited to, all activities associated with scientific resource management, including research, census, law enforcement, habitat acquisition, and public information and education.

(2) The term “interests therein” means any property interest in lands and waters, including, but not limited to, a leasehold, an easement, a future interest, or an equitable use.

(3) The term “refuge” means the Minnesota Valley National Wildlife Refuge, established pursuant to section 4 of this Act.

(4) The term “Secretary” means the Secretary of the Interior, acting through the United States Fish and Wildlife Service.

(5) The term “State” means the State of Minnesota and any political subdivision thereof.

(6) The term “wildlife recreation area” means the wildlife recreation area established adjacent to the refuge, pursuant to section 5 of this Act.

THE REFUGE

SEC. 4. (a) **ESTABLISHMENT.**—The Secretary shall establish, in accordance with this section, the Minnesota Valley National Wildlife Refuge by publication of a notice to that effect in the Federal Register upon completion of the comprehensive plan pursuant to section 6 of this Act. The refuge shall consist of—

Publication in
Federal Register.
16 USC 668mm.

(1) approximately 9,500 acres of lands, marshes, submerged lands, and open waters in the lower Minnesota River Valley, which are depicted as a wildlife refuge on a map dated November 1975 and entitled "Official Map—Minnesota Valley National Wildlife Refuge-Recreation Area", which shall be on file and available for public inspection in the offices of the United States Fish and Wildlife Service of the Department of the Interior; and

(2) any additional lands, waters, and interests therein, which the Secretary may acquire and designate for inclusion in the refuge.

(b) **ACQUISITION AND ADMINISTRATION.**—(1) The Secretary shall, within 6 years after the date of enactment of this Act, acquire lands, waters, and interests therein, within the boundaries of the refuge, by (A) donation; (B) purchase (with donated, transferred, or appropriated funds); or (C) exchange.

(2) With respect to the Black Dog Lake unit, as identified on the map referred to in subsection (a) (1) of this section, the Secretary may not acquire any lands, waters, or interests therein unless such acquisition is compatible with the continued operation of the electric power generation plant presently located within such unit. The Secretary may negotiate and enter into an agreement, with the owner of such powerplant, for the joint or cooperative conservation and management of such unit.

(3) The Secretary shall develop and administer the lands, waters, and interests therein, which are acquired for the refuge, in accordance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 688dd et seq.). The Secretary may also exercise any other authority available to him for the conservation and management of wildlife and natural resources, the development of wildlife recreational opportunities, wildlife interpretation, and environmental education, to the extent deemed by him to be appropriate to carry out the purposes of this Act.

16 USC 668dd
note.

(c) **WILDLIFE INTERPRETATION AND EDUCATION CENTER.**—The Secretary shall construct, administer, and maintain, at an appropriate site within the refuge, a wildlife interpretation and education center. Such center shall be designed and operated to promote environmental education and to provide an opportunity for the study and enjoyment of wildlife in its natural habitat.

(d) **REVENUE SHARING.**—Payments made, in accordance with the Refuge Revenue Sharing Act (16 U.S.C. 715s), to the counties in which units of the refuge are located shall be distributed by such counties to municipalities and townships on the same pro rata basis as is used in the distribution of real estate taxes.

THE WILDLIFE RECREATION AREA

SEC. 5. (a) **GENERAL.**—The Secretary shall establish, in cooperation with the State and in an area adjacent to the refuge, a wildlife recreation area by publication of a notice to that effect in the Federal Register upon completion of the comprehensive plan pursuant to

Establishment.
Publication in
Federal Register.
16 USC 668nn.

section 6 of this Act. Such area shall consist of the lands, waters, and interests therein which are depicted as a recreation area on the map referred to in section 4(a)(1) of this Act. The wildlife recreation area shall, in general, consist of—

(1) those portions of the Lower Minnesota River floodplain and which are necessary for one or more of the following: public access to such area; safety; the well-being of the visiting public; and the operation and maintenance of such area; and

(2) any additional areas which are adjacent to such floodplain and which are located between the city of Jordan, Minnesota, and Fort Snelling State Park, excluding the industrialized component thereof located in the municipalities of Savage, Chaska, Shakopee, and Burnsville, Minnesota.

(b) ACQUISITION AND ADMINISTRATION.—Lands, waters, and interests therein, which are within the boundaries of the wildlife recreation area, shall, with the agreement of the State, be acquired, developed, and administered by the State (in cooperation with the Secretary) in accordance with the provisions of the comprehensive plan developed under section 6 of this Act.

COMPREHENSIVE PLAN

16 USC 668^{oo}.

SEC. 6. (a) GENERAL.—Within 3 years after the date of enactment of this Act, the Secretary shall, in cooperation with the State and political subdivisions thereof, develop a comprehensive plan for the conservation, protection, preservation, and interpretation of the Minnesota Valley National Wildlife Refuge and the adjacent wildlife recreation area.

Guidelines.

(b) MANAGEMENT CATEGORIES.—The plan required by subsection (a) of this section shall delineate and provide appropriate management guidelines for the following two categories of property:

(1) Category I.—The Minnesota Valley National Wildlife Refuge, to be acquired and managed by the Secretary pursuant to section 4(b) of this Act.

(2) Category II.—Public nature-recreation areas, to be acquired (in fee or by lease, easement, donation, or other agreement) and managed by the State (in cooperation with the Secretary) pursuant to section 5(b) of this Act.

(c) OTHER REQUIREMENTS.—The plan required by subsection (a) of this section shall—

(1) provide for the Minnesota Valley Trail Corridor, authorized by Minnesota Statute, 1969, section 85.198, as an integral part of the Minnesota Valley National Wildlife Refuge and the adjacent wildlife recreation area; and

(2) contain such other provisions relating to public use, law enforcement, wildlife conservation, environmental education and interpretation, and other matters as the Secretary and the State deem necessary to preserve, protect, and enhance the refuge-recreation area and to carry out the purposes of this Act.

FINANCIAL ASSISTANCE

16 USC 668^{pp}.

SEC. 7. (a) GRANTS.—The Secretary shall provide sufficient financial assistance to the State to enable it to acquire and develop lands, waters, and interests therein in the wildlife recreation area. A grant made under this section shall only be used with respect to lands, waters, and interests therein which are acquired by the State after the establish-

ment of the wildlife recreation area. The Secretary may reimburse the State for lands, waters, and interests therein which are acquired prior to the establishment of the wildlife recreation area if such lands, waters, and interests therein are contained within the area at the time of its establishment. Such grants shall be subject to such other terms and conditions as may be prescribed by the Secretary. Any grants made from the Land and Water Conservation Fund shall be subject to the provisions of section 6 of the Land and Water Conservation Fund Act, as amended (16 U.S.C. 4601-8).

Reimbursement.

Terms and conditions.

(b) **LIMITATIONS.**—Any payment made by the Secretary under this section shall be subject to the following condition: The conversion, use, or disposal of any lands, waters, and interests therein which are required by the State, directly or indirectly, with Federal financial assistance provided under this section, for purposes contrary to the purposes of this Act (as determined by the Secretary), shall create in the United States a right to compensation from the State in an amount equal to the fair market value of the land at the time of conversion, use or disposal, or an amount equal to the Federal payment for acquisition and development of the land, whichever is greater.

SPOIL SITES

SEC. 8. The Secretary and the United States Corps of Engineers shall assist appropriate local authorities in the disposal of dredge material and in the designation of sites for deposit of dredge material, so as to minimize the disruption of wildlife and the reduction of scenic and recreational values and so as to assure the continuation of navigation on the riverway. The Secretary may acquire such alternative sites, outside the boundary of the refuge-recreation area, as may be necessary, in exchange for sites existing in the area on the date of enactment of this Act. The value of any properties so exchanged shall be approximately equal as determined by the Secretary or, if not, such value shall be equalized by the payment of cash, to the owners of the property within the refuge-recreation area or to the Secretary, as the circumstances require. The Secretary is authorized to expend not more than 20 per centum of the funds appropriated for acquisition of the refuge under section 10(a) of this Act to assist in the disposal of dredge material and to purchase alternative sites for deposit of dredge material as may be necessary outside the boundaries of the refuge and recreation area.

16 USC 668qq.

Alternative sites, acquisition.

CONTINUED PUBLIC SERVICES

SEC. 9. Nothing contained in this Act shall be construed as prohibiting or preventing the provision of vital public services, including—

16 USC 668rr.

(1) the continuation of commercial navigation in the main navigation channel of the Minnesota River which lies within the refuge-recreation area;

(2) the construction, improvement, and replacement of highways and bridges, whether or not the highway is a Federal-aid highway; or

(3) any other activity which the Secretary determines to be necessary;

if the provision of such services is otherwise in accordance with law. Any activity referred to in this section shall be carried out so as to minimize the disruption of the wildlife and the reduction of recreational and scenic values of the area, consistent with economic feasibility.

AUTHORIZATION FOR APPROPRIATIONS

16 USC 668ss.

SEC. 10. (a) ACQUISITION.—There are authorized to be appropriated such amounts as may be necessary for acquisition of lands, waters, and interests therein in the refuge-recreation area, pursuant to sections 4(b) (1) and (7) (a) of this Act, except that such sums shall not exceed a total of \$14,500,000 for the period beginning October 1, 1977, and ending September 30, 1983.

(b) DEVELOPMENT.—There are authorized to be appropriated such amounts as may be necessary for the development of the refuge-recreation area, except that such sums shall not exceed \$6,000,000 for the period beginning October 1, 1977, and ending September 30, 1986. Not more than \$500,000 of such sums shall be used for the development of the comprehensive plan pursuant to section 6 of this Act.

Approved October 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1470 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-934 accompanying S. 2097 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 20, considered and passed House.

Sept. 24, considered and passed Senate.

Public Law 94-467
94th Congress

An Act

To amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes.

Oct. 8, 1976

[H.R. 15552]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons".

SEC. 2. Section 1116 of title 18, United States Code, is amended to read as follows:

"§ 1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons

"(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

"(b) For the purposes of this section:

"(1) 'Family' includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official or internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

"(2) 'Foreign government' means the government of a foreign country, irrespective of recognition by the United States.

"(3) 'Foreign official' means—

"(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

"(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

"(4) 'Internationally protected person' means—

"(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

"(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or

Act for the
Prevention and
Punishment of
Crimes Against
Internationally
Protected
Persons.
18 USC 112
note.

18 USC 1111-
1113.

Definitions.

international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

“(5) ‘International organization’ means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

“(6) ‘Official guest’ means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

“(c) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

18 USC 5, 7.

Assistance for
Attorney
General.

“(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.”

SEC. 3. The analysis at the beginning of chapter 51 of title 18, United States Code, relating to section 1116 is amended to read as follows:

“1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons.”

SEC. 4. Section 1201 of title 18, United States Code, is amended as follows:

(a) by deleting subsection (a) (4) and inserting in lieu thereof the following:

“(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title,”; and

Ante, p. 1997.

(b) by adding at the end thereof new subsections (d), (e), and (f) as follows:

Punishment.

“(d) Whoever attempts to violate subsection (a) (4) shall be punished by imprisonment for not more than twenty years.

Jurisdiction.

“(e) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

18 USC 5, 7.

Assistance for
Attorney
General.

“(f) In the course of enforcement of subsection (a) (4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a) (4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.”

SEC. 5. Section 112 of title 18, United States Code, is amended to read as follows:

“§ 112. Protection of foreign officials, official guests, and internationally protected persons

“(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined not more than \$5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

“(b) Whoever willfully—

“(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

“(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

“(3) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

“(A) a foreign government, including such use as a mission to an international organization;

“(B) an international organization;

“(C) a foreign official; or

“(D) an official guest;

congregates with two or more other persons with intent to violate any other provision of this section; shall be fined not more than \$500 or imprisoned not more than six months, or both.

“(c) For the purpose of this section ‘foreign government’, ‘foreign official’, ‘internationally protected person’, ‘international organization’, and ‘official guest’ shall have the same meanings as those provided in section 1116(b) of this title.

“(d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

“(e) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

“(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary, notwithstanding.”.

Definitions.

Ante, p. 1997.

Jurisdiction.

18 USC 5, 7.

Assistance for
Attorney
General.

SEC. 6. The analysis at the beginning of chapter 51 of title 18, United States Code, relating to section 112 is amended to read as follows:

"112. Protection of foreign officials, official guests, and internationally protected persons."

SEC. 7. Section 970 of title 18, United States Code, is amended:

Definitions.

Ante, p. 1997.

(a) by relettering subsection "(b)" as subsection "(c)" and amending the subsection to read as follows:

"(c) For the purpose of this section 'foreign government', 'foreign official', 'international organization', and 'official guest' shall have the same meanings as those provided in section 1116(b) of this title."; and

(b) by inserting a new subsection "(b)" as follows:

"(b) Whoever, willfully with intent to intimidate, coerce, threaten, or harass—

"(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

"(A) a foreign government, including such use as a mission to an international organization;

"(B) an international organization;

"(C) a foreign official; or

"(D) an official guest; or

"(2) refuses to depart from such portion of such building or premises after a request—

"(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

"(B) by a foreign official or any member of the foreign official's staff who is authorized by the foreign official to make such request;

"(C) by an official guest or any member of the official guest's staff who is authorized by the official guest to make such request; or

"(D) by any person present having law enforcement powers;

shall be fined not more than \$500 or imprisoned not more than six months, or both."

SEC. 8. Chapter 41 of title 18, United States Code, is amended by adding a new section 878 as follows:

18 USC 878.

"§ 878. Threats and extortion against foreign officials, official guests, or internationally protected persons

Ante, pp. 1997, 1999.

18 USC 1201.

"(a) Whoever knowingly and willfully threatens to violate section 112, 1116, or 1201 by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person shall be fined not more than \$5,000 or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112, 1116, or 1201 makes any extortionate demand shall be fined not more than \$20,000 or imprisoned not more than twenty years, or both.

“(c) For the purpose of this section ‘foreign official’, ‘internationally protected person’, and ‘official guest’ shall have the same meanings as those provided in section 1116 (a) of this title.

Definitions.

Ante, p. 1997.

“(d) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101 (34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 (34)).”.

18 USC 5, 7.

SEC. 9. The analysis of chapter 41 of title 18, United States Code, is amended by inserting at the end thereof the following new item:

“878. Threat and extortion against foreign officials, official guests, and internationally protected persons.”.

SEC. 10. Nothing contained in this Act shall be construed to indicate an intent on the part of Congress to occupy the field in which its provisions operate to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia, on the same subject matter, nor to relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession, or the District of Columbia, including the obligation of all persons having official law enforcement powers to take appropriate action, such as effecting arrests, for Federal as well as non-Federal violations.

18 USC 112 note.

SEC. 11. Section 11 of title 18, United States Code, is amended by inserting after the word “title” the words “except in sections 112, 878, 970, 1116, and 1201”.

Approved October 8, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1614 (Comm. on the Judiciary).

SENATE REPORT No. 94-1273 accompanying S. 3646 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Sept. 24, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 42:

Oct. 10, Presidential statement.

Public Law 94-468
94th Congress

An Act

Oct. 11, 1976

[H.R. 11407]

Coast Guard
Academy.
Foreign
nationals,
admission.

To amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 195 of title 14, United States Code, is amended to read as follows:

“§ 195. Admission of foreign nationals for instruction; restrictions; conditions

“(a) A foreign national may not receive instruction at the Academy except as authorized by this section.

“(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

14 USC 182.

“(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, as a cadet appointed pursuant to section 182 of this title. A person may receive instruction under this section only if his country agrees in advance to reimburse the United States, at a rate determined by the Secretary, for the cost of providing such instruction, including pay and allowances, unless a waiver therefrom has been granted to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

“(d) A person receiving instruction under this section is—

“(1) not entitled to any appointment in the Coast Guard by reason of his graduation from the Academy; and

“(2) subject to those regulations applicable to the Academy governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, except as may otherwise be prescribed by the Secretary.”.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1110 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-1187 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 18, considered and passed House.

Sept. 7, considered and passed Senate, amended.

Sept. 27, House concurred in Senate amendment.

Public Law 94-469
94th Congress

An Act

To regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

Oct. 11, 1976
[S. 3149]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the “Toxic Substances Control Act”.

Toxic Substances
Control Act.

15 USC 2601
note.

TABLE OF CONTENTS

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings, policy, and intent.
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- Sec. 4. Testing of chemical substances and mixtures.
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- Sec. 6. Regulation of hazardous chemical substances and mixtures.
- Sec. 7. Imminent hazards.
- Sec. 8. Reporting and retention of information.
- Sec. 9. Relationship to other Federal laws.
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- Sec. 13. Entry into customs territory of the United States.
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- Sec. 23. Employee protection.
- Sec. 24. Employment effects.
- Sec. 25. Studies.
- Sec. 26. Administration of the Act.
- Sec. 27. Development and evaluation of test methods.
- Sec. 28. State programs.
- Sec. 29. Authorization for appropriations.
- Sec. 30. Annual report.
- Sec. 31. Effective date.

SEC. 2. FINDINGS, POLICY, AND INTENT.

(a) **FINDINGS.**—The Congress finds that—

15 USC 2601.

(1) human beings and the environment are being exposed each year to a large number of chemical substances and mixtures;

(2) among the many chemical substances and mixtures which are constantly being developed and produced, there are some whose manufacture, processing, distribution in commerce, use, or disposal may present an unreasonable risk of injury to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances and mixtures also necessitates the regulation of intrastate commerce in such chemical substances and mixtures.

(b) **POLICY.**—It is the policy of the United States that—

(1) adequate data should be developed with respect to the effect of chemical substances and mixtures on health and the environ-

ment and that the development of such data should be the responsibility of those who manufacture and those who process such chemical substances and mixtures;

(2) adequate authority should exist to regulate chemical substances and mixtures which present an unreasonable risk of injury to health or the environment, and to take action with respect to chemical substances and mixtures which are imminent hazards; and

(3) authority over chemical substances and mixtures should be exercised in such a manner as not to impede unduly or create unnecessary economic barriers to technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances and mixtures do not present an unreasonable risk of injury to health or the environment.

(c) **INTENT OF CONGRESS.**—It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that the Administrator shall consider the environmental, economic, and social impact of any action the Administrator takes or proposes to take under this Act.

SEC. 3. DEFINITIONS.

15 USC 2602.

As used in this Act:

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) (A) Except as provided in subparagraph (B), the term "chemical substance" means any organic or inorganic substance of a particular molecular identity, including—

(i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and

(ii) any element or uncombined radical.

(B) Such term does not include—

(i) any mixture,

7 USC 136 note.

(ii) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide,

(iii) tobacco or any tobacco product,

42 USC 2011
note.

(iv) any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act),

26 USC 4181.

(v) any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such Code), and

26 USC 4182,
4221.

(vi) any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

21 USC 321.

The term "food" as used in clause (vi) of this subparagraph includes poultry and poultry products (as defined in sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

21 USC 453.

21 USC 601.

21 USC 1033.

(3) The term "commerce" means trade, traffic, transportation, or other commerce (A) between a place in a State and any place outside

of such State, or (B) which affects trade, traffic, transportation, or commerce described in clause (A).

(4) The terms "distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture mean to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(5) The term "environment" includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

(6) The term "health and safety study" means any study of any effect of a chemical substance or mixture on health or the environment or on both, including underlying data and epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological studies of a chemical substance or mixture, and any test performed pursuant to this Act.

(7) The term "manufacture" means to import into the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States), produce, or manufacture.

19 USC 1202.

(8) The term "mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

(9) The term "new chemical substance" means any chemical substance which is not included in the chemical substance list compiled and published under section 8(b).

Post, p. 2027.

(10) The term "process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce—

(A) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(B) as part of an article containing the chemical substance or mixture.

(11) The term "processor" means any person who processes a chemical substance or mixture.

(12) The term "standards for the development of test data" means a prescription of—

(A) the—

(i) health and environmental effects, and

(ii) information relating to toxicity, persistence, and other characteristics which affect health and the environment, for which test data for a chemical substance or mixture are to be developed and any analysis that is to be performed on such data, and

(B) to the extent necessary to assure that data respecting such effects and characteristics are reliable and adequate—

(i) the manner in which such data are to be developed,

(ii) the specification of any test protocol or methodology to be employed in the development of such data, and

(iii) such other requirements as are necessary to provide such assurance.

(13) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

(14) The term "United States", when used in the geographic sense, means all of the States.

SEC. 4. TESTING OF CHEMICAL SUBSTANCES AND MIXTURES.

15 USC 2603.

(a) TESTING REQUIREMENTS.—If the Administrator finds that—

(1) (A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; and

(2) in the case of a mixture, the effects which the mixture's manufacture, distribution in commerce, processing, use, or disposal or any combination of such activities may have on health or the environment may not be reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture;

Rules.

the Administrator shall by rule require that testing be conducted on such substance or mixture to develop data with respect to the health and environmental effects for which there is an insufficiency of data and experience and which are relevant to a determination that the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture, or that any combination of such activities, does or does not present an unreasonable risk of injury to health or the environment.

(b) (1) TESTING REQUIREMENT RULE.—A rule under subsection (a) shall include—

(A) identification of the chemical substance or mixture for which testing is required under the rule,

(B) standards for the development of test data for such substance or mixture, and

(C) with respect to chemical substances which are not new chemical substances and to mixtures, a specification of the period (which period may not be of unreasonable duration) within

Standards for
development of
test data.
Data, submittal to
Administrator.

which the persons required to conduct the testing shall submit to the Administrator data developed in accordance with the standards referred to in subparagraph (B).

In determining the standards and period to be included, pursuant to subparagraphs (B) and (C), in a rule under subsection (a), the Administrator's considerations shall include the relative costs of the various test protocols and methodologies which may be required under the rule and the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule. Any such rule may require the submission to the Administrator of preliminary data during the period prescribed under subparagraph (C).

(2) (A) The health and environmental effects for which standards for the development of test data may be prescribed include carcinogenesis, mutagenesis, teratogenesis, behavioral disorders, cumulative or synergistic effects, and any other effect which may present an unreasonable risk of injury to health or the environment. The characteristics of chemical substances and mixtures for which such standards may be prescribed include persistence, acute toxicity, subacute toxicity, chronic toxicity, and any other characteristic which may present such a risk. The methodologies that may be prescribed in such standards include epidemiologic studies, serial or hierarchical tests, in vitro tests, and whole animal tests, except that before prescribing epidemiologic studies of employees, the Administrator shall consult with the Director of the National Institute for Occupational Safety and Health.

Consultations.

(B) From time to time, but not less than once each 12 months, the Administrator shall review the adequacy of the standards for development of data prescribed in rules under subsection (a) and shall, if necessary, institute proceedings to make appropriate revisions of such standards.

Review of standards.

(3) (A) A rule under subsection (a) respecting a chemical substance or mixture shall require the persons described in subparagraph (B) to conduct tests and submit data to the Administrator on such substance or mixture, except that the Administrator may permit two or more of such persons to designate one such person or a qualified third party to conduct such tests and submit such data on behalf of the persons making the designation.

(B) The following persons shall be required to conduct tests and submit data on a chemical substance or mixture subject to a rule under subsection (a):

(i) Each person who manufactures or intends to manufacture such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii) with respect to the manufacture of such substance or mixture.

(ii) Each person who processes or intends to process such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii) with respect to the processing of such substance or mixture.

(iii) Each person who manufactures or processes or intends to manufacture or process such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii) with respect to the distribution in commerce, use, or disposal of such substance or mixture.

(4) Any rule under subsection (a) requiring the testing of and submission of data for a particular chemical substance or mixture shall expire at the end of the reimbursement period (as defined in subsection (c)(3)(B)) which is applicable to test data for such substance or mixture unless the Administrator repeals the rule before such date;

and a rule under subsection (a) requiring the testing of and submission of data for a category of chemical substances or mixtures shall expire with respect to a chemical substance or mixture included in the category at the end of the reimbursement period (as so defined) which is applicable to test data for such substance or mixture unless the Administrator before such date repeals the application of the rule to such substance or mixture or repeals the rule.

Oral presentation
and written
submissions.
Transcript.
Publication.

(5) Rules issued under subsection (a) (and any substantive amendment thereto or repeal thereof) shall be promulgated pursuant to section 553 of title 5, United States Code, except that (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be made of any oral presentation; and (C) the Administrator shall make and publish with the rule the findings described in paragraph (1)(A) or (1)(B) of subsection (a) and, in the case of a rule respecting a mixture, the finding described in paragraph (2) of such subsection.

Application.

(c) EXEMPTION.—(1) Any person required by a rule under subsection (a) to conduct tests and submit data on a chemical substance or mixture may apply to the Administrator (in such form and manner as the Administrator shall prescribe) for an exemption from such requirement.

(2) If, upon receipt of an application under paragraph (1), the Administrator determines that—

(A) the chemical substance or mixture with respect to which such application was submitted is equivalent to a chemical substance or mixture for which data has been submitted to the Administrator in accordance with a rule under subsection (a) or for which data is being developed pursuant to such a rule, and

(B) submission of data by the applicant on such substance or mixture would be duplicative of data which has been submitted to the Administrator in accordance with such rule or which is being developed pursuant to such rule,

the Administrator shall exempt, in accordance with paragraph (3) or (4), the applicant from conducting tests and submitting data on such substance or mixture under the rule with respect to which such application was submitted.

Fair and
equitable
reimbursement.

(3) (A) If the exemption under paragraph (2) of any person from the requirement to conduct tests and submit test data on a chemical substance or mixture is granted on the basis of the existence of previously submitted test data and if such exemption is granted during the reimbursement period for such test data (as prescribed by subparagraph (B)), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to the person who previously submitted such test data, for a portion of the costs incurred by such person in complying with the requirement to submit such data, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to such costs, for a portion of the amount such person was required to contribute.

Rules.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture, the Administrator shall, after consultation with the Attorney General

and the Federal Trade Commission, consider all relevant factors, including the effect on the competitive position of the person required to provide reimbursement in relation to the person to be reimbursed and the share of the market for such substance or mixture of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. An order under this subparagraph shall, for purposes of judicial review, be considered final agency action.

(B) For purposes of subparagraph (A), the reimbursement period for any test data for a chemical substance or mixture is a period—

Reimbursement
period.

(i) beginning on the date such data is submitted in accordance with a rule promulgated under subsection (a), and

(ii) ending—

(I) five years after the date referred to in clause (i), or

(II) at the expiration of a period which begins on the date referred to in clause (i) and which is equal to the period which the Administrator determines was necessary to develop such data,

whichever is later.

(4) (A) If the exemption under paragraph (2) of any person from the requirement to conduct tests and submit test data on a chemical substance or mixture is granted on the basis of the fact that test data is being developed by one or more persons pursuant to a rule promulgated under subsection (a), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to each such person who is developing such test data, for a portion of the costs incurred by each such person in complying with such rule, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to the costs of complying with such rule, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture, the Administrator shall, after consultation with the Attorney General and the Federal Trade Commission, consider the factors described in the second sentence of paragraph (3) (A). An order under this subparagraph shall, for purposes of judicial review, be considered final agency action.

(B) If any exemption is granted under paragraph (2) on the basis of the fact that one or more persons are developing test data pursuant to a rule promulgated under subsection (a) and if after such exemption is granted the Administrator determines that no such person has complied with such rule, the Administrator shall (i) after providing written notice to the person who holds such exemption and an opportunity for a hearing, by order terminate such exemption, and (ii) notify in writing such person of the requirements of the rule with respect to which such exemption was granted.

(d) NOTICE.—Upon the receipt of any test data pursuant to a rule under subsection (a), the Administrator shall publish a notice of the receipt of such data in the Federal Register within 15 days of its receipt. Subject to section 14, each such notice shall (1) identify the chemical substance or mixture for which data have been received; (2) list the uses or intended uses of such substance or mixture and the

Publication in
Federal Register.

Post, p. 2034.

Committee to
make
recommendations
to
Administrator.

information required by the applicable standards for the development of test data; and (3) describe the nature of the test data developed. Except as otherwise provided in section 14, such data shall be made available by the Administrator for examination by any person.

(e) **PRIORITY LIST.**—(1) (A) There is established a committee to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the promulgation of a rule under subsection (a). In making such a recommendation with respect to any chemical substance or mixture, the committee shall consider all relevant factors, including—

(i) the quantities in which the substance or mixture is or will be manufactured,

(ii) the quantities in which the substance or mixture enters or will enter the environment,

(iii) the number of individuals who are or will be exposed to the substance or mixture in their places of employment and the duration of such exposure,

(iv) the extent to which human beings are or will be exposed to the substance or mixture,

(v) the extent to which the substance or mixture is closely related to a chemical substance or mixture which is known to present an unreasonable risk of injury to health or the environment,

(vi) the existence of data concerning the effects of the substance or mixture on health or the environment,

(vii) the extent to which testing of the substance or mixture may result in the development of data upon which the effects of the substance or mixture on health or the environment can reasonably be determined or predicted, and

(viii) the reasonably foreseeable availability of facilities and personnel for performing testing on the substance or mixture.

Recommendations, list of
chemical
substances and
mixtures.

The recommendations of the committee shall be in the form of a list of chemical substances and mixtures which shall be set forth, either by individual substance or mixture or by groups of substances or mixtures, in the order in which the committee determines the Administrator should take action under subsection (a) with respect to the substances and mixtures. In establishing such list, the committee shall give priority attention to those chemical substances and mixtures which are known to cause or contribute to or which are suspected of causing or contributing to cancer, gene mutations, or birth defects. The committee shall designate chemical substances and mixtures on the list with respect to which the committee determines the Administrator should, within 12 months of the date on which such substances and mixtures are first designated, initiate a proceeding under subsection (a). The total number of chemical substances and mixtures on the list which are designated under the preceding sentence may not, at any time, exceed 50.

Publication in
Federal Register;
transmittal to
Administrator.

(B) As soon as practicable but not later than nine months after the effective date of this Act, the committee shall publish in the Federal Register and transmit to the Administrator the list and designations required by subparagraph (A) together with the reasons for the committee's inclusion of each chemical substance or mixture on the list. At least every six months after the date of the transmission to the Administrator of the list pursuant to the preceding sentence, the committee shall make such revisions in the list as it determines to be necessary and shall transmit them to the Administrator together with the committee's reasons for the revisions. Upon receipt of any such revision,

Publication in
Federal Register.

the Administrator shall publish in the Federal Register the list with such revision, the reasons for such revision, and the designations made under subparagraph (A). The Administrator shall provide reasonable opportunity to any interested person to file with the Administrator written comments on the committee's list, any revision of such list by the committee, and designations made by the committee, and shall make such comments available to the public. Within the 12-month period beginning on the date of the first inclusion on the list of a chemical substance or mixture designated by the committee under subparagraph (A) the Administrator shall with respect to such chemical substance or mixture either initiate a rulemaking proceeding under subsection (a) or if such a proceeding is not initiated within such period, publish in the Federal Register the Administrator's reason for not initiating such a proceeding.

Comments.

Publication in
Federal Register.

(2) (A) The committee established by paragraph (1) (A) shall consist of eight members as follows:

Membership.

(i) One member appointed by the Administrator from the Environmental Protection Agency.

(ii) One member appointed by the Secretary of Labor from officers or employees of the Department of Labor engaged in the Secretary's activities under the Occupational Safety and Health Act of 1970.

(iii) One member appointed by the Chairman of the Council on Environmental Quality from the Council or its officers or employees.

(iv) One member appointed by the Director of the National Institute for Occupational Safety and Health from officers or employees of the Institute.

(v) One member appointed by the Director of the National Institute of Environmental Health Sciences from officers or employees of the Institute.

(vi) One member appointed by the Director of the National Cancer Institute from officers or employees of the Institute.

(vii) One member appointed by the Director of the National Science Foundation from officers or employees of the Foundation.

(viii) One member appointed by the Secretary of Commerce from officers or employees of the Department of Commerce.

(B) (i) An appointed member may designate an individual to serve on the committee on the member's behalf. Such a designation may be made only with the approval of the applicable appointing authority and only if the individual is from the entity from which the member was appointed.

(ii) No individual may serve as a member of the committee for more than four years in the aggregate. If any member of the committee leaves the entity from which the member was appointed, such member may not continue as a member of the committee, and the member's position shall be considered to be vacant. A vacancy in the committee shall be filled in the same manner in which the original appointment was made.

(iii) Initial appointments to the committee shall be made not later than the 60th day after the effective date of this Act. Not later than the 90th day after such date the members of the committee shall hold a meeting for the selection of a chairperson from among their number.

(C) (i) No member of the committee, or designee of such member, shall accept employment or compensation from any person subject to any requirement of this Act or of any rule promulgated or order issued thereunder, for a period of at least 12 months after termination of service on the committee.

(ii) No person, while serving as a member of the committee, or designee of such member, may own any stocks or bonds, or have any pecuniary interest, of substantial value in any person engaged in the manufacture, processing, or distribution in commerce of any chemical substance or mixture subject to any requirement of this Act or of any rule promulgated or order issued thereunder.

(iii) The Administrator, acting through attorneys of the Environmental Protection Agency, or the Attorney General may bring an action in the appropriate district court of the United States to restrain any violation of this subparagraph.

(D) The Administrator shall provide the committee such administrative support services as may be necessary to enable the committee to carry out its function under this subsection.

(f) **REQUIRED ACTIONS.**—Upon the receipt of—

(1) any test data required to be submitted under this Act, or

(2) any other information available to the Administrator,

which indicates to the Administrator that there may be a reasonable basis to conclude that a chemical substance or mixture presents or will present a significant risk of serious or widespread harm to human beings from cancer, gene mutations, or birth defects, the Administrator shall, within the 180-day period beginning on the date of the receipt of such data or information, initiate appropriate action under section 5, 6, or 7 to prevent or reduce to a sufficient extent such risk or publish in the Federal Register a finding that such risk is not unreasonable. For good cause shown the Administrator may extend such period for an additional period of not more than 90 days. The Administrator shall publish in the Federal Register notice of any such extension and the reasons therefor. A finding by the Administrator that a risk is not unreasonable shall be considered agency action for purposes of judicial review under chapter 7 of title 5, United States Code. This subsection shall not take effect until two years after the effective date of this Act.

(g) **PETITION FOR STANDARDS FOR THE DEVELOPMENT OF TEST DATA.**—

A person intending to manufacture or process a chemical substance for which notice is required under section 5(a) and who is not required under a rule under subsection (a) to conduct tests and submit data on such substance may petition the Administrator to prescribe standards for the development of test data for such substance. The Administrator shall by order either grant or deny any such petition within 60 days of its receipt. If the petition is granted, the Administrator shall prescribe such standards for such substance within 75 days of the date the petition is granted. If the petition is denied, the Administrator shall publish, subject to section 14, in the Federal Register the reasons for such denial.

SEC. 5. MANUFACTURING AND PROCESSING NOTICES.

(a) **IN GENERAL.**—(1) Except as provided in subsection (h), no person may—

(A) manufacture a new chemical substance on or after the 30th day after the date on which the Administrator first publishes the list required by section 8(b), or

(B) manufacture or process any chemical substance for a use which the Administrator has determined, in accordance with paragraph (2), is a significant new use, unless such person submits to the Administrator, at least 90 days before such manufacture or processing, a notice, in accordance with subsection (d), of such person's intention to manufacture or process such substance and such person complies with any applicable requirement of subsection (b).

Publication in
Federal Register.

5 USC 701.

Infra.

Publication in
Federal Register.
Post, p. 2034.

15 USC 2604.

(2) A determination by the Administrator that a use of a chemical substance is a significant new use with respect to which notification is required under paragraph (1) shall be made by a rule promulgated after a consideration of all relevant factors, including—

(A) the projected volume of manufacturing and processing of a chemical substance,

(B) the extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance,

(C) the extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance, and

(D) the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

(b) SUBMISSION OF TEST DATA.—(1) (A) If (i) a person is required by subsection (a)(1) to submit a notice to the Administrator before beginning the manufacture or processing of a chemical substance, and (ii) such person is required to submit test data for such substance pursuant to a rule promulgated under section 4 before the submission of such notice, such person shall submit to the Administrator such data in accordance with such rule at the time notice is submitted in accordance with subsection (a)(1).

(B) If—

(i) a person is required by subsection (a)(1) to submit a notice to the Administrator, and

(ii) such person has been granted an exemption under section 4(c) from the requirements of a rule promulgated under section 4 before the submission of such notice,

such person may not, before the expiration of the 90 day period which begins on the date of the submission in accordance with such rule of the test data the submission or development of which was the basis for the exemption, manufacture such substance if such person is subject to subsection (a)(1)(A) or manufacture or process such substance for a significant new use if the person is subject to subsection (a)(1)(B).

(2) (A) If a person—

(i) is required by subsection (a)(1) to submit a notice to the Administrator before beginning the manufacture or processing of a chemical substance listed under paragraph (4), and

(ii) is not required by a rule promulgated under section 4 before the submission of such notice to submit test data for such substance,

such person shall submit to the Administrator data prescribed by subparagraph (B) at the time notice is submitted in accordance with subsection (a)(1).

(B) Data submitted pursuant to subparagraph (A) shall be data which the person submitting the data believes show that—

(i) in the case of a substance with respect to which notice is required under subsection (a)(1)(A), the manufacture, processing, distribution in commerce, use, and disposal of the chemical substance or any combination of such activities will not present an unreasonable risk of injury to health or the environment, or

(ii) in the case of a chemical substance with respect to which notice is required under subsection (a)(1)(B), the intended significant new use of the chemical substance will not present an unreasonable risk of injury to health or the environment.

Post, p. 2034.

(3) Data submitted under paragraph (1) or (2) shall be made available, subject to section 14, for examination by interested persons.

(4) (A) (i) The Administrator may, by rule, compile and keep current a list of chemical substances with respect to which the Administrator finds that the manufacture, processing, distribution in commerce, use, or disposal, or any combination of such activities, presents or may present an unreasonable risk of injury to health or the environment.

(ii) In making a finding under clause (i) that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or any combination of such activities presents or may present an unreasonable risk of injury to health or the environment, the Administrator shall consider all relevant factors, including—

(I) the effects of the chemical substance on health and the magnitude of human exposure to such substance; and

(II) the effects of the chemical substance on the environment and the magnitude of environmental exposure to such substance.

(B) The Administrator shall, in prescribing a rule under subparagraph (A) which lists any chemical substance, identify those uses, if any, which the Administrator determines, by rule under subsection (a) (2), would constitute a significant new use of such substance.

(C) Any rule under subparagraph (A), and any substantive amendment or repeal of such a rule, shall be promulgated pursuant to the procedures specified in section 553 of title 5, United States Code, except that (i) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions, (ii) a transcript shall be kept of any oral presentation, and (iii) the Administrator shall make and publish with the rule the finding described in subparagraph (A).

Oral
presentation.
Transcript.
Publication.

(c) **EXTENSION OF NOTICE PERIOD.**—The Administrator may for good cause extend for additional periods (not to exceed in the aggregate 90 days) the period, prescribed by subsection (a) or (b) before which the manufacturing or processing of a chemical substance subject to such subsection may begin. Subject to section 14, such an extension and the reasons therefor shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

Publication in
Federal Register.

(d) **CONTENT OF NOTICE; PUBLICATIONS IN THE FEDERAL REGISTER.**—

(1) The notice required by subsection (a) shall include—

(A) insofar as known to the person submitting the notice or insofar as reasonably ascertainable, the information described in subparagraphs (A), (B), (C), (D), (F), and (G) of section 8(a) (2), and

(B) in such form and manner as the Administrator may prescribe, any test data in the possession or control of the person giving such notice which are related to the effect of any manufacture, processing, distribution in commerce, use, or disposal of such substance or any article containing such substance, or of any combination of such activities, on health or the environment, and

(C) a description of any other data concerning the environmental and health effects of such substance, insofar as known to the person making the notice or insofar as reasonably ascertainable.

Such a notice shall be made available, subject to section 14, for examination by interested persons.

(2) Subject to section 14, not later than five days (excluding Saturdays, Sundays and legal holidays) after the date of the receipt of a

notice under subsection (a) or of data under subsection (b), the Administrator shall publish in the Federal Register a notice which—

(A) identifies the chemical substance for which notice or data has been received;

(B) lists the uses or intended uses of such substance; and

(C) in the case of the receipt of data under subsection (b), describes the nature of the tests performed on such substance and any data which was developed pursuant to subsection (b) or a rule under section 4.

A notice under this paragraph respecting a chemical substance shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(3) At the beginning of each month the Administrator shall publish a list in the Federal Register of (A) each chemical substance for which notice has been received under subsection (a) and for which the notification period prescribed by subsection (a), (b), or (c) has not expired, and (B) each chemical substance for which such notification period has expired since the last publication in the Federal Register of such list.

(e) REGULATION PENDING DEVELOPMENT OF INFORMATION.—(1) (A) If the Administrator determines that—

(i) the information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of a chemical substance with respect to which notice is required by subsection (a); and

(ii) (I) in the absence of sufficient information to permit the Administrator to make such an evaluation, the manufacture, processing, distribution in commerce, use, or disposal of such substance, or any combination of such activities, may present an unreasonable risk of injury to health or the environment, or

(II) such substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance,

the Administrator may issue a proposed order, to take effect on the expiration of the notification period applicable to the manufacturing or processing of such substance under subsection (a), (b), or (c), to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of such substance or to prohibit or limit any combination of such activities.

Proposed order.

(B) A proposed order may not be issued under subparagraph (A) respecting a chemical substance (i) later than 45 days before the expiration of the notification period applicable to the manufacture or processing of such substance under subsection (a), (b), or (c), and (ii) unless the Administrator has, on or before the issuance of the proposed order, notified, in writing, each manufacturer or processor, as the case may be, of such substance of the determination which underlies such order.

(C) If a manufacturer or processor of a chemical substance to be subject to a proposed order issued under subparagraph (A) files with the Administrator (within the 30-day period beginning on the date such manufacturer or processor received the notice required by subparagraph (B)(ii)) objections specifying with particularity the provisions of the order deemed objectionable and stating the grounds therefor, the proposed order shall not take effect.

**Injunction,
application.**

(2)(A)(i) Except as provided in clause (ii), if with respect to a chemical substance with respect to which notice is required by subsection (a), the Administrator makes the determination described in paragraph (1)(A) and if—

(I) the Administrator does not issue a proposed order under paragraph (1) respecting such substance, or

(II) the Administrator issues such an order respecting such substance but such order does not take effect because objections were filed under paragraph (1)(C) with respect to it, the Administrator, through attorneys of the Environmental Protection Agency, shall apply to the United States District Court for the District of Columbia or the United States district court for the judicial district in which the manufacturer or processor, as the case may be, of such substance is found, resides, or transacts business for an injunction to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of such substance (or to prohibit or limit any combination of such activities).

(ii) If the Administrator issues a proposed order under paragraph (1)(A) respecting a chemical substance but such order does not take effect because objections have been filed under paragraph (1)(C) with respect to it, the Administrator is not required to apply for an injunction under clause (i) respecting such substance if the Administrator determines, on the basis of such objections, that the determinations under paragraph (1)(A) may not be made.

(B) A district court of the United States which receives an application under subparagraph (A)(i) for an injunction respecting a chemical substance shall issue such injunction if the court finds that—

(i) the information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of a chemical substance with respect to which notice is required by subsection (a); and

(ii)(I) in the absence of sufficient information to permit the Administrator to make such an evaluation, the manufacture, processing, distribution in commerce, use, or disposal of such substance, or any combination of such activities, may present an unreasonable risk of injury to health or the environment, or

(II) such substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance.

(C) Pending the completion of a proceeding for the issuance of an injunction under subparagraph (B) respecting a chemical substance, the court may, upon application of the Administrator made through attorneys of the Environmental Protection Agency, issue a temporary restraining order or a preliminary injunction to prohibit the manufacture, processing, distribution in commerce, use, or disposal of such a substance (or any combination of such activities) if the court finds that the notification period applicable under subsection (a), (b), or (c) to the manufacturing or processing of such substance may expire before such proceeding can be completed.

(D) After the submission to the Administrator of test data sufficient to evaluate the health and environmental effects of a chemical substance subject to an injunction issued under subparagraph (B) and the evaluation of such data by the Administrator, the district court of the United States which issued such injunction shall, upon petition, dissolve the injunction unless the Administrator has initiated a pro-

ceeding for the issuance of a rule under section 6(a) respecting the substance. If such a proceeding has been initiated, such court shall continue the injunction in effect until the effective date of the rule promulgated in such proceeding or, if such proceeding is terminated without the promulgation of a rule, upon the termination of the proceeding, whichever occurs first.

(f) **PROTECTION AGAINST UNREASONABLE RISKS.**—(1) If the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance with respect to which notice is required by subsection (a), or that any combination of such activities, presents or will present an unreasonable risk of injury to health or environment before a rule promulgated under section 6 can protect against such risk, the Administrator shall, before the expiration of the notification period applicable under subsection (a), (b), or (c) to the manufacturing or processing of such substance, take the action authorized by paragraph (2) or (3) to the extent necessary to protect against such risk.

(2) The Administrator may issue a proposed rule under section 6(a) to apply to a chemical substance with respect to which a finding was made under paragraph (1)—

Proposed rule.

(A) a requirement limiting the amount of such substance which may be manufactured, processed, or distributed in commerce,

(B) a requirement described in paragraph (2), (3), (4), (5), (6), or (7) of section 6(a), or

(C) any combination of the requirements referred to in subparagraph (B).

Such a proposed rule shall be effective upon its publication in the Federal Register. Section 6(d)(2)(B) shall apply with respect to such rule.

Publication in
Federal Register.

(3) (A) The Administrator may—

(i) issue a proposed order to prohibit the manufacture, processing, or distribution in commerce of a substance with respect to which a finding was made under paragraph (1), or

Proposed order.

(ii) apply, through attorneys of the Environmental Protection Agency, to the United States District Court for the District of Columbia or the United States district court for the judicial district in which the manufacturer, or processor, as the case may be, of such substance, is found, resides, or transacts business for an injunction to prohibit the manufacture, processing, or distribution in commerce of such substance.

Injunction,
application.

A proposed order issued under clause (i) respecting a chemical substance shall take effect on the expiration of the notification period applicable under subsection (a), (b), or (c) to the manufacture or processing of such substance.

(B) If the district court of the United States to which an application has been made under subparagraph (A)(ii) finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance with respect to which such application was made, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment before a rule promulgated under section 6 can protect against such risk, the court shall issue an injunction to prohibit the manufacture, processing, or distribution in commerce of such substance or to prohibit any combination of such activities.

(C) The provisions of subparagraphs (B) and (C) of subsection (e)(1) shall apply with respect to an order issued under clause (i) of subparagraph (A); and the provisions of subparagraph (C) of subsection (e)(2) shall apply with respect to an injunction issued under subparagraph (B).

(D) If the Administrator issues an order pursuant to subparagraph (A)(i) respecting a chemical substance and objections are filed in accordance with subsection (e)(1)(C), the Administrator shall seek an injunction under subparagraph (A)(ii) respecting such substance unless the Administrator determines, on the basis of such objections, that such substance does not or will not present an unreasonable risk of injury to health or the environment.

(g) STATEMENT OF REASONS FOR NOT TAKING ACTION.—If the Administrator has not initiated any action under this section or section 6 or 7 to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance, with respect to which notification or data is required by subsection (a)(1)(B) or (b), before the expiration of the notification period applicable to the manufacturing or processing of such substance, the Administrator shall publish a statement of the Administrator's reasons for not initiating such action. Such a statement shall be published in the Federal Register before the expiration of such period. Publication of such statement in accordance with the preceding sentence is not a prerequisite to the manufacturing or processing of the substance with respect to which the statement is to be published.

(h) EXEMPTIONS.—(1) The Administrator may, upon application, exempt any person from any requirement of subsection (a) or (b) to permit such person to manufacture or process a chemical substance for test marketing purposes—

(A) upon a showing by such person satisfactory to the Administrator that the manufacture, processing, distribution in commerce, use, and disposal of such substance, and that any combination of such activities, for such purposes will not present any unreasonable risk of injury to health or the environment, and

(B) under such restrictions as the Administrator considers appropriate.

(2)(A) The Administrator may, upon application, exempt any person from the requirement of subsection (b)(2) to submit data for a chemical substance. If, upon receipt of an application under the preceding sentence, the Administrator determines that—

(i) the chemical substance with respect to which such application was submitted is equivalent to a chemical substance for which data has been submitted to the Administrator as required by subsection (b)(2), and

(ii) submission of data by the applicant on such substance would be duplicative of data which has been submitted to the Administrator in accordance with such subsection,

the Administrator shall exempt the applicant from the requirement to submit such data on such substance. No exemption which is granted under this subparagraph with respect to the submission of data for a chemical substance may take effect before the beginning of the reimbursement period applicable to such data.

(B) If the Administrator exempts any person, under subparagraph (A), from submitting data required under subsection (b)(2) for a chemical substance because of the existence of previously submitted data and if such exemption is granted during the reimbursement period for such data, then (unless such person and the persons referred to in

Publication in
Federal Register.

Fair and
equitable
reimbursement.

clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to the person who previously submitted the data on which the exemption was based, for a portion of the costs incurred by such person in complying with the requirement under subsection (b) (2) to submit such data, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to such costs, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance, the Administrator shall, after consultation with the Attorney General and the Federal Trade Commission, consider all relevant factors, including the effect on the competitive position of the person required to provide reimbursement in relation to the persons to be reimbursed and the share of the market for such substance of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. For purposes of judicial review, an order under this subparagraph shall be considered final agency action.

(C) For purposes of this paragraph, the reimbursement period for any previously submitted data for a chemical substance is a period—

Reimbursement
period.

(i) beginning on the date of the termination of the prohibition, imposed under this section, on the manufacture or processing of such substance by the person who submitted such data to the Administrator, and

(ii) ending—

(I) five years after the date referred to in clause (i), or

(II) at the expiration of a period which begins on the date referred to in clause (i) and is equal to the period which the Administrator determines was necessary to develop such data,

whichever is later.

(3) The requirements of subsections (a) and (b) do not apply with respect to the manufacturing or processing of any chemical substance which is manufactured or processed, or proposed to be manufactured or processed, only in small quantities (as defined by the Administrator by rule) solely for purposes of—

(A) scientific experimentation or analysis, or

(B) chemical research on, or analysis of such substance or another substance, including such research or analysis for the development of a product,

if all persons engaged in such experimentation, research, or analysis for a manufacturer or processor are notified (in such form and manner as the Administrator may prescribe) of any risk to health which the manufacturer, processor, or the Administrator has reason to believe may be associated with such chemical substance.

(4) The Administrator may, upon application and by rule, exempt the manufacturer of any new chemical substance from all or part of the requirements of this section if the Administrator determines that the manufacture, processing, distribution in commerce, use, or disposal of such chemical substance, or that any combination of such activities, will not present an unreasonable risk of injury to health or the environment. A rule promulgated under this paragraph (and any substantive amendment to, or repeal of, such a rule) shall be promulgated in accordance with paragraphs (2) and (3) of section 6(c).

(5) The Administrator may, upon application, make the requirements of subsections (a) and (b) inapplicable with respect to the manufacturing or processing of any chemical substance (A) which exists temporarily as a result of a chemical reaction in the manufacturing or processing of a mixture or another chemical substance, and (B) to which there is no, and will not be, human or environmental exposure.

Publication in
Federal Register.
Comments.

(6) Immediately upon receipt of an application under paragraph (1) or (5) the Administrator shall publish in the Federal Register notice of the receipt of such application. The Administrator shall give interested persons an opportunity to comment upon any such application and shall, within 45 days of its receipt, either approve or deny the application. The Administrator shall publish in the Federal Register notice of the approval or denial of such an application.

Publication in
Federal Register.

(i) DEFINITION.—For purposes of this section, the terms “manufacture” and “process” mean manufacturing or processing for commercial purposes.

SEC. 6. REGULATION OF HAZARDOUS CHEMICAL SUBSTANCES AND MIXTURES.

15 USC 2605.

(a) SCOPE OF REGULATION.—If the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment, the Administrator shall by rule apply one or more of the following requirements to such substance or mixture to the extent necessary to protect adequately against such risk using the least burdensome requirements:

(1) A requirement (A) prohibiting the manufacturing, processing, or distribution in commerce of such substance or mixture, or (B) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce.

(2) A requirement—

(A) prohibiting the manufacture, processing, or distribution in commerce of such substance or mixture for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement, or

(B) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement.

(3) A requirement that such substance or mixture or any article containing such substance or mixture be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal or with respect to any combination of such activities. The form and content of such warnings and instructions shall be prescribed by the Administrator.

(4) A requirement that manufacturers and processors of such substance or mixture make and retain records of the processes used to manufacture or process such substance or mixture and monitor or conduct tests which are reasonable and necessary to assure compliance with the requirements of any rule applicable under this subsection.

(5) A requirement prohibiting or otherwise regulating any manner or method of commercial use of such substance or mixture.

(6) (A) A requirement prohibiting or otherwise regulating any manner or method of disposal of such substance or mixture, or of any article containing such substance or mixture, by its manufacturer or processor or by any other person who uses, or disposes of, it for commercial purposes.

(B) A requirement under subparagraph (A) may not require any person to take any action which would be in violation of any law or requirement of, or in effect for, a State or political subdivision, and shall require each person subject to it to notify each State and political subdivision in which a required disposal may occur of such disposal.

(7) A requirement directing manufacturers or processors of such substance or mixture (A) to give notice of such unreasonable risk of injury to distributors in commerce of such substance or mixture and, to the extent reasonably ascertainable, to other persons in possession of such substance or mixture or exposed to such substance or mixture, (B) to give public notice of such risk of injury, and (C) to replace or repurchase such substance or mixture as elected by the person to which the requirement is directed.

Any requirement (or combination of requirements) imposed under this subsection may be limited in application to specified geographic areas.

(b) **QUALITY CONTROL.**—If the Administrator has a reasonable basis to conclude that a particular manufacturer or processor is manufacturing or processing a chemical substance or mixture in a manner which unintentionally causes the chemical substance or mixture to present or which will cause it to present an unreasonable risk of injury to health or the environment—

(1) the Administrator may by order require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance or mixture; and

(2) if the Administrator determines—

(A) that such quality control procedures are inadequate to prevent the chemical substance or mixture from presenting such risk of injury, the Administrator may order the manufacturer or processor to revise such quality control procedures to the extent necessary to remedy such inadequacy; or

(B) that the use of such quality control procedures has resulted in the distribution in commerce of chemical substances or mixtures which present an unreasonable risk of injury to health or the environment, the Administrator may order the manufacturer or processor to (i) give notice of such risk to processors or distributors in commerce of any such substance or mixture, or to both, and, to the extent reasonably ascertainable, to any other person in possession of or exposed to any such substance, (ii) to give public notice of such risk, and (iii) to provide such replacement or repurchase of any such substance or mixture as is necessary to adequately protect health or the environment.

A determination under subparagraph (A) or (B) of paragraph (2) shall be made on the record after opportunity for hearing in accordance with section 554 of title 5, United States Code. Any manufacturer

Hearing.

Statement,
publication.

or processor subject to a requirement to replace or repurchase a chemical substance or mixture may elect either to replace or repurchase the substance or mixture and shall take either such action in the manner prescribed by the Administrator.

(c) **PROMULGATION OF SUBSECTION (a) RULES.**—(1) In promulgating any rule under subsection (a) with respect to a chemical substance or mixture, the Administrator shall consider and publish a statement with respect to—

(A) the effects of such substance or mixture on health and the magnitude of the exposure of human beings to such substance or mixture,

(B) the effects of such substance or mixture on the environment and the magnitude of the exposure of the environment to such substance or mixture,

(C) the benefits of such substance or mixture for various uses and the availability of substitutes for such uses, and

(D) the reasonably ascertainable economic consequences of the rule, after consideration of the effect on the national economy, small business, technological innovation, the environment, and public health.

If the Administrator determines that a risk of injury to health or the environment could be eliminated or reduced to a sufficient extent by actions taken under another Federal law (or laws) administered in whole or in part by the Administrator, the Administrator may not promulgate a rule under subsection (a) to protect against such risk of injury unless the Administrator finds, in the Administrator's discretion, that it is in the public interest to protect against such risk under this Act. In making such a finding the Administrator shall consider (i) all relevant aspects of the risk, as determined by the Administrator in the Administrator's discretion, (ii) a comparison of the estimated costs of complying with actions taken under this Act and under such law (or laws), and (iii) the relative efficiency of actions under this Act and under such law (or laws) to protect against such risk of injury.

5 USC 556, 557.

Notice,
publication.
Written data,
views, arguments,
submittal.
Hearing.
Final rule.

(2) When prescribing a rule under subsection (a) the Administrator shall proceed in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), and shall also (A) publish a notice of proposed rulemaking stating with particularity the reason for the proposed rule; (B) allow interested persons to submit written data, views, and arguments, and make all such submissions publicly available; (C) provide an opportunity for an informal hearing in accordance with paragraph (3); (D) promulgate, if appropriate, a final rule based on the matter in the rulemaking record (as defined in section 19(a)), and (E) make and publish with the rule the finding described in subsection (a).

Informal
hearings.

(3) Informal hearings required by paragraph (2) (C) shall be conducted by the Administrator in accordance with the following requirements:

(A) Subject to subparagraph (B), an interested person is entitled—

(i) to present such person's position orally or by documentary submissions (or both), and

(ii) if the Administrator determines that there are disputed issues of material fact it is necessary to resolve, to present such rebuttal submissions and to conduct (or have conducted under subparagraph (B) (ii)) such cross-examina-

tion of persons as the Administrator determines (I) to be appropriate, and (II) to be required for a full and true disclosure with respect to such issues.

(B) The Administrator may prescribe such rules and make such rulings concerning procedures in such hearings to avoid unnecessary costs or delay. Such rules or rulings may include (i) the imposition of reasonable time limits on each interested person's oral presentations, and (ii) requirements that any cross-examination to which a person may be entitled under subparagraph (A) be conducted by the Administrator on behalf of that person in such manner as the Administrator determines (I) to be appropriate, and (II) to be required for a full and true disclosure with respect to disputed issues of material fact. Rules.

(C) (i) Except as provided in clause (ii), if a group of persons each of whom under subparagraphs (A) and (B) would be entitled to conduct (or have conducted) cross-examination and who are determined by the Administrator to have the same or similar interests in the proceeding cannot agree upon a single representative of such interests for purposes of cross-examination, the Administrator may make rules and rulings (I) limiting the representation of such interest for such purposes, and (II) governing the manner in which such cross-examination shall be limited.

(ii) When any person who is a member of a group with respect to which the Administrator has made a determination under clause (i) is unable to agree upon group representation with the other members of the group, then such person shall not be denied under the authority of clause (i) the opportunity to conduct (or have conducted) cross-examination as to issues affecting the person's particular interests if (I) the person satisfies the Administrator that the person has made a reasonable and good faith effort to reach agreement upon group representation with the other members of the group and (II) the Administrator determines that there are substantial and relevant issues which are not adequately presented by the group representative.

(D) A verbatim transcript shall be taken of any oral presentation made, and cross-examination conducted in any informal hearing under this subsection. Such transcript shall be available to the public. Verbatim transcript.

(4)(A) The Administrator may, pursuant to rules prescribed by the Administrator, provide compensation for reasonable attorneys' fees, expert witness fees, and other costs of participating in a rulemaking proceeding for the promulgation of a rule under subsection (a) to any person— Compensation.

(i) who represents an interest which would substantially contribute to a fair determination of the issues to be resolved in the proceeding, and

(ii) if—

(I) the economic interest of such person is small in comparison to the costs of effective participation in the proceeding by such person, or

(II) such person demonstrates to the satisfaction of the Administrator that such person does not have sufficient resources adequately to participate in the proceeding without compensation under this subparagraph.

In determining for purposes of clause (i) if an interest will substantially contribute to a fair determination of the issues to be resolved in

a proceeding, the Administrator shall take into account the number and complexity of such issues and the extent to which representation of such interest will contribute to widespread public participation in the proceeding and representation of a fair balance of interests for the resolution of such issues.

(B) In determining whether compensation should be provided to a person under subparagraph (A) and the amount of such compensation, the Administrator shall take into account the financial burden which will be incurred by such person in participating in the rule-making proceeding. The Administrator shall take such action as may be necessary to ensure that the aggregate amount of compensation paid under this paragraph in any fiscal year to all persons who, in rulemaking proceedings in which they receive compensation, are persons who either—

(i) would be regulated by the proposed rule, or

(ii) represent persons who would be so regulated,

may not exceed 25 per centum of the aggregate amount paid as compensation under this paragraph to all persons in such fiscal year.

(5) Paragraph (1), (2), (3), and (4) of this subsection apply to the promulgation of a rule repealing, or making a substantive amendment to, a rule promulgated under subsection (a).

(d) EFFECTIVE DATE.—(1) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which date shall be as soon as feasible.

Publication in
Federal Register.

(2) (A) The Administrator may declare a proposed rule under subsection (a) to be effective upon its publication in the Federal Register and until the effective date of final action taken, in accordance with subparagraph (B), respecting such rule if—

(i) the Administrator determines that—

(I) the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture subject to such proposed rule or any combination of such activities is likely to result in an unreasonable risk of serious or widespread injury to health or the environment before such effective date; and

(II) making such proposed rule so effective is necessary to protect the public interest; and

(ii) in the case of a proposed rule to prohibit the manufacture, processing, or distribution of a chemical substance or mixture because of the risk determined under clause (i) (I), a court has in an action under section 7 granted relief with respect to such risk associated with such substance or mixture.

Such a proposed rule which is made so effective shall not, for purposes of judicial review, be considered final agency action.

Notice.

(B) If the Administrator makes a proposed rule effective upon its publication in the Federal Register, the Administrator shall, as expeditiously as possible, give interested persons prompt notice of such action, provide reasonable opportunity, in accordance with paragraphs (2) and (3) of subsection (c), for a hearing on such rule, and either promulgate such rule (as proposed or with modifications) or revoke it; and if such a hearing is requested, the Administrator shall commence the hearing within five days from the date such request is made unless the Administrator and the person making the request agree upon a later date for the hearing to begin, and after the hearing is concluded the Administrator shall, within ten days of the conclusion of the hearing, either promulgate such rule (as proposed or with modifications) or revoke it.

(e) **POLYCHLORINATED BIPHENYLS.**—(1) Within six months after the effective date of this Act the Administrator shall promulgate rules to—

Rules.

(A) prescribe methods for the disposal of polychlorinated biphenyls, and

(B) require polychlorinated biphenyls to be marked with clear and adequate warnings, and instructions with respect to their processing, distribution in commerce, use, or disposal or with respect to any combination of such activities.

Requirements prescribed by rules under this paragraph shall be consistent with the requirements of paragraphs (2) and (3).

(2) (A) Except as provided under subparagraph (B), effective one year after the effective date of this Act no person may manufacture, process, or distribute in commerce or use any polychlorinated biphenyl in any manner other than in a totally enclosed manner.

(B) The Administrator may by rule authorize the manufacture, processing, distribution in commerce or use (or any combination of such activities) of any polychlorinated biphenyl in a manner other than in a totally enclosed manner if the Administrator finds that such manufacture, processing, distribution in commerce, or use (or combination of such activities) will not present an unreasonable risk of injury to health or the environment.

(C) For the purposes of this paragraph, the term “totally enclosed manner” means any manner which will ensure that any exposure of human beings or the environment to a polychlorinated biphenyl will be insignificant as determined by the Administrator by rule.

“Totally enclosed manner.”

(3) (A) Except as provided in subparagraphs (B) and (C)—

(i) no person may manufacture any polychlorinated biphenyl after two years after the effective date of this Act, and

(ii) no person may process or distribute in commerce any polychlorinated biphenyl after two and one-half years after such date.

(B) Any person may petition the Administrator for an exemption from the requirements of subparagraph (A), and the Administrator may grant by rule such an exemption if the Administrator finds that—

Petition for exemption.

(i) an unreasonable risk of injury to health or environment would not result, and

(ii) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl.

An exemption granted under this subparagraph shall be subject to such terms and conditions as the Administrator may prescribe and shall be in effect for such period (but not more than one year from the date it is granted) as the Administrator may prescribe.

Terms and conditions.

(C) Subparagraph (A) shall not apply to the distribution in commerce of any polychlorinated biphenyl if such polychlorinated biphenyl was sold for purposes other than resale before two and one half years after the date of enactment of this Act.

(4) Any rule under paragraph (1), (2)(B), or (3)(B) shall be promulgated in accordance with paragraphs (2), (3), and (4) of subsection (c).

(5) This subsection does not limit the authority of the Administrator, under any other provision of this Act or any other Federal law, to take action respecting any polychlorinated biphenyl.

SEC. 7. IMMINENT HAZARDS.

Civil action.
15 USC 2606.

(a) **ACTIONS AUTHORIZED AND REQUIRED.**—(1) The Administrator may commence a civil action in an appropriate district court of the United States—

(A) for seizure of an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture,

(B) for relief (as authorized by subsection (b)) against any person who manufactures, processes, distributes in commerce, or uses, or disposes of, an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture, or

(C) for both such seizure and relief.

A civil action may be commenced under this paragraph notwithstanding the existence of a rule under section 4, 5, or 6 or an order under section 5, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act.

(2) If the Administrator has not made a rule under section 6(a) immediately effective (as authorized by subsection 6(d)(2)(A)(i)) with respect to an imminently hazardous chemical substance or mixture, the Administrator shall commence in a district court of the United States with respect to such substance or mixture or article containing such substance or mixture a civil action described in subparagraph (A), (B), or (C) of paragraph (1).

Jurisdiction.

(b) **RELIEF AUTHORIZED.**—(1) The district court of the United States in which an action under subsection (a) is brought shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance, mixture, or article involved in such action.

(2) In the case of an action under subsection (a) brought against a person who manufactures, processes, or distributes in commerce a chemical substance or mixture or an article containing a chemical substance or mixture, the relief authorized by paragraph (1) may include the issuance of a mandatory order requiring (A) in the case of purchasers of such substance, mixture, or article known to the defendant, notification to such purchasers of the risk associated with it; (B) public notice of such risk; (C) recall; (D) the replacement or repurchase of such substance, mixture, or article; or (E) any combination of the actions described in the preceding clauses.

(3) In the case of an action under subsection (a) against a chemical substance, mixture, or article, such substance, mixture, or article may be proceeded against by process of libel for its seizure and condemnation. Proceedings in such an action shall conform as nearly as possible to proceedings in rem in admiralty.

(c) **VENUE AND CONSOLIDATION.**—(1) (A) An action under subsection (a) against a person who manufactures, processes, or distributes a chemical substance or mixture or an article containing a chemical substance or mixture may be brought in the United States District Court for the District of Columbia or for any judicial district in which any of the defendants is found, resides, or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. An action under subsection (a) against a chemical substance, mixture, or article may be brought in any United States district court within the jurisdiction of which the substance, mixture, or article is found.

(B) In determining the judicial district in which an action may be brought under subsection (a) in instances in which such action may

be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(C) Subpoenas requiring attendance of witnesses in an action brought under subsection (a) may be served in any judicial district.

(2) Whenever proceedings under subsection (a) involving identical chemical substances, mixtures, or articles are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(d) ACTION UNDER SECTION 6.—Where appropriate, concurrently with the filing of an action under subsection (a) or as soon thereafter as may be practicable, the Administrator shall initiate a proceeding for the promulgation of a rule under section 6(a).

(e) REPRESENTATION.—Notwithstanding any other provision of law, in any action under subsection (a), the Administrator may direct attorneys of the Environmental Protection Agency to appear and represent the Administrator in such an action.

(f) DEFINITION.—For the purposes of subsection (a), the term “imminently hazardous chemical substance or mixture” means a chemical substance or mixture which presents an imminent and unreasonable risk of serious or widespread injury to health or the environment. Such a risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture, or that any combination of such activities, is likely to result in such injury to health or the environment before a final rule under section 6 can protect against such risk.

SEC. 8. REPORTING AND RETENTION OF INFORMATION.

(a) REPORTS.—(1) The Administrator shall promulgate rules under which—

Rules.

15 USC 2607.

(A) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process a chemical substance (other than a chemical substance described in subparagraph (B)(ii)) shall maintain such records, and shall submit to the Administrator such reports, as the Administrator may reasonably require, and

(B) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process—

(i) a mixture, or

(ii) a chemical substance in small quantities (as defined by the Administrator by rule) solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including any such research or analysis for the development of a product,

shall maintain records and submit to the Administrator reports but only to the extent the Administrator determines the maintenance of records or submission of reports, or both, is necessary for the effective enforcement of this Act.

The Administrator may not require in a rule promulgated under this paragraph the maintenance of records or the submission of reports with respect to changes in the proportions of the components of a mixture unless the Administrator finds that the maintenance of such records or the submission of such reports, or both, is necessary for the effective enforcement of this Act. For purposes of the compilation

of the list of chemical substances required under subsection (b), the Administrator shall promulgate rules pursuant to this subsection not later than 180 days after the effective date of this Act.

(2) The Administrator may require under paragraph (1) maintenance of records and reporting with respect to the following insofar as known to the person making the report or insofar as reasonably ascertainable:

(A) The common or trade name, the chemical identity, and the molecular structure of each chemical substance or mixture for which such a report is required.

(B) The categories or proposed categories of use of each such substance or mixture.

(C) The total amount of each such substance and mixture manufactured or processed, reasonable estimates of the total amount to be manufactured or processed, the amount manufactured or processed for each of its categories of use, and reasonable estimates of the amount to be manufactured or processed for each of its categories of use or proposed categories of use.

(D) A description of the byproducts resulting from the manufacture, processing, use, or disposal of each such substance or mixture.

(E) All existing data concerning the environmental and health effects of such substance or mixture.

(F) The number of individuals exposed, and reasonable estimates of the number who will be exposed, to such substance or mixture in their places of employment and the duration of such exposure.

(G) In the initial report under paragraph (1) on such substance or mixture, the manner or method of its disposal, and in any subsequent report on such substance or mixture, any change in such manner or method.

To the extent feasible, the Administrator shall not require under paragraph (1), any reporting which is unnecessary or duplicative.

(3) (A) (i) The Administrator may by rule require a small manufacturer or processor of a chemical substance to submit to the Administrator such information respecting the chemical substance as the Administrator may require for publication of the first list of chemical substances required by subsection (b).

(ii) The Administrator may by rule require a small manufacturer or processor of a chemical substance or mixture—

(I) subject to a rule proposed or promulgated under section 4, 5(b)(4), or 6, or an order in effect under section 5(e), or

(II) with respect to which relief has been granted pursuant to a civil action brought under section 5 or 7,

to maintain such records on such substance or mixture, and to submit to the Administrator such reports on such substance or mixture, as the Administrator may reasonably require. A rule under this clause requiring reporting may require reporting with respect to the matters referred to in paragraph (2).

Standards.

(B) The Administrator, after consultation with the Administrator of the Small Business Administration, shall by rule prescribe standards for determining the manufacturers and processors which qualify as small manufacturers and processors for purposes of this paragraph and paragraph (1).

(b) INVENTORY.—(1) The Administrator shall compile, keep current, and publish a list of each chemical substance which is manufactured or processed in the United States. Such list shall at least include each chemical substance which any person reports, under section 5 or

subsection (a) of this section, is manufactured or processed in the United States. Such list may not include any chemical substance which was not manufactured or processed in the United States within three years before the effective date of the rules promulgated pursuant to the last sentence of subsection (a) (1). In the case of a chemical substance for which a notice is submitted in accordance with section 5, such chemical substance shall be included in such list as of the earliest date (as determined by the Administrator) on which such substance was manufactured or processed in the United States. The Administrator shall first publish such a list not later than 315 days after the effective date of this Act. The Administrator shall not include in such list any chemical substance which is manufactured or processed only in small quantities (as defined by the Administrator by rule) solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including such research or analysis for the development of a product.

(2) To the extent consistent with the purposes of this Act, the Administrator may, in lieu of listing, pursuant to paragraph (1), a chemical substance individually, list a category of chemical substances in which such substance is included.

(c) RECORDS.—Any person who manufactures, processes, or distributes in commerce any chemical substance or mixture shall maintain records of significant adverse reactions to health or the environment, as determined by the Administrator by rule, alleged to have been caused by the substance or mixture. Records of such adverse reactions to the health of employees shall be retained for a period of 30 years from the date such reactions were first reported to or known by the person maintaining such records. Any other record of such adverse reactions shall be retained for a period of five years from the date the information contained in the record was first reported to or known by the person maintaining the record. Records required to be maintained under this subsection shall include records of consumer allegations of personal injury or harm to health, reports of occupational disease or injury, and reports or complaints of injury to the environment submitted to the manufacturer, processor, or distributor in commerce from any source. Upon request of any duly designated representative of the Administrator, each person who is required to maintain records under this subsection shall permit the inspection of such records and shall submit copies of such records.

(d) HEALTH AND SAFETY STUDIES.—The Administrator shall promulgate rules under which the Administrator shall require any person who manufactures, processes, or distributes in commerce or who proposes to manufacture, process, or distribute in commerce any chemical substance or mixture (or with respect to paragraph (2), any person who has possession of a study) to submit to the Administrator—

Rules.

(1) lists of health and safety studies (A) conducted or initiated by or for such person with respect to such substance or mixture at any time, (B) known to such person, or (C) reasonably ascertainable by such person, except that the Administrator may exclude certain types or categories of studies from the requirements of this subsection if the Administrator finds that submission of lists of such studies are unnecessary to carry out the purposes of this Act; and

(2) copies of any study contained on a list submitted pursuant to paragraph (1) or otherwise known by such person.

(e) NOTICE TO ADMINISTRATOR OF SUBSTANTIAL RISKS.—Any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably

supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment shall immediately inform the Administrator of such information unless such person has actual knowledge that the Administrator has been adequately informed of such information.

(f) **DEFINITIONS.**—For purposes of this section, the terms “manufacture” and “process” mean manufacture or process for commercial purposes.

SEC. 9. RELATIONSHIP TO OTHER FEDERAL LAWS.

15 USC 2608.
Report.

(a) **LAWS NOT ADMINISTERED BY THE ADMINISTRATOR.**—(1) If the Administrator has reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment and determines, in the Administrator's discretion, that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, the Administrator shall submit to the agency which administers such law a report which describes such risk and includes in such description a specification of the activity or combination of activities which the Administrator has reason to believe so presents such risk. Such report shall also request such agency—

(A) (i) to determine if the risk described in such report may be prevented or reduced to a sufficient extent by action taken under such law, and

(ii) if the agency determines that such risk may be so prevented or reduced, to issue an order declaring whether or not the activity or combination of activities specified in the description of such risk presents such risk; and

(B) to respond to the Administrator with respect to the matters described in subparagraph (A).

Publication in
Federal Register.

Any report of the Administrator shall include a detailed statement of the information on which it is based and shall be published in the Federal Register. The agency receiving a request under such a report shall make the requested determination, issue the requested order, and make the requested response within such time as the Administrator specifies in the request, but such time specified may not be less than 90 days from the date the request was made. The response of an agency shall be accompanied by a detailed statement of the findings and conclusions of the agency and shall be published in the Federal Register.

(2) If the Administrator makes a report under paragraph (1) with respect to a chemical substance or mixture and the agency to which such report was made either—

(A) issues an order declaring that the activity or combination of activities specified in the description of the risk described in the report does not present the risk described in the report, or

(B) initiates, within 90 days of the publication in the Federal Register of the response of the agency under paragraph (1), action under the law (or laws) administered by such agency to protect against such risk associated with such activity or combination of activities,

the Administrator may not take any action under section 6 or 7 with respect to such risk.

(3) If the Administrator has initiated action under section 6 or 7 with respect to a risk associated with a chemical substance or mixture which was the subject of a report made to an agency under paragraph (1), such agency shall before taking action under the law (or laws)

administered by it to protect against such risk consult with the Administrator for the purpose of avoiding duplication of Federal action against such risk.

(b) **LAWS ADMINISTERED BY THE ADMINISTRATOR.**—The Administrator shall coordinate actions taken under this Act with actions taken under other Federal laws administered in whole or in part by the Administrator. If the Administrator determines that a risk to health or the environment associated with a chemical substance or mixture could be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in such other Federal laws, the Administrator shall use such authorities to protect against such risk unless the Administrator determines, in the Administrator's discretion, that it is in the public interest to protect against such risk by actions taken under this Act. This subsection shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by such other Federal laws.

(c) **OCCUPATIONAL SAFETY AND HEALTH.**—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

29 USC 651 note.

(d) **COORDINATION.**—In administering this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, any relevant independent regulatory agency, and any other appropriate instrumentality of the Federal Government for the purpose of achieving the maximum enforcement of this Act while imposing the least burdens of duplicative requirements on those subject to the Act and for other purposes. The Administrator shall, in the report required by section 30, report annually to the Congress on actions taken to coordinate with such other Federal departments, agencies, or instrumentalities, and on actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b).

SEC. 10. RESEARCH, DEVELOPMENT, COLLECTION, DISSEMINATION, AND UTILIZATION OF DATA.

(a) **AUTHORITY.**—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare and with other heads of appropriate departments and agencies, conduct such research, development, and monitoring as is necessary to carry out the purposes of this Act. The Administrator may enter into contracts and may make grants for research, development, and monitoring under this subsection. Contracts may be entered into under this subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 14 U.S.C. 5).

15 USC 2609.

Contracts.

41 USC 5.

(b) **DATA SYSTEMS.**—(1) The Administrator shall establish, administer, and be responsible for the continuing activities of an interagency committee which shall design, establish, and coordinate an efficient and effective system, within the Environmental Protection Agency, for the collection, dissemination to other Federal departments and agencies, and use of data submitted to the Administrator under this Act.

(2) (A) The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare and other heads of appropriate departments and agencies design, establish, and coordinate an efficient and effective system for the retrieval of toxicological and other scientific data which could be useful to the Administrator in carrying out the purposes of this Act. Systematized retrieval shall be developed for use by all Federal and other departments and agencies

with responsibilities in the area of regulation or study of chemical substances and mixtures and their effect on health or the environment.

(B) The Administrator, in consultation and cooperation with the Secretary of Health, Education, and Welfare, may make grants and enter into contracts for the development of a data retrieval system described in subparagraph (A). Contracts may be entered into under this subparagraph without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

(c) **SCREENING TECHNIQUES.**—The Administrator shall coordinate, with the Assistant Secretary for Health of the Department of Health, Education, and Welfare, research undertaken by the Administrator and directed toward the development of rapid, reliable, and economical screening techniques for carcinogenic, mutagenic, teratogenic, and ecological effects of chemical substances and mixtures.

(d) **MONITORING.**—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare, establish and be responsible for research aimed at the development, in cooperation with local, State, and Federal agencies, of monitoring techniques and instruments which may be used in the detection of toxic chemical substances and mixtures and which are reliable, economical, and capable of being implemented under a wide variety of conditions.

(e) **BASIC RESEARCH.**—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare, establish research programs to develop the fundamental scientific basis of the screening and monitoring techniques described in subsections (c) and (d), the bounds of the reliability of such techniques, and the opportunities for their improvement.

(f) **TRAINING.**—The Administrator shall establish and promote programs and workshops to train or facilitate the training of Federal laboratory and technical personnel in existing or newly developed screening and monitoring techniques.

(g) **EXCHANGE OF RESEARCH AND DEVELOPMENT RESULTS.**—The Administrator shall, in consultation with the Secretary of Health, Education, and Welfare and other heads of appropriate departments and agencies, establish and coordinate a system for exchange among Federal, State, and local authorities of research and development results respecting toxic chemical substances and mixtures, including a system to facilitate and promote the development of standard data format and analysis and consistent testing procedures.

SEC. 11. INSPECTIONS AND SUBPOENAS.

15 USC 2610.

(a) **IN GENERAL.**—For purposes of administering this Act, the Administrator, and any duly designated representative of the Administrator, may inspect any establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce and any conveyance being used to transport chemical substances, mixtures, or such articles in connection with distribution in commerce. Such an inspection may only be made upon the presentation of appropriate credentials and of a written notice to the owner, operator, or agent in charge of the premises or conveyance to be inspected. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(b) **SCOPE.**—(1) Except as provided in paragraph (2), an inspection conducted under subsection (a) shall extend to all things within

Notice.

the premises or conveyance inspected (including records, files, papers, processes, controls, and facilities) bearing on whether the requirements of this Act applicable to the chemical substances or mixtures within such premises or conveyance have been complied with.

(2) No inspection under subsection (a) shall extend to—

- (A) financial data,
- (B) sales data (other than shipment data),
- (C) pricing data,
- (D) personnel data, or
- (E) research data (other than data required by this Act or under a rule promulgated thereunder),

unless the nature and extent of such data are described with reasonable specificity in the written notice required by subsection (a) for such inspection.

(c) **SUBPOENAS.**—In carrying out this Act, the Administrator may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, and other information that the Administrator deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure, or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

SEC. 12. EXPORTS.

(a) **IN GENERAL.**—(1) Except as provided in paragraph (2) and subsection (b), this Act (other than section 8) shall not apply to any chemical substance, mixture, or to an article containing a chemical substance or mixture, if— 15 USC 2611.

(A) it can be shown that such substance, mixture, or article is being manufactured, processed, or distributed in commerce for export from the United States, unless such substance, mixture, or article was, in fact, manufactured, processed, or distributed in commerce, for use in the United States, and

(B) such substance, mixture, or article (when distributed in commerce), or any container in which it is enclosed (when so distributed), bears a stamp or label stating that such substance, mixture, or article is intended for export.

(2) Paragraph (1) shall not apply to any chemical substance, mixture, or article if the Administrator finds that the substance, mixture, or article will present an unreasonable risk of injury to health within the United States or to the environment of the United States. The Administrator may require, under section 4, testing of any chemical substance or mixture exempted from this Act by paragraph (1) for the purpose of determining whether or not such substance or mixture presents an unreasonable risk of injury to health within the United States or to the environment of the United States.

(b) **NOTICE.**—(1) If any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 or 5(b), such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of the availability of the data submitted to the Administrator under such section for such substance or mixture.

(2) If any person exports or intends to export to a foreign country a chemical substance or mixture for which an order has been issued

under section 5 or a rule has been proposed or promulgated under section 5 or 6, or with respect to which an action is pending, or relief has been granted under section 5 or 7, such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of such rule, order, action, or relief.

SEC. 13. ENTRY INTO CUSTOMS TERRITORY OF THE UNITED STATES.

15 USC 2612.

(a) **IN GENERAL.**—(1) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substance, mixture, or article containing a chemical substance or mixture offered for such entry if—

19 USC 1202.

(A) it fails to comply with any rule in effect under this Act, or

(B) it is offered for entry in violation of section 5 or 6, a rule or order under section 5 or 6, or an order issued in a civil action brought under section 5 or 7.

Notification.

(2) If a chemical substance, mixture, or article is refused entry under paragraph (1), the Secretary of the Treasury shall notify the consignee of such entry refusal, shall not release it to the consignee, and shall cause its disposal or storage (under such rules as the Secretary of the Treasury may prescribe) if it has not been exported by the consignee within 90 days from the date of receipt of notice of such refusal, except that the Secretary of the Treasury may, pending a review by the Administrator of the entry refusal, release to the consignee such substance, mixture, or article on execution of bond for the amount of the full invoice of such substance, mixture, or article (as such value is set forth in the customs entry), together with the duty thereon. On failure to return such substance, mixture, or article for any cause to the custody of the Secretary of the Treasury when demanded, such consignee shall be liable to the United States for liquidated damages equal to the full amount of such bond. All charges for storage, cartage, and labor on and for disposal of substances, mixtures, or articles which are refused entry or release under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future entry made by such owner or consignee.

(b) **RULES.**—The Secretary of the Treasury, after consultation with the Administrator, shall issue rules for the administration of subsection (a) of this section.

SEC. 14. DISCLOSURE OF DATA.

15 USC 2613.

(a) **IN GENERAL.**—Except as provided by subsection (b), any information reported to, or otherwise obtained by, the Administrator (or any representative of the Administrator) under this Act, which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section, shall, notwithstanding the provisions of any other section of this Act, not be disclosed by the Administrator or by any officer or employee of the United States, except that such information—

(1) shall be disclosed to any officer or employee of the United States—

(A) in connection with the official duties of such officer or employee under any law for the protection of health or the environment, or

(B) for specific law enforcement purposes;

(2) shall be disclosed to contractors with the United States and employees of such contractors if in the opinion of the Administra-

tor such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States entered into on or after the date of enactment of this Act for the performance of work in connection with this Act and under such conditions as the Administrator may specify;

(3) shall be disclosed if the Administrator determines it necessary to protect health or the environment against an unreasonable risk of injury to health or the environment; or

(4) may be disclosed when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

In any proceeding under section 552(a) of title 5, United States Code, to obtain information the disclosure of which has been denied because of the provisions of this subsection, the Administrator may not rely on section 552(b)(3) of such title to sustain the Administrator's action.

(b) DATA FROM HEALTH AND SAFETY STUDIES.—(1) Subsection (a) does not prohibit the disclosure of—

(A) any health and safety study which is submitted under this Act with respect to—

(i) any chemical substance or mixture which, on the date on which such study is to be disclosed has been offered for commercial distribution, or

(ii) any chemical substance or mixture for which testing is required under section 4 or for which notification is required under section 5, and

(B) any data reported to, or otherwise obtained by, the Administrator from a health and safety study which relates to a chemical substance or mixture described in clause (i) or (ii) of subparagraph (A).

This paragraph does not authorize the release of any data which discloses processes used in the manufacturing or processing of a chemical substance or mixture or, in the case of a mixture, the release of data disclosing the portion of the mixture comprised by any of the chemical substances in the mixture.

(2) If a request is made to the Administrator under subsection (a) of section 552 of title 5, United States Code, for information which is described in the first sentence of paragraph (1) and which is not information described in the second sentence of such paragraph, the Administrator may not deny such request on the basis of subsection (b)(4) of such section.

(c) DESIGNATION AND RELEASE OF CONFIDENTIAL DATA.—(1) In submitting data under this Act, a manufacturer, processor, or distributor in commerce may (A) designate the data which such person believes is entitled to confidential treatment under subsection (a), and (B) submit such designated data separately from other data submitted under this Act. A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

(2) (A) Except as provided by subparagraph (B), if the Administrator proposes to release for inspection data which has been designated under paragraph (1)(A), the Administrator shall notify, in writing and by certified mail, the manufacturer, processor, or distributor in commerce who submitted such data of the intent to release such data. If the release of such data is to be made pursuant to a request made under section 552(a) of title 5, United States Code, such notice shall be given immediately upon approval of such request by the Administrator. The Administrator may not release such data until

Notification.

the expiration of 30 days after the manufacturer, processor, or distributor in commerce submitting such data has received the notice required by this subparagraph.

Notification.

(B) (i) Subparagraph (A) shall not apply to the release of information under paragraph (1), (2), (3), or (4) of subsection (a), except that the Administrator may not release data under paragraph (3) of subsection (a) unless the Administrator has notified each manufacturer, processor, and distributor in commerce who submitted such data of such release. Such notice shall be made in writing by certified mail at least 15 days before the release of such data, except that if the Administrator determines that the release of such data is necessary to protect against an imminent, unreasonable risk of injury to health or the environment, such notice may be made by such means as the Administrator determines will provide notice at least 24 hours before such release is made.

(ii) Subparagraph (A) shall not apply to the release of information described in subsection (b) (1) other than information described in the second sentence of such subsection.

(d) **CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.**—(1) Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (a), and who knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000 or imprisoned for not more than one year, or both. Section 1905 of title 18, United States Code, does not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act.

(2) For the purposes of paragraph (1), any contractor with the United States who is furnished information as authorized by subsection (a) (2), and any employee of any such contractor, shall be considered to be an employee of the United States.

(e) **ACCESS BY CONGRESS.**—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.

SEC. 15. PROHIBITED ACTS.

15 USC 2614.

It shall be unlawful for any person to—

(1) fail or refuse to comply with (A) any rule promulgated or order issued under section 4, (B) any requirement prescribed by section 5 or 6, or (C) any rule promulgated or order issued under section 5 or 6;

(2) use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 5 or 6, a rule or order under section 5 or 6, or an order issued in action brought under section 5 or 7;

(3) fail or refuse to (A) establish or maintain records, (B) submit reports, notices, or other information, or (C) permit access to or copying of records, as required by this Act or a rule thereunder; or

(4) fail or refuse to permit entry or inspection as required by section 11.

SEC. 16. PENALTIES.

(a) **CIVIL.**—(1) Any person who violates a provision of section 15 shall be liable to the United States for a civil penalty in an amount not to exceed \$25,000 for each such violation. Each day such a violation continues shall, for purposes of this subsection, constitute a separate violation of section 15. 15 USC 2615.

(2) (A) A civil penalty for a violation of section 15 shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order. Hearing.

(B) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(C) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2) (A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued. Petition for
judicial review.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Administrator, the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(b) **CRIMINAL.**—Any person who knowingly or willfully violates any provision of section 15 shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) of this section for such violation, be subject, upon conviction, to a fine of not more than \$25,000 for each day of violation, or to imprisonment for not more than one year, or both.

SEC. 17. SPECIFIC ENFORCEMENT AND SEIZURE.

(a) **SPECIFIC ENFORCEMENT.**—(1) The district courts of the United States shall have jurisdiction over civil actions to— 15 USC 2616.

(A) restrain any violation of section 15,

(B) restrain any person from taking any action prohibited by section 5 or 6 or by a rule or order under section 5 or 6,

(C) compel the taking of any action required by or under this Act, or

(D) direct any manufacturer or processor of a chemical substance or mixture manufactured or processed in violation of section 5 or 6 or a rule or order under section 5 or 6 and distributed in commerce, (i) to give notice of such fact to distributors in commerce of such substance or mixture and, to the extent reasonably ascertainable, to other persons in possession of such substance or mixture or exposed to such substance or mixture, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance or mixture, whichever the person to which the requirement is directed elects.

(2) A civil action described in paragraph (1) may be brought—

(A) in the case of a civil action described in subparagraph (A) of such paragraph, in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 15 occurred or wherein the defendant is found or transacts business, or

(B) in the case of any other civil action described in such paragraph, in the United States district court for the judicial district wherein the defendant is found or transacts business.

In any such civil action process may be served on a defendant in any judicial district in which a defendant resides or may be found. Subpoenas requiring attendance of witnesses in any such action may be served in any judicial district.

(b) SEIZURE.—Any chemical substance or mixture which was manufactured, processed, or distributed in commerce in violation of this Act or any rule promulgated or order issued under this Act or any article containing such a substance or mixture shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance, mixture, or article, in any district court of the United States within the jurisdiction of which such substance, mixture, or article is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

SEC. 18. PREEMPTION.

15 USC 2617.

(a) EFFECT ON STATE LAW.—(1) Except as provided in paragraph (2), nothing in this Act shall affect the authority of any State or political subdivision of a State to establish or continue in effect regulation of any chemical substance, mixture, or article containing a chemical substance or mixture.

(2) Except as provided in subsection (b)—

(A) if the Administrator requires by a rule promulgated under section 4 the testing of a chemical substance or mixture, no State or political subdivision may, after the effective date of such rule, establish or continue in effect a requirement for the testing of such substance or mixture for purposes similar to those for which testing is required under such rule; and

(B) if the Administrator prescribes a rule or order under section 5 or 6 (other than a rule imposing a requirement described in subsection (a) (6) of section 6) which is applicable to a chemical substance or mixture, and which is designed to protect against a risk of injury to health or the environment associated with such substance or mixture, no State or political subdivision of a State may, after the effective date of such requirement, establish or continue in effect, any requirement which is applicable to such substance or mixture, or an article containing such substance or mix-

ture, and which is designed to protect against such risk unless such requirement (i) is identical to the requirement prescribed by the Administrator, (ii) is adopted under the authority of the Clean Air Act or any other Federal law, or (iii) prohibits the use of such substance or mixture in such State or political subdivision (other than its use in the manufacture or processing of other substances or mixtures).

(b) **EXEMPTION.**—Upon application of a State or political subdivision of a State the Administrator may by rule exempt from subsection (a) (2), under such conditions as may be prescribed in such rule, a requirement of such State or political subdivision designed to protect against a risk of injury to health or the environment associated with a chemical substance, mixture, or article containing a chemical substance or mixture if—

Application.

(1) compliance with the requirement would not cause the manufacturing, processing, distribution in commerce, or use of the substance, mixture, or article to be in violation of the applicable requirement under this Act described in subsection (a) (2), and

(2) the State or political subdivision requirement (A) provides a significantly higher degree of protection from such risk than the requirement under this Act described in subsection (a) (2) and (B) does not, through difficulties in marketing, distribution, or other factors, unduly burden interstate commerce.

SEC. 19. JUDICIAL REVIEW.

(a) **IN GENERAL.**—(1) (A) Not later than 60 days after the date of the promulgation of a rule under section 4(a), 5(a) (2), 5(b) (4), 6(a), 6(e), or 8, any person may file a petition for judicial review of such rule with the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which such person resides or in which such person's principal place of business is located. Courts of appeals of the United States shall have exclusive jurisdiction of any action to obtain judicial review (other than in an enforcement proceeding) of such a rule if any district court of the United States would have had jurisdiction of such action but for this subparagraph.

Petition.
15 USC 2618.

(B) Courts of appeals of the United States shall have exclusive jurisdiction of any action to obtain judicial review (other than in an enforcement proceeding) of an order issued under subparagraph (A) or (B) of section 6(b) (1) if any district court of the United States would have had jurisdiction of such action but for this subparagraph.

Jurisdiction.

(2) Copies of any petition filed under paragraph (1) (A) shall be transmitted forthwith to the Administrator and to the Attorney General by the clerk of the court with which such petition was filed. The provisions of section 2112 of title 28, United States Code, shall apply to the filing of the rulemaking record of proceedings on which the Administrator based the rule being reviewed under this section and to the transfer of proceedings between United States courts of appeals.

Petition copies,
transmittal to
Administrator
and Attorney
General.

(3) For purposes of this section, the term "rulemaking record" means—

"Rulemaking
record."

(A) the rule being reviewed under this section;

(B) in the case of a rule under section 4(a), the finding required by such section, in the case of a rule under section 5(b) (4), the finding required by such section, in the case of a rule under section 6(a) the finding required by section 5(f) or 6(a), as the case may be, in the case of a rule under section 6(a), the statement required by section 6(c) (1), and in the case of a rule under section 6(e), the findings required by paragraph (2) (B) or (3) (B) of such section, as the case may be;

Publication in
Federal Register.

- (C) any transcript required to be made of oral presentations made in proceedings for the promulgation of such rule;
- (D) any written submission of interested parties respecting the promulgation of such rule; and
- (E) any other information which the Administrator considers to be relevant to such rule and which the Administrator identified, on or before the date of the promulgation of such rule, in a notice published in the Federal Register.

Review.

(b) **ADDITIONAL SUBMISSIONS AND PRESENTATIONS; MODIFICATIONS.**—If in an action under this section to review a rule the petitioner or the Administrator applies to the court for leave to make additional oral submissions or written presentations respecting such rule and shows to the satisfaction of the court that such submissions and presentations would be material and that there were reasonable grounds for the submissions and failure to make such submissions and presentations in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity to make such submissions and presentations. The Administrator may modify or set aside the rule being reviewed or make a new rule by reason of the additional submissions and presentations and shall file such modified or new rule with the return of such submissions and presentations. The court shall thereafter review such new or modified rule.

(c) **STANDARD OF REVIEW.**—(1)(A) Upon the filing of a petition under subsection (a) (1) for judicial review of a rule, the court shall have jurisdiction (i) to grant appropriate relief, including interim relief, as provided in chapter 7 of title 5, United States Code, and (ii) except as otherwise provided in subparagraph (B), to review such rule in accordance with chapter 7 of title 5, United States Code.

(B) Section 706 of title 5, United States Code, shall apply to review of a rule under this section, except that—

- (i) in the case of review of a rule under section 4(a), 5(b) (4), 6(a), or 6(e), the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such rule if the court finds that the rule is not supported by substantial evidence in the rulemaking record (as defined in subsection (a) (3)) taken as a whole;
- (ii) in the case of review of a rule under section 6(a), the court shall hold unlawful and set aside such rule if it finds that—

(I) a determination by the Administrator under section 6(c) (3) that the petitioner seeking review of such rule is not entitled to conduct (or have conducted) cross-examination or to present rebuttal submissions, or

(II) a rule of, or ruling by, the Administrator under section 6(c) (3) limiting such petitioner's cross-examination or oral presentations,

has precluded disclosure of disputed material facts which was necessary to a fair determination by the Administrator of the rulemaking proceeding taken as a whole; and section 706(2) (D) shall not apply with respect to a determination, rule, or ruling referred to in subclause (I) or (II); and

- (iii) the court may not review the contents and adequacy of—

(I) any statement required to be made pursuant to section 6(c) (1), or

(II) any statement of basis and purpose required by section 553(c) of title 5, United States Code, to be incorporated in the rule

except as part of a review of the rulemaking record taken as a whole.

The term "evidence" as used in clause (i) means any matter in the rulemaking record. "Evidence."

(C) A determination, rule, or ruling of the Administrator described in subparagraph (B)(ii) may be reviewed only in an action under this section and only in accordance with such subparagraph.

(2) The judgment of the court affirming or setting aside, in whole or in part, any rule reviewed in accordance with this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(d) **FEES AND COSTS.**—The decision of the court in an action commenced under subsection (a), or of the Supreme Court of the United States on review of such a decision, may include an award of costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate.

(e) **OTHER REMEDIES.**—The remedies as provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

SEC. 20. CITIZENS' CIVIL ACTIONS.

(a) **IN GENERAL.**—Except as provided in subsection (b), any person may commence a civil action— 15 USC 2619.

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of this Act or any rule promulgated under section 4, 5, or 6 or order issued under section 5 to restrain such violation, or

(2) against the Administrator to compel the Administrator to perform any act or duty under this Act which is not discretionary.

Any civil action under paragraph (1) shall be brought in the United States district court for the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. Any action brought under paragraph (2) shall be brought in the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the plaintiff is domiciled. The district courts of the United States shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. In any civil action under this subsection process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpoenas for witnesses may be served in any judicial district.

Jurisdiction.

(b) **LIMITATION.**—No civil action may be commenced—

(1) under subsection (a)(1) to restrain a violation of this Act or rule or order under this Act—

(A) before the expiration of 60 days after the plaintiff has given notice of such violation (i) to the Administrator, and (ii) to the person who is alleged to have committed such violation, or

Notice.

(B) if the Administrator has commenced and is diligently prosecuting a proceeding for the issuance of an order under section 16(a)(2) to require compliance with this Act or with such rule or order or if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with this Act or with such rule or order, but if such proceeding or civil action is commenced after the giving of notice, any person giving such notice may intervene as a matter of right in such proceeding or action; or

Notice.

(2) under subsection (a) (2) before the expiration of 60 days after the plaintiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty which is the basis for such action or, in the case of an action under such subsection for the failure of the Administrator to file an action under section 7, before the expiration of ten days after such notification.

Rule.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) GENERAL.—(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(2) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(3) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this Act or any rule or order under this Act or to seek any other relief.

(d) CONSOLIDATION.—When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions, upon application of such defendants to such actions which is made to a court in which any such action is brought, may, if such court in its discretion so decides, be consolidated for trial by order (issued after giving all parties reasonable notice and opportunity to be heard) of such court and tried in—

(1) any district which is selected by such defendant and in which one of such actions is pending,

(2) a district which is agreed upon by stipulation between all the parties to such actions and in which one of such actions is pending, or

(3) a district which is selected by the court and in which one of such actions is pending.

The court issuing such an order shall give prompt notification of the order to the other courts in which the civil actions consolidated under the order are pending.

SEC. 21. CITIZENS' PETITIONS.

15 USC 2620.

(a) IN GENERAL.—Any person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 6, or 8 or an order under section 5(e) or (6) (b) (2).

(b) PROCEDURES.—(1) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed establish that it is necessary to issue, amend, or repeal a rule under section 4, 6, or 8 or an order under section 5(e), 6(b) (1) (A), or 6(b) (1) (B).

Public hearing.

(2) The Administrator may hold a public hearing or may conduct such investigation or proceeding as the Administrator deems appropriate in order to determine whether or not such petition should be granted.

(3) Within 90 days after filing of a petition described in paragraph (1), the Administrator shall either grant or deny the petition. If the Administrator grants such petition, the Administrator shall promptly

commence an appropriate proceeding in accordance with section 4, 5, 6, or 8. If the Administrator denies such petition, the Administrator shall publish in the Federal Register the Administrator's reasons for such denial.

Publication in
Federal Register.

(4)(A) If the Administrator denies a petition filed under this section (or if the Administrator fails to grant or deny such petition within the 90-day period) the petitioner may commence a civil action in a district court of the United States to compel the Administrator to initiate a rulemaking proceeding as requested in the petition. Any such action shall be filed within 60 days after the Administrator's denial of the petition or, if the Administrator fails to grant or deny the petition within 90 days after filing the petition, within 60 days after the expiration of the 90-day period.

Civil action.

(B) In an action under subparagraph (A) respecting a petition to initiate a proceeding to issue a rule under section 4, 6, or 8 or an order under section 5(e) or 6(b)(2), the petitioner shall be provided an opportunity to have such petition considered by the court in a de novo proceeding. If the petitioner demonstrates to the satisfaction of the court by a preponderance of the evidence that—

(i) in the case of a petition to initiate a proceeding for the issuance of a rule under section 4 or an order under section 5(e)—

(I) information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance to be subject to such rule or order; and

(II) in the absence of such information, the substance may present an unreasonable risk to health or the environment, or the substance is or will be produced in substantial quantities and it enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to it; or

(ii) in the case of a petition to initiate a proceeding for the issuance of a rule under section 6 or 8 or an order under section 6(b)(2), there is a reasonable basis to conclude that the issuance of such a rule or order is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment.

the court shall order the Administrator to initiate the action requested by the petitioner. If the court finds that the extent of the risk to health or the environment alleged by the petitioner is less than the extent of risks to health or the environment with respect to which the Administrator is taking action under this Act and there are insufficient resources available to the Administrator to take the action requested by the petitioner, the court may permit the Administrator to defer initiating the action requested by the petitioner until such time as the court prescribes.

(C) The court in issuing any final order in any action brought pursuant to subparagraph (A) may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(5) The remedies under this section shall be in addition to, and not in lieu of, other remedies provided by law.

SEC. 22. NATIONAL DEFENSE WAIVER.

15 USC 2621.

Publication in
Federal Register.
Notice to
congressional
committee.

The Administrator shall waive compliance with any provision of this Act upon a request and determination by the President that the requested waiver is necessary in the interest of national defense. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national defense purposes, unless, upon the request of the President, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national defense, in which event the Administrator shall submit notice thereof to the Armed Services Committees of the Senate and the House of Representatives.

SEC. 23. EMPLOYEE PROTECTION.

15 USC 2622.

(a) **IN GENERAL.**—No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

- (1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act;
- (2) testified or is about to testify in any such proceeding; or
- (3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

(b) **REMEDY.**—(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

Notification.

Investigation.

Notification.

(2) (A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

Notice and
hearing.

(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii)

such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(c) REVIEW.—(1) Any employee or employer adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code.

(2) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

(d) ENFORCEMENT.—Whenever a person has failed to comply with an order issued under subsection (b) (2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

(e) EXCLUSION.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act.

SEC. 24. EMPLOYMENT EFFECTS.

(a) IN GENERAL.—The Administrator shall evaluate on a continuing basis the potential effects on employment (including reductions in employment or loss of employment from threatened plant closures) of—

- (1) the issuance of a rule or order under section 4, 5, or 6, or
- (2) a requirement of section 5 or 6.

(b) (1) INVESTIGATIONS.—Any employee (or any representative of an employee) may request the Administrator to make an investigation of—

(A) a discharge or layoff or threatened discharge or layoff of the employee, or

(B) adverse or threatened adverse effects on the employee's employment,

allegedly resulting from a rule or order under section 4, 5, or 6 or a requirement of section 5 or 6. Any such request shall be made in writing, shall set forth with reasonable particularity the grounds for the request, and shall be signed by the employee, or representative of such employee, making the request.

(2) (A) Upon receipt of a request made in accordance with paragraph (1) the Administrator shall (i) conduct the investigation requested, and (ii) if requested by any interested person, hold public hearings on any matter involved in the investigation unless the Administrator, by order issued within 45 days of the date such hearings are

Civil action.

Jurisdiction.

Evaluation.
15 USC 2623.

Public hearings.

Notification.
Publication in
Federal Register.

requested, denies the request for the hearings because the Administrator determines there are no reasonable grounds for holding such hearings. If the Administrator makes such a determination, the Administrator shall notify in writing the person requesting the hearing of the determination and the reasons therefor and shall publish the determination and the reasons therefor in the Federal Register.

(B) If public hearings are to be held on any matter involved in an investigation conducted under this subsection—

(i) at least five days' notice shall be provided the person making the request for the investigation and any person identified in such request,

(ii) such hearings shall be held in accordance with section 6(c)(3), and

(iii) each employee who made or for whom was made a request for such hearings and the employer of such employee shall be required to present information respecting the applicable matter referred to in paragraph (1)(A) or (1)(B) together with the basis for such information.

Recommendations.

(3) Upon completion of an investigation under paragraph (2), the Administrator shall make findings of fact, shall make such recommendations as the Administrator deems appropriate, and shall make available to the public such findings and recommendations.

(4) This section shall not be construed to require the Administrator to amend or repeal any rule or order in effect under this Act.

SEC. 25. STUDIES.

15 USC 2624.

(a) **INDEMNIFICATION STUDY.**—The Administrator shall conduct a study of all Federal laws administered by the Administrator for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any such law. The study shall—

(1) include an estimate of the probable cost of any indemnification programs which may be recommended;

(2) include an examination of all viable means of financing the cost of any recommended indemnification; and

(3) be completed and submitted to Congress within two years from the effective date of enactment of this Act.

Submittal to
Congress.
GAO review.

The General Accounting Office shall review the adequacy of the study submitted to Congress pursuant to paragraph (3) and shall report the results of its review to the Congress within six months of the date such study is submitted to Congress.

Consultation.

(b) **CLASSIFICATION, STORAGE, AND RETRIEVAL STUDY.**—The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal departments or agencies, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical substances and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such substances. A report on such study shall be completed and submitted to Congress not later than 18 months after the effective date of enactment of this Act.

Report to
Congress.

SEC. 26. ADMINISTRATION OF THE ACT.

15 USC 2625.

(a) **COOPERATION OF FEDERAL AGENCIES.**—Upon request by the Administrator, each Federal department and agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist the Administrator in the administration of this Act; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the administration of this Act.

(b) FEES.—(1) The Administrator may, by rule, require the payment of a reasonable fee from any person required to submit data under section 4 or 5 to defray the cost of administering this Act. Such rules shall not provide for any fee in excess of \$2,500 or, in the case of a small business concern, any fee in excess of \$100. In setting a fee under this paragraph, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for sharing such a fee in any case in which the expenses of testing are shared under section 4 or 5.

(2) The Administrator, after consultation with the Administrator of the Small Business Administration, shall by rule prescribe standards for determining the persons which qualify as small business concerns for purposes of paragraph (1).

Consultation.
Rule.

(c) ACTION WITH RESPECT TO CATEGORIES.—(1) Any action authorized or required to be taken by the Administrator under any provision of this Act with respect to a chemical substance or mixture may be taken by the Administrator in accordance with that provision with respect to a category of chemical substances or mixtures. Whenever the Administrator takes action under a provision of this Act with respect to a category of chemical substances or mixtures, any reference in this Act to a chemical substance or mixture (insofar as it relates to such action) shall be deemed to be a reference to each chemical substance or mixture in such category.

(2) For purposes of paragraph (1):

Definitions.

(A) The term "category of chemical substances" means a group of chemical substances the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in mode of entrance into the human body or into the environment, or the members of which are in some other way suitable for classification as such for purposes of this Act, except that such term does not mean a group of chemical substances which are grouped together solely on the basis of their being new chemical substances.

(B) The term "category of mixtures" means a group of mixtures the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in the mode of entrance into the human body or into the environment, or the members of which are in some other way suitable for classification as such for purposes of this Act.

(d) ASSISTANCE OFFICE.—The Administrator shall establish in the Environmental Protection Agency an identifiable office to provide technical and other nonfinancial assistance to manufacturers and processors of chemical substances and mixtures respecting the requirements of this Act applicable to such manufacturers and processors, the policy of the Agency respecting the application of such requirements to such manufacturers and processors, and the means and methods by which such manufacturers and processors may comply with such requirements.

Establishment.

(e) FINANCIAL DISCLOSURES.—(1) Except as provided under paragraph (3), each officer or employee of the Environmental Protection Agency and the Department of Health, Education, and Welfare who—

(A) performs any function or duty under this Act, and

(B) has any known financial interest (i) in any person subject to this Act or any rule or order in effect under this Act, or (ii) in any person who applies for or receives any grant or contract under this Act,

shall, on February 1, 1978, and on February 1 of each year thereafter, file with the Administrator or the Secretary of Health, Education, and Welfare (hereinafter in this subsection referred to as the "Secretary"), as appropriate, a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be made available to the public.

(2) The Administrator and the Secretary shall—

(A) act within 90 days of the effective date of this Act—

(i) to define the term "known financial interests" for purposes of paragraph (1), and

(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for review by the Administrator and the Secretary of such statements; and

Report to
Congress.

(B) report to the Congress on June 1, 1978, and on June 1 of each year thereafter with respect to such statements and the actions taken in regard thereto during the preceding calendar year.

(3) The Administrator may by rule identify specific positions with the Environmental Protection Agency, and the Secretary may by rule identify specific positions with the Department of Health, Education, and Welfare, which are of a nonregulatory or nonpolicymaking nature, and the Administrator and the Secretary may by rule provide that officers or employees occupying such positions shall be exempt from the requirements of paragraph (1).

(4) This subsection does not supersede any requirement of chapter 11 of title 18, United States Code.

Penalty.

(5) Any officer or employee who is subject to, and knowingly violates, this subsection or any rule issued thereunder, shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

(f) STATEMENT OF BASIS AND PURPOSE.—Any final order issued under this Act shall be accompanied by a statement of its basis and purpose. The contents and adequacy of any such statement shall not be subject to judicial review in any respect.

Appointment.

(g) ASSISTANT ADMINISTRATOR.—(1) The President, by and with the advice and consent of the Senate, shall appoint an Assistant Administrator for Toxic Substances of the Environmental Protection Agency. Such Assistant Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct a program concerning the effects of chemicals on human health and the environment. Such Assistant Administrator shall be responsible for (A) the collection of data, (B) the preparation of studies, (C) the making of recommendations to the Administrator for regulatory and other actions to carry out the purposes and to facilitate the administration of this Act, and (D) such other functions as the Administrator may assign or delegate.

5 USC app. II.

(2) The Assistant Administrator to be appointed under paragraph (1) shall (A) be in addition to the Assistant Administrators of the Environmental Protection Agency authorized by section 1(d) of Reorganization Plan No. 3 of 1970, and (B) be compensated at the rate of pay authorized for such Assistant Administrators.

SEC. 27. DEVELOPMENT AND EVALUATION OF TEST METHODS.

(a) **IN GENERAL.**—The Secretary of Health, Education, and Welfare, in consultation with the Administrator and acting through the Assistant Secretary for Health, may conduct, and make grants to public and nonprofit private entities and enter into contracts with public and private entities for, projects for the development and evaluation of inexpensive and efficient methods (1) for determining and evaluating the health and environmental effects of chemical substances and mixtures, and their toxicity, persistence, and other characteristics which affect health and the environment, and (2) which may be used for the development of test data to meet the requirements of rules promulgated under section 4. The Administrator shall consider such methods in prescribing under section 4 standards for the development of test data.

Consultation.
15 USC 2626.

(b) **APPROVAL BY SECRETARY.**—No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require. The Secretary may apply such conditions to grants and contracts under subsection (a) as the Secretary determines are necessary to carry out the purposes of such subsection. Contracts may be entered into under such subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

Grants or
contracts,
application.

(c) **ANNUAL REPORTS.**—(1) The Secretary shall prepare and submit to the President and the Congress on or before January 1 of each year a report of the number of grants made and contracts entered into under this section and the results of such grants and contracts.

Report to
President and
Congress.

(2) The Secretary shall periodically publish in the Federal Register reports describing the progress and results of any contract entered into or grant made under this section.

Publication in
Federal Register.

SEC. 28. STATE PROGRAMS.

(a) **IN GENERAL.**—For the purpose of complementing (but not reducing) the authority of, or actions taken by, the Administrator under this Act, the Administrator may make grants to States for the establishment and operation of programs to prevent or eliminate unreasonable risks within the States to health or the environment which are associated with a chemical substance or mixture and with respect to which the Administrator is unable or is not likely to take action under this Act for their prevention or elimination. The amount of a grant under this subsection shall be determined by the Administrator, except that no grant for any State program may exceed 75 per centum of the establishment and operation costs (as determined by the Administrator) of such program during the period for which the grant is made.

15 USC 2627.

(b) **APPROVAL BY ADMINISTRATOR.**—(1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Administrator. Such an application shall be submitted in such form and manner as the Administrator may require and shall—

Grants,
application.

(A) set forth the need of the applicant for a grant under subsection (a),

(B) identify the agency or agencies of the State which shall establish or operate, or both, the program for which the application is submitted,

(C) describe the actions proposed to be taken under such program,

(D) contain or be supported by assurances satisfactory to the Administrator that such program shall, to the extent feasible, be integrated with other programs of the applicant for environmental and public health protection,

(E) provide for the making of such reports and evaluations as the Administrator may require, and

(F) contain such other information as the Administrator may prescribe.

Application,
approval.

(2) The Administrator may approve an application submitted in accordance with paragraph (1) only if the applicant has established to the satisfaction of the Administrator a priority need, as determined under rules of the Administrator, for the grant for which the application has been submitted. Such rules shall take into consideration the seriousness of the health effects in a State which are associated with chemical substances or mixtures, including cancer, birth defects, and gene mutations, the extent of the exposure in a State of human beings and the environment to chemical substances and mixtures, and the extent to which chemical substances and mixtures are manufactured, processed, used, and disposed of in a State.

Report to
Congress.

(c) **ANNUAL REPORTS.**—Not later than six months after the end of each of the fiscal years 1979, 1980, and 1981, the Administrator shall submit to the Congress a report respecting the programs assisted by grants under subsection (a) in the preceding fiscal year and the extent to which the Administrator has disseminated information respecting such programs.

(d) **AUTHORIZATION.**—For the purpose of making grants under subsection (a) there are authorized to be appropriated \$1,500,000 for the fiscal year ending September 30, 1977, \$1,500,000 for the fiscal year ending September 30, 1978, and \$1,500,000 for the fiscal year ending September 30, 1979. Sums appropriated under this subsection shall remain available until expended.

15 USC 2628.

SEC. 29. AUTHORIZATION FOR APPROPRIATIONS.

There are authorized to be appropriated to the Administrator for purposes of carrying out this Act (other than sections 27 and 28 and subsections (a) and (c) through (g) of section 10 thereof) \$10,100,000 for the fiscal year ending September 30, 1977, \$12,625,000 for the fiscal year ending September 30, 1978, \$16,200,000 for the fiscal year ending September 30, 1979. No part of the funds appropriated under this section may be used to construct any research laboratories.

SEC. 30. ANNUAL REPORT.

Report to
President and
Congress.
15 USC 2629.

The Administrator shall prepare and submit to the President and the Congress on or before January 1, 1978, and on or before January 1 of each succeeding year a comprehensive report on the administration of this Act during the preceding fiscal year. Such report shall include—

(1) a list of the testing required under section 4 during the year for which the report is made and an estimate of the costs incurred during such year by the persons required to perform such tests;

(2) the number of notices received during such year under section 5, the number of such notices received during such year under such section for chemical substances subject to a section 4 rule, and a summary of any action taken during such year under section 5(g);

(3) a list of rules issued during such year under section 6;

(4) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act and administrative actions under section 16 during such year;

(5) a summary of major problems encountered in the administration of this Act; and

(6) such recommendations for additional legislation as the Administrator deems necessary to carry out the purposes of this Act. Recommendations.

SEC. 31. EFFECTIVE DATE.

Except as provided in section 4(f), this Act shall take effect on January 1, 1977. 15 USC 2601 note.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1341 accompanying H.R. 14032 (Comm. on Interstate and Foreign Commerce) and No. 94-1679 (Comm. of Conference).

SENATE REPORTS: No. 94-698 (Comm. on Commerce) and No. 94-1302 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 26, considered and passed Senate.

Aug. 23, considered and passed House, amended, in lieu of H.R. 14032.

Sept. 28, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 42:

Oct. 12, Presidential statement.

Public Law 94-470
94th Congress

An Act

Oct. 11, 1976

[S. 14]

Federal judges.
Retirement pay
adjustments.

To provide cost-of-living adjustments in retirement pay of certain Federal judges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 373 of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

“Any judge who has retired by resigning under the provisions of this section, or who is otherwise entitled to payments under this section, shall be entitled after the effective date of this Act to a cost-of-living adjustment in the amount payable to him computed as specified in section 8340(b) of title 5, United States Code: *Provided, however,* That in no case shall the salary or amount payable to such judge as increased under this paragraph exceed 95 per centum of the salary of a United States district court judge in regular active service.”.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1605 (Comm. on the Judiciary).

SENATE REPORT No. 94-619 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 4, considered and passed Senate.

Sept. 29, considered and passed House.

Public Law 94-471
94th Congress

An Act

Authorizing appropriations to the National Science Foundation for fiscal year 1977.

Oct. 11, 1976
[H.R. 12566]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Authorization Act, 1977."

National Science
Foundation
Authorization
Act, 1977.
42 USC 1861
note.

AUTHORIZATION FOR ACTIVITIES OF THE NATIONAL SCIENCE FOUNDATION

SEC. 2. (a) There is authorized to be appropriated to the National Science Foundation for the fiscal year 1977, for the following categories:

(1) Mathematical and Physical Sciences and Engineering, \$231,525,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, \$244,850,000.

(3) Biological, Behavioral, and Social Sciences, \$130,425,000.

(4) Science Education Programs, \$69,400,000.

(5) Research Applied to National Needs, \$69,000,000.

(6) Scientific, Technological, and International Affairs, \$22,000,000.

(7) Program Development and Management, \$43,500,000.

(b) The National Science Foundation shall recommend and encourage the pursuit of national policies designed to foster research and education in science and engineering, and the application of scientific and technical knowledge to the solution of national and international problems.

(c) The National Science Foundation is authorized and directed to provide assistance to the Office of Science and Technology Policy established by the "Presidential Science and Technology Advisory Organization Act of 1976" (42 U.S.C. 6611).

Ante, p. 463.

(d) Notwithstanding any other provision of this or any other Act not less than 10 per centum of the amount authorized for category (5) of subsection (a) of this section shall be expended to small business concerns.

(e)(1) The National Science Foundation shall establish uniform procedures for establishing the responsibility for material published with the assistance of or under the sponsorship of the Foundation. The Foundation shall also establish procedures for reporting on the utilization of research projects assisted under the program "Research Applied to National Needs".

(2) The National Science Foundation shall arrange for the dissemination of all substantive technical reports through the National Technical Information Service of the Department of Commerce.

(3) In the conduct of the energy research and development activities under the "Research Applied to National Needs" category, the National Science Foundation shall coordinate all new energy research project awards with the Administrator of the Energy Research and Development Administration or his designee.

42 USC 5820
note.

(f) The Director of the National Science Foundation is authorized and directed to conduct a feasibility study of operating the peer review system used in the evaluation of grant proposals within the Founda-

42 USC 1864
note.

Transfer of
funds,
limitation.

Report to
Speaker of the
House, President
of the Senate
and congressional
committees.

tion so as to assure that the identity of the proposer is not known to the reviewers of the proposal. Any such system shall be considered to supplement and not to supplant the peer review system in operation in the Foundation on the date of enactment of this Act.

(g) No funds may be transferred from any particular category listed in section 2(a) to any other category or categories listed in such section if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in section 2(a) from any other category or categories listed in such section if the total of the funds so transferred to that particular category would exceed 10 per centum thereof unless—

(1) a period of thirty legislative days has passed after the Director or his designate has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason thereof, or

(2) each such committee before the expiration of such period has transmitted to the Director written notice to the effect that such committee has no objection to the proposed action.

INTERNATIONAL SCIENTIFIC RESEARCH, EDUCATION, AND POLICY ANALYSIS

SEC. 3. The National Science Foundation is authorized and directed to support basic and applied research and education programs, and to conduct and support policy analysis, information dissemination, and international cooperative programs consistent with the Nation's foreign policy objectives designed to make the results of scientific research conducted abroad more readily available to United States scientists, engineers, and technologists, to promote international cooperation in science and technology, to assist in the resolution of critical and emerging problems with significant scientific or technical components, such as world food and population problems, and to insure full coordination of these programs with related activities conducted by other Federal agencies and organizations. The Director of the National Science Foundation shall consult with the Secretary of State to assure that the programs authorized under this section are consistent with the foreign policy objectives of the United States.

INTERDISCIPLINARY RESEARCH

SEC. 4. The National Science Foundation is directed to encourage and promote the conduct of interdisciplinary research through broadly based undergraduate interdisciplinary education programs, interdisciplinary research projects which provide for apprenticeship training, interdisciplinary fellowship programs, and arrangements for degree training, including postgraduate degrees in more than one discipline, in institutions of higher education.

SCIENCE FOR CITIZENS

42 USC 1862
note.

SEC. 5. (a) The National Science Foundation is authorized and directed to conduct an experimental "Science for Citizens Program" and an augmented Public Understanding of Science Program under which funds will be available for pilot projects to:

(1) improve public understanding of science, engineering and technology and their impact on public policy issues.

(2) facilitate the participation of experienced scientists and engineers as well as graduate and undergraduate students in helping the public understand science, engineering and technology and their impact on public policies; and

(3) assist nationally recognized professional societies and groups serving important public purposes in conducting a limited number of forums, conferences, and workshops to increase public understanding of science and technology, and of their impact on public policy issues, after consideration of the following eligibility factors:

(A) the extent to which the proposal of the society or group will contribute to the development of facts, issues, and arguments relevant to public policy issues having significant scientific and technical aspects, and

(B) the ability of the society or group, using its own resources, to conduct such forums, conferences, and workshops.

(b) One or more review panels shall be established for the purpose of evaluating applications for awards under this section. The membership of each review panel shall have balanced representation from the scientific and nonscientific communities and the public and private sectors.

Panels,
establishment.

(c) No contract, grant or other arrangement shall be made under this Section without the prior approval of the National Science Board.

Contract
approval.

(d) To assist the Congress in evaluating activities initiated pursuant to this Section, the Director of the National Science Foundation, in consultation with a review panel having a balanced representation from the scientific and nonscientific community and the public and private sectors, is directed to prepare a comprehensive analysis and assessment of such activities to be submitted to the House Committee on Science and Technology and the Senate Committee on Labor and Public Welfare, not later than October 31, 1977. An interim report is required no later than March 1, 1977.

Analysis,
submittal to
congressional
committees.

Interim report.

CONTINUING EDUCATION IN SCIENCE AND ENGINEERING

SEC. 6. (a) The National Science Foundation shall develop a program plan for continuing education in science and engineering in order to enable scientists and engineers who have been engaged in their careers for at least five years to pursue courses of study designed to—

Program plan.
42 USC 1862
note.

(1) provide them with new knowledge, techniques, and skills in their special fields; or

(2) acquire new knowledge, techniques, and skills in other fields which will enable them to render more valuable contributions to the Nation.

(b) The program plan developed under this section shall include, but not be limited to—

(1) the development of special curricula and educational techniques for continuing education in science and technology; and

(2) the award of fellowships to scientists and engineers to enable them to pursue courses of study which provide continuing education in science and engineering.

(c) The Foundation is directed to provide the House Committee on Science and Technology and the Senate Committee on Labor and Pub-

Report to
congressional
committees.

lic Welfare, not later than March 1, 1977, with a detailed report on the program plan developed under this section, including recommendations for its implementation in fiscal year 1978.

MINORITIES, WOMEN, AND HANDICAPPED INDIVIDUALS

Executive
position search.
42 USC 1873
note.

Quarterly
report to
Congress.

Grants.

Criteria.
Report to
congressional
committees.

SEC. 7. (a) The Director of the National Science Foundation shall initiate an intensive search for qualified women, members of minority groups, and handicapped individuals to fill executive level positions in the National Science Foundation. In carrying out the requirement of this subsection, the Director shall work closely with organizations which have been active in seeking greater recognition and utilization of the scientific and technical capabilities of minorities, women, and handicapped individuals. The Director shall improve the representation of minorities, women, and handicapped individuals on advisory committees, review panels, and all other mechanisms by which the scientific community provides assistance to the Foundation. The Director of the National Science Foundation shall report quarterly to the Congress on the status of minorities, women, and handicapped individuals and activities undertaken pursuant to this section.

(b) Notwithstanding any other provision of this or any other Act, the National Science Foundation shall, with funds available from the program "Minorities, Women, and Handicapped Individuals in Science" conduct experimental forums, conferences, workshops or other activities designed to improve scientific literacy and to encourage and assist minorities, women, and handicapped individuals to undertake and to advance in careers in scientific research and science education.

(c) (1) In order to promote increased participation by minorities in careers in science and engineering, the National Science Foundation is authorized and directed to make available planning and study grants for programs including, but not limited to, Minority Centers for Graduate Education in Science and Engineering in accordance with this subsection.

(2) The grants for Minority Centers for Graduate Education shall be used to determine the need for and feasibility of developing Centers to be established at geographically dispersed educational institutions which—

- (A) have substantial minority student enrollment;
- (B) are geographically located near minority population centers;
- (C) demonstrate a commitment to encouraging and assisting minority students, researchers, and faculty;
- (D) have an existing or developing capacity to offer doctoral programs in science and engineering;
- (E) will support basic research and the acquisition of necessary research facilities and equipment;
- (F) will serve as a regional resource in science and engineering for the minority community which the Center is designed to serve; and
- (G) will develop joint educational programs with nearby undergraduate institutions of higher education which have a substantial minority student enrollment.

(3) The Director, in consultation with groups which have been active in seeking greater recognition of the scientific and technical capabilities of minorities, shall establish criteria for the award of the grants, and shall report to the Committee on Science and Technology

of the House of Representatives and the Committee on Labor and Public Welfare of the Senate on the results of activities including an evaluation and assessment of the entire program carried out under this subsection, not later than March 1, 1977.

OFFICE OF SMALL BUSINESS RESEARCH AND DEVELOPMENT

SEC. 8. The National Science Foundation is authorized and directed to establish an Office of Small Business Research and Development. The Foundation through the Office of Small Business Research and Development and in cooperation and consultation with the Small Business Administration shall—

Establishment.
42 USC 1883.

(1) foster communication between the National Science Foundation and the small business community, and insure that the set-aside for small business concerns provided under this Act or any other Act authorizing appropriations for the National Science Foundation is fully and effectively utilized;

(2) collect, analyze, compile, and publish information concerning grants and contracts awarded to small business concerns by the Foundation, and the procedures for handling proposals submitted by small business concerns;

(3) assist individual small business concerns in obtaining information regarding programs, policies, and procedures of the Foundation, and assure the expeditious processing of proposals by small business concerns based on scientific and technical merit;

(4) recommend to the Director and to the National Science Board such changes in the procedures and practices of the Foundation as may be required to enable the Foundation to draw fully on the resources of the small business research and development community; and

(5) make quarterly reports to the Congress concerning the activities of the Office of Small Business Research and Development.

Quarterly
reports to
Congress.

NATIONAL SCIENCE BOARD

SEC. 9. (a) Section 4 of the National Science Foundation Act of 1950 is amended by inserting before the period at the end of subsection (a) a comma and the following: "within the framework of applicable national policies as set forth by the President and the Congress".

Ante, p. 473.
42 USC 1863.

(b) Section 4(g) of such Act as redesignated by this section is amended—

(1) by inserting after "the Director," the following: "after consultation with the Chairman of the Board"; and

(2) by striking out "GS-15" and inserting in lieu thereof "GS-18".

LIMITATION

SEC. 10. (a) In addition to such sums as are authorized by section 2, not to exceed \$6,000,000 is authorized to be appropriated for fiscal year 1977, for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

Appropriation
authorization.

(b) Appropriations made pursuant to this Act may be used, but not to exceed \$5,000 for official consultation, representation, or other extraordinary expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

(c) Appropriations made pursuant to this Act shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

INFORMATION REQUIREMENT

42 USC 1882.

SEC. 11. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Science and Technology of the House of Representatives and the Committee on Labor and Public Welfare of the Senate fully and currently informed with respect to all of the activities of the National Science Foundation.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-930 (Comm. on Science and Technology) and No. 94-1689 (Comm. of Conference).

SENATE REPORTS: No. 94-888 accompanying S. 3202 and No. 94-890 (both from Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 24, 25, considered and passed House.

May 27, considered and passed Senate, amended, in lieu of S. 3202.

Sept. 24, Senate agreed to conference report.

Sept. 29, House agreed to conference report.

Public Law 94-472
94th Congress

An Act

To supplement the authority of the President to collect regular and periodic information on international investment.

Oct. 11, 1976

[S. 2839]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Investment Survey Act of 1976".

International
Investment
Survey Act of
1976.

22 USC 3101
note.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

22 USC 3101.

(1) the United States Government is presently authorized to collect limited amounts of information on United States investment abroad and foreign investment in the United States;

U.S. and foreign
investment
information.

(2) international investment has increased rapidly within recent years;

(3) such investment significantly affects the economies of the United States and other nations;

(4) international efforts to obtain information on the activities of multinational enterprises and other international investors have accelerated recently;

(5) the potential consequences of international investment cannot be evaluated accurately because the United States Government lacks sufficient information on such investment and its actual or possible effects on the national security, commerce, employment, inflation, general welfare, and foreign policy of the United States;

(6) accurate and comprehensive information on international investment is needed by the Congress to develop an informed United States policy on such investment; and

(7) existing estimates of international investment, collected under existing legal authority, are limited in scope and are based on outdated statistical bases, reports, and information which are insufficient for policy formulation and decisionmaking.

(b) It is therefore the purpose of this Act to provide clear and unambiguous authority for the President to collect information on international investment and to provide analyses of such information to the Congress, the executive agencies, and the general public. It is the intent of the Congress that information which is collected from the public under this Act be obtained with a minimum burden on business and other respondents and with no unnecessary duplication of effort, consistent with the national interest in obtaining comprehensive and reliable information on international investment.

Presidential
authority.
Information
analyses,
availability.

(c) Nothing in this Act is intended to restrain or deter foreign investment in the United States or United States investment abroad.

DEFINITIONS

22 USC 3102.

SEC. 3. As used in this Act, the term—

(1) "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and all territories and possessions of the United States;

(2) "foreign", when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States;

(3) "person" means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency);

(4) "United States person" means any person resident in the United States or subject to the jurisdiction of the United States;

(5) "foreign person" means any person resident outside the United States or subject to the jurisdiction of a country other than the United States;

(6) "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any ownership of any real estate;

(7) "parent" means a person of one country who, directly or indirectly, owns or controls 10 per centum or more of the voting stock of an incorporated business enterprise, or an equivalent ownership interest in an unincorporated business enterprise, which is located outside that country;

(8) "affiliate" means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch;

(9) "international investment" means (A) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by foreign persons of any interest in property in the United States, or of stock, other securities, or short- and long-term debt obligations of a United States person, and (B) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by United States persons of any interest in property outside the United States, or of stock, other securities, or short- and long-term debt obligations of a foreign person;

(10) "direct investment" means the ownership or control, directly or indirectly, by one person of 10 per centum or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise; and

(11) "portfolio investment" means any international investment which is not direct investment.

AUTHORITY AND DUTIES

22 USC 3103.

SEC. 4. (a) The President shall, to the extent he deems necessary and feasible—

Data collection program.

(1) conduct a regular data collection program to secure current information on international capital flows and other information related to international investment, including (but not limited to) such information as may be necessary for comput-

ing and analyzing the United States balance of payments, the employment and taxes of United States parents and affiliates, and the international investment position of the United States;

(2) conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment which may have significant implications for the economic welfare and national security of the United States;

Studies and surveys.

(3) study the adequacy of information, disclosure, and reporting requirements and procedures relating to international investment; recommend necessary improvements in information recording, collection, and retrieval and in statistical analysis and presentation relating to international investment; and report periodically to the Committees on Foreign Relations and Commerce of the Senate and the Committee on International Relations of the House of Representatives on national and international developments with respect to laws and regulations affecting international investment; and

Periodic report to congressional committees.

(4) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection and to the benchmark surveys conducted pursuant to subsections (b) and (c).

Statistical information, publication.

(b) With respect to the United States direct investment abroad and foreign direct investment in the United States, the President shall conduct a comprehensive benchmark survey at least once every five years and, for such purpose, shall, among other things and to the extent he determines necessary and feasible—

Benchmark survey.

(1) identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade between a parent and each of its affiliates and between each parent or affiliate and any other person;

Financial data.

(3) collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

Employment data.

(4) obtain information on tax payments by parents and affiliates by country; and

(5) determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

(c) (1) The President shall conduct a comprehensive benchmark survey of foreign portfolio investment in the United States at least once every five years and, for such purposes, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of foreign private holders, diversification of holdings by economic sector, and holders of record.

Foreign portfolio investment, benchmark survey.

(2) In addition to the benchmark surveys conducted pursuant to paragraph (1), the President shall conduct a benchmark survey of

U.S. portfolio investment abroad, benchmark survey.

Presidential
report to
Congress.

Land data
system.
Findings and
conclusions,
submittal to
Congress.

Reporting and
recordkeeping.

United States portfolio investment abroad and, for such purpose, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of private holders, diversification of holdings by economic sector, and holders of record. The President shall complete such survey not later than the end of the five-year period beginning on the date of enactment of this Act. After completion of such survey, the President shall report to the Congress on the feasibility and desirability of conducting, on a periodic basis, additional benchmark surveys of United States portfolio investment abroad. If he determines that such additional benchmark surveys are feasible and desirable, he may conduct such surveys.

(d) The President shall conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system, and shall submit his findings and conclusions to the Congress not later than two years after the enactment of this Act.

(e) Activities shall be conducted so that information obtained pursuant to this Act shall be timely and useful in the development of policy with respect to international investment. Reporting and record-keeping requirements imposed under this Act shall be designed in order to minimize costs to the extent feasible, consistent with effective enforcement and the compilation of information required by this Act. Reporting, recordkeeping, and documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(f) In collecting information under this Act, the President shall give due regard to the costs incurred by persons supplying such information, as well as to the costs incurred by the Government, and shall insure that the information collected is only in such detail as is necessary to fulfill the stated purposes for which the information is being gathered.

RULES AND REGULATIONS; ACCESS TO INFORMATION

22 USC 3104.

SEC. 5. (a) The authorities and responsibilities under this Act may be exercised through such rules and regulations as may be necessary to carry out the purposes of this Act.

(b) Rules or regulations issued pursuant to this Act may require any person subject to the jurisdiction of the United States—

Recordkeeping.

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which is essential to carrying out the international investment surveys and studies to be conducted under this Act; and

Reports.

(2) to furnish, under oath, any report containing information which is determined to be necessary to carry out the international investment surveys and studies conducted under this Act.

(c) Access to information obtained under subsection (b) (2) of this section shall be available only to officials or employees designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act. Subject to the limitation of paragraph (1) of this subsection, the President may authorize the exchange between agencies or officials designated by him of information furnished by any person under this Act as he deems necessary to carry out the purposes of this Act. Nothing in this section

shall be construed to require any Federal agency to disclose to any official exercising authority under this Act any information or report collected under legal authority other than this Act where disclosure is prohibited by law. Information collected pursuant to subsection (b) (2) may be used only—

Information disclosure, limitations.

(1) for analytical or statistical purposes within the United States Government; or

(2) for the purpose of a proceeding under subsection (d) of this section or under section 6 (b) or (c).

No official or employee designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act, may publish or make available to any other person any information collected pursuant to subsection (b) (2) in a manner that the person who furnished the information can be specifically identified except as provided in this section. No person can compel the submission or disclosure of any report or constituent part thereof collected pursuant to this Act, or any copy of such report or constituent part thereof, without the prior written consent of the person who maintained or furnished such report under subsection (b) and without prior written consent of the customer, where the person who maintained or furnished such report included information identifiable as being derived from the records of such customer.

(d) Any person who willfully violates subsection (c) shall, upon conviction, be fined not more than \$10,000, in addition to any other penalty imposed by law.

Penalty.

ENFORCEMENT

SEC. 6. (a) Whoever fails to furnish any information required under this Act, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated under this Act, may be subject to a civil penalty not exceeding \$10,000 in a proceeding brought under subsection (b) of this section.

Failure to furnish information. Penalties. 22 USC 3105.

(b) Whenever it appears that any person has failed to furnish any information required under this Act, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated under this Act, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, and such court may enter a restraining order or a permanent or temporary injunction commanding such person to furnish such information or to comply with such rule, regulation, order, or instruction, as the case may be, or impose the civil penalty provided in subsection (a) of this section, or both.

(c) Whoever willfully fails to submit any information required under this Act, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated under this Act, upon conviction, shall be fined not more than \$10,000 and, if an individual, may be imprisoned for not more than one year, or both, and any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment, or both.

Failure to submit information. Penalty.

USE OF EXPERTS AND ADMINISTRATIVE SUPPORT SERVICES

Compensation.
22 USC 3106.

SEC. 7. (a) Any official designated by the President to carry out this Act may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services in conjunction with the provisions of this Act, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(b) Any official designated by the President to carry out this Act may use, on a reimbursable basis when appropriate (as determined by the President), the available services, equipment, personnel, and facilities of any agency or instrumentality of the United States Government.

CONSULTATIONS AND REVIEWS

Independent
public advisory
committees,
creation.
22 USC 3107.
Annual report
to Congress.

SEC. 8. (a) Officials performing functions pursuant to this Act shall secure balanced, diverse, and responsible views from qualified persons representing business, organized labor, and the academic community and may, where appropriate, create such independent public advisory committees as are necessary to carry out the purposes of this Act.

(b) It shall be the responsibility of the Council on International Economic Policy to review the results of any studies and surveys conducted pursuant to this Act and report annually to the Committee on International Relations of the House of Representatives and the appropriate committees of the Senate on any trends or developments which may have national policy implications and which in the Council's opinion warrant the review of the respective committees.

AUTHORIZATION OF APPROPRIATIONS

22 USC 3108.

SEC. 9. To carry out this Act, there is authorized to be appropriated \$1,000,000 for the fiscal year ending September 30, 1978, and \$1,000,000 for the fiscal year ending September 30, 1979.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1490 (Comm. on International Relations).

SENATE REPORT No. 94-834 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 18, considered and passed Senate.

Sept. 21, considered and passed House, amended.

Sept. 28, Senate concurred in House amendments.

Public Law 94-473
94th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1977, and for other purposes.

Oct. 11, 1976
[H.J. Res. 1105]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1977, namely:

Continuing
appropriations,
1977.

SEC. 101. Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in the fiscal year 1976 or the period ending September 30, 1976, but at a rate for operations not in excess of the current rate:

- activities under the Public Health Service Act;
- activities under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970;
- activities under the District of Columbia Medical and Dental Manpower Act of 1970;
- activities under section 602 of Public Law 94-63;
- activities under the Higher Education Act;
- activities under the Vocational Education Act;
- activities under the National Defense Education Act;
- activities under the General Education Provisions Act;
- activities of the President's Commission on Olympic Sports;
- activities under title VI of the Comprehensive Employment and Training Act; and
- activities of the Commission on Federal Paperwork.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1976, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) March 31, 1977, whichever first occurs.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in 31 U.S.C. 665(d)(2), but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. No appropriation or fund made available or authority granted pursuant to this joint resolution shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during either the fiscal year 1976 or the transition period ending September 30, 1976.

SEC. 107. Any appropriation for the fiscal year 1977 required to be apportioned pursuant to 31 U.S.C. 665, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of 31 U.S.C. 665.

SEC. 108. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 109. For an additional amount for the Soil Conservation Service for watershed and Flood Prevention Operations for emergency measures for runoff retardation and soil erosion prevention, as provided by section 216 of the Flood Control Act of 1950 (33 U.S.C. 701b-1) in addition to funds provided elsewhere, \$12,000,000, to remain available until expended.

SEC. 110. Provisions in Public Law 94-355 and Public Law 94-373 which make the availability of appropriations therein for the Energy Research and Development Administration dependent upon the enactment of additional authorizing legislation shall not be effective until the date set forth in section 102(c) of this joint resolution or the enactment of such authorizing legislation, whichever first occurs.

SEC. 111. To enable the Secretary of the Treasury to subscribe and pay for capital stock of the Federal Crop Insurance Corporation, as provided in section 504 of the Federal Crop Insurance Act (7 U.S.C. 1504), \$30,000,000.

SEC. 112. For payment of claims settled and determined by departments and agencies in accord with law and judgments rendered against the United States by the United States Court of Claims and United States district courts, as set forth in Senate Document Numbered 94-260, Ninety-fourth Congress, \$5,147,921, together with such amounts as may be necessary to pay interest (as and when specified in such judgments or provided by law) and such additional sums due to increases in rates of exchange as may be necessary to pay claims in

foreign currency: *Provided*, That no judgment herein appropriated for shall be paid until it shall become final and conclusive against the United States by failure of the parties to appeal or otherwise: *Provided further*, That unless otherwise specifically required by law or by judgment, payment of interest wherever appropriated for herein shall not continue for more than thirty days after the date of approval of the Act.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1678 (Comm. on Appropriations).

SENATE REPORT No. 94-1378 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 27, considered and passed House.

Sept. 30, considered and passed Senate, amended; House disagreed to Senate amendment and agreed to certain others; Senate receded from amendment in disagreement.

Public Law 94-474
94th Congress

An Act

Oct. 11, 1976
[S. 2991]

To amend the Hazardous Materials Transportation Act to authorize appropriations, and for other purposes.

Hazardous
Materials
Transportation
Act
Amendments of
1976.
49 USC 1801
note.
Appropriation
authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Hazardous Materials Transportation Act Amendments of 1976”.

SEC. 2. Section 106(c) of the Hazardous Materials Transportation Act (49 U.S.C. 1805(c)) is amended by striking out “extremely” each time it appears.

SEC. 3. Section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended by striking out “and not to exceed \$1,750,000” and inserting in lieu thereof “not to exceed \$1,750,000” and by striking out the period at the end of such section and inserting in lieu thereof a comma and the following: “and not to exceed \$5,000,000 per fiscal year for the fiscal years ending September 30, 1977, and September 30, 1978.”.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1138, Pt. I (Comm. on Public Works and Transportation) and No. 94-1138, Pt. II (Comm. on Interstate and Foreign Commerce), both accompanying H.R. 13124.

SENATE REPORT No. 94-853 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 19, considered and passed Senate.

Sept. 20, considered and passed House, amended, in lieu of H.R. 13124.

Sept. 28, Senate concurred in House amendment.

Public Law 94-475
94th Congress

An Act

To authorize appropriations for environmental research, development, and demonstration.

Oct. 11, 1976

[H.R. 7108]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1976".

SEC. 2. (a) There is authorized to be appropriated to the Environmental Protection Agency for the following categories, as follows:

(1) Research, development, and demonstration under the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), not to exceed \$2,110,000 for the fiscal year ending June 30, 1976, and not to exceed \$527,500 for the fiscal transitional period ending September 30, 1976.

(2) Research, development and demonstration under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), not to exceed \$14,047,000 for the fiscal year ending June 30, 1976, and not to exceed \$3,511,975 for the fiscal transitional period ending September 30, 1976.

(3) Research, development, and demonstration under section 301 of the Public Health Service Act (42 U.S.C. 241), not to exceed \$2,115,000 for the fiscal year ending June 30, 1976, and not to exceed \$528,750 for the fiscal transitional period ending September 30, 1976.

(4) Research, development, and demonstration under the Clean Air Act (42 U.S.C. 1857 et seq.), not to exceed \$148,194,700 for the fiscal year ending June 30, 1976, and not to exceed \$37,048,675 for the fiscal transitional period ending September 30, 1976.

(5) Research, development, and demonstration under the Solid Waste Disposal Act (42 U.S.C. 3251 et seq.), not to exceed \$13,534,300 for the fiscal year ending June 30, 1976, and not to exceed \$3,383,575 for the fiscal transitional period ending September 30, 1976.

(6) Research, development, and demonstration under the Federal Water Pollution Control Act Amendments of 1972, not to exceed \$148,800,000 for the fiscal year ending June 30, 1976, of which—

(A) \$89,900,000 shall be for programs authorized by section 104(u) (1) thereof (33 U.S.C. 1254(u) (1)),

(B) \$5,600,000 shall be for programs authorized by section 104(u) (4) thereof (33 U.S.C. 1254(u) (4)),

(C) \$2,000,000 shall be for programs authorized by section 104(u) (5) thereof (33 U.S.C. 1254(u) (5)),

(D) \$20,000,000 shall be for programs authorized by section 104(u) (6) thereof (33 U.S.C. 1254(u) (6)),

(E) \$24,700,000 shall be for programs authorized by section 105(h) thereof (33 U.S.C. 1255(h)),

Environmental
Research,
Development,
and Demonstration
Authorization
Act of 1976.

33 USC 1251
note.

(F) \$4,600,000 shall be for programs authorized by section 107 thereof (33 U.S.C. 1257), and

(G) \$2,000,000 shall be for programs authorized by section 113 thereof (33 U.S.C. 1263) and

not to exceed \$37,200,000 for the fiscal transitional period ending September 30, 1976.

(b) No funds may be transferred from any particular category listed in subsection (a) of this section to any other category or categories listed in such subsection if the total of the funds so transferred from that particular category would exceed 10 percent thereof, and no funds may be transferred to any particular category listed in subsection (a) of this section from any other category or categories listed in such subsection if the total of the funds so transferred from that particular category would exceed 10 percent thereof, unless—

Report to
Congress.

(1) a period of 30 legislative days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer and the reason therefor, or

Notice.

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(c) In addition to any transfers among the categories listed in subsection (a) of this section which are authorized by subsection (b) of this section, not to exceed 10 percent of the total amount appropriated pursuant to such subsection (a) may be transferred to other authorized activities of the Environmental Protection Agency (except construction grants for waste treatment works and scientific activities overseas), and not to exceed 10 percent of the total amount appropriated for such other authorized activities may be transferred to any category or categories listed in such subsection (a).

SEC. 3. Appropriations made pursuant to the authority provided in section 2 of this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such period or periods as may be specified in the Acts making such appropriations.

SEC. 4. No appropriation may be made to the Environmental Protection Agency for environmental research, development, or demonstration, for any period beginning after September 30, 1976, unless previously authorized by legislation hereafter enacted by the Congress.

SEC. 5. The Administrator of the Environmental Protection Agency shall transmit to the Congress, within 6 months after the date of enactment of this Act, a comprehensive 5-year plan for environmental research, development, and demonstration. This plan shall be appropriately revised annually, and such revisions shall be transmitted to the Congress no later than two weeks after the President submits his annual budget to the Congress in such year.

Comprehensive
5-year plan,
transmittal to
Congress.
42 USC 4361.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-270 (Comm. on Science and Technology) and No. 94-1645 (Comm. of Conference).

SENATE REPORTS: No. 94-479 (Comm. on Public Works), No. 94-617 (Comm. on Commerce) and No. 94-744 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 10, considered and passed House.

Vol. 122 (1976): Apr. 13, considered and passed Senate, amended.

Sept. 30, Senate and House agreed to conference report.

Public Law 94-476
94th Congress

An Act

Oct. 11, 1976
[S. 1971]

To designate the plaza area of the Federal Building, Portland, Oregon, the
"Terry Schrunk Plaza".

Terry Schrunk
Plaza, Oreg.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the plaza fronting the Federal Building, 1220 Southwest Third Street, and bounded on the north by Madison Street, on the south by Jefferson Street, on the east by Third Avenue and on the west by Fourth Avenue, Portland, Oregon, is hereby designated as the "Terry Schrunk Plaza".

SEC. 2. Any reference in a law, map, regulation, document, record, or other paper of the United States to such plaza shall be held to be reference to the "Terry Schrunk Plaza".

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1590 accompanying H.R. 13727 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-923 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 10, considered and passed Senate.

Sept. 29, considered and passed House, in lieu of H.R. 13727.

Public Law 94-477
94th Congress

An Act

To amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes.

Oct. 11, 1976
[H.R. 12168]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural Gas Pipeline Safety Act Amendments of 1976".

SEC. 2. Section 15 of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) in subsection (a) thereof, by striking out "and" after "June 30, 1975," and by inserting "\$500,000 for the period beginning July 1, 1976, and ending September 30, 1976, \$4,664,000 for the fiscal year ending September 30, 1977, and \$5,000,000 for the fiscal year ending September 30, 1978," after "June 30, 1976,"; and

(2) in subsection (b) thereof, by striking out "5 (c)" and inserting in lieu thereof "5 (c) and (f)", and by striking out "and" after "June 30, 1975," and by inserting ", \$2,500,000 for the fiscal year ending September 30, 1977, and \$4,500,000 for the fiscal year ending September 30, 1978" after "June 30, 1976".

SEC. 3. Section 2 of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof ", except that it shall not include any pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption;"; and

(2) by redesignating paragraph (9) as paragraph (10), and inserting after paragraph (8) the following new paragraph:

"(9) 'Intrastate pipeline transportation' means pipeline facilities and transportation of gas within a State which are not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, except that it shall include pipeline facilities within a State which transport gas from an interstate gas pipeline to a direct sales customer within such State purchasing gas for its own consumption; and".

SEC. 4. Section 3(b) of the Natural Gas Pipeline Safety Act of 1968 is amended—

(1) by inserting "emergency plans and procedures," after "inspection," in the second sentence thereof; and

(2) by amending the last sentence thereof to read as follows: "Any State agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal minimum standards. No State agency may adopt or continue in force any such standards applicable to interstate transmission facilities, after the Federal minimum standards become effective."

SEC. 5. (a) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 is amended—

Natural Gas
Pipeline Safety
Act Amendments
of 1976.

49 USC 1671
note.

49 USC 1684.

49 USC 1671.

"Intrastate
pipeline
transportation."
15 USC 717w.

49 USC 1672.

49 USC 1674.

(1) in the first sentence thereof, by striking out “pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State” and inserting in lieu thereof “intrastate pipeline transportation”;

(2) in clause (1) thereof, by striking out “pipeline facilities and transportation of gas” and inserting in lieu thereof “transportation”;

(3) by striking out “(2) has adopted each Federal safety standard applicable to such pipeline facilities and transportation of gas established under this Act as of the date of the certification;” and inserting in lieu thereof “(2) has adopted, as of the date of the certification, each Federal safety standard established under this Act which is applicable to such transportation or, with respect to each such Federal safety standard established within one hundred and twenty days before the date of the certification, is taking steps pursuant to State law to adopt such standard;”; and

(4) by striking out “and (4)” and inserting in lieu thereof “(4) is encouraging and promoting programs designed to prevent damage to pipeline facilities as a consequence of excavation activity; and (5)”.

49 USC 1674.

(b) Section 5(b) of such Act is amended by striking out “With respect to” and all that follows down through “actions to—” and by inserting in lieu thereof the following: “With respect to any intrastate pipeline transportation for which the Secretary does not receive an annual certification under subsection (a) of this section, the Secretary may, by agreement with a State agency (including a municipality) authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to intrastate pipeline transportation the necessary actions to—”.

(c) The first sentence of section 5(d) of such Act is amended to read as follows: “A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standard established for intrastate pipeline transportation pursuant to this Act after the date of such certification.”.

(d) Section 5 of such Act is amended by adding at the end thereof the following new subsection (f):

“(f) (1) During the fiscal year ending September 30, 1978, the Secretary shall, in accordance with regulations issued by the Secretary taking into account the needs of the respective States, pay to each State agency out of funds appropriated or otherwise made available one hundred percent of the cost (not to exceed \$60,000 for each State agency) of not more than three full-time natural gas pipeline safety inspectors in addition to, and not in lieu of, the number of natural gas pipeline safety inspectors maintained by such State agency in calendar year 1977.

“(2) Not later than September 30, 1977, any State may apply to receive funds under paragraph (1) for the calendar year 1978.

“(3) Each State agency which receives funds under paragraph (1) shall continue to maintain during calendar years 1979 and 1980 not less than the number of full-time natural gas pipeline safety inspectors which were maintained by such State agency in calendar year 1978.

“(4) Any State in which the State agency fails to meet its obligations under paragraph (3) shall reimburse the Secretary for a sum equal to 50 percent of the funds received by such State under this subsection in proportion to which such State agency has failed to meet its obligations.”.

SEC. 6. The first sentence of section 11 of the Natural Gas Pipeline Safety Act of 1968 is amended to read as follows: "Each person who engages in the transportation of gas or who owns or operates intrastate pipeline transportation facilities shall file with the Secretary or, if a certification or an agreement pursuant to section 5 of this Act is in effect, with the appropriate State agency, a plan for inspection and maintenance of each facility used in such transportation and owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency."

49 USC 1680.

SEC. 7. Section 14(a) (1) of the Natural Gas Pipeline Safety Act of 1968 is amended by striking out "accidents" and inserting in lieu thereof "leak repairs, accidents,".

49 USC 1683.

SEC. 8. The Natural Gas Pipeline Safety Act of 1968 is amended by adding at the end thereof the following:

"CONSUMER EDUCATION

"SEC. 16. Each person who engages in the transportation of gas shall, in accordance with the regulations prescribed by the Secretary, conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary may develop materials suitable for use in such education programs.

49 USC 1685.

"CITIZEN'S CIVIL ACTION

"SEC. 17. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against any other person (including any State, municipality, or other governmental entity to the extent permitted by the eleventh amendment to the Constitution, and the United States) who is alleged to be in violation of this Act or of any order or regulation issued under this Act. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

49 USC 1686.

"(b) No civil action may be commenced under subsection (a) with respect to any alleged violation of this Act or any order or regulation issued under this Act—

"(1) prior to the expiration of 60 days after the plaintiff has given notice of such alleged violation to the Secretary (or to the applicable State agency in the case of a State which has been certified under section 5(a) and in which the violation is alleged to have occurred), and to any person who is alleged to have committed such violation; or

"(2) if the Secretary (or such State agency) has commenced and is diligently pursuing administrative proceedings or the Attorney General of the United States (or the chief law enforcement officer of such State) has commenced and is diligently pursuing judicial proceedings with respect to such alleged violation.

Notice under this subsection shall be given in such manner as the Secretary shall prescribe by regulation.

"(c) In any action under subsection (a), the Secretary (with the concurrence of the Attorney General) or the Attorney General may intervene as a matter of right.

Jurisdiction.

Notice.

Regulations.

“(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of this Act or any order or regulation under this Act or to seek any other relief.

“(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney’s fees and reasonable expert witnesses fees, to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection a reasonable attorney’s fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

“(f) For purposes of this section, a violation of any safety standard or practice of any State shall be deemed to be a violation of this Act or of any order or regulation under this Act only to the extent that such standard or practice is not more stringent than the comparable Federal minimum safety standard.”

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1050 (Comm. on Interstate and Foreign Commerce) and No. 94-1660 (Comm. of Conference).

SENATE REPORT No. 94-852 accompanying S. 2042 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 3, considered and passed House.

July 30, considered and passed Senate, amended, in lieu of S. 2042.

Sept. 27, House receded and concurred with amendment to Senate amendment.

Sept. 28, Senate concurred in House amendment.

Public Law 94-478
94th Congress

An Act

To authorize the Secretary of the Department in which the Coast Guard is operating to lease housing facilities for Coast Guard personnel in a foreign country on a multi-year basis.

Oct. 11, 1976

[S. 3050]

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 475 (a) of title 14, United States Code, is amended by inserting, immediately after the first sentence, a new sentence to read as follows: "When any such lease involves housing facilities in a foreign country, the lease may be made on a multi-year basis, for a period not to exceed five years."

Coast Guard.
Housing
facilities.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1575 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-967 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 25, considered and passed Senate.

Sept. 20, considered and passed House, amended.

Sept. 28, Senate concurred in House amendments.

Public Law 94-479
94th Congress

Joint Resolution

Oct. 11, 1976
[H.J. Res. 519]

To provide for the appointment of George Washington to the grade of General of the Armies of the United States.

Whereas Lieutenant General George Washington of Virginia commanded our armies throughout and to the successful termination of our Revolutionary War;

Whereas Lieutenant General George Washington presided over the convention that formulated our Constitution;

Whereas Lieutenant General George Washington twice served as President of the United States of America; and

Whereas it is considered fitting and proper that no officer of the United States Army should outrank Lieutenant General George Washington on the Army list: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of subsection (b) of this section only, the grade of General of the Armies of the United States is established, such grade to have rank and precedence over all other grades of the Army, past or present.

(b) The President is authorized and requested to appoint George Washington posthumously to the grade of General of the Armies of the United States, such appointment to take effect on July 4, 1976.

George
Washington.
General of the
Armies of the
United States,
posthumous
appointment.
Effective date.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1388 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.

Sept. 28, considered and passed Senate.

Public Law 94-480
94th Congress

Joint Resolution

Authorizing the President to proclaim the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week".

Oct. 11, 1976
[H.J. Res. 1008]

Whereas volunteer firemen have played an essential role in this country all throughout its history;

Whereas one million of the country's one million two hundred thousand firefighters are volunteer firemen;

Whereas, because of their skills in applying life-supporting techniques and their awareness of fire safety precautions, volunteer firemen play an important role at their regular places of employment, especially in industrial plants, large office buildings, hospitals, and other places where there are heavy concentrations of people; and

Whereas volunteer firemen provide a lifesaving service to the communities in which they live: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week beginning October 3, 1976, and ending October 9, 1976, as "National Volunteer Firemen Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

National
Volunteer
Firemen Week.
Designation.

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1528 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-481
94th Congress

An Act

Oct. 11, 1976
[H.R. 12118]

To amend the Independent Safety Board Act of 1974 to authorize additional appropriations and for other purposes.

Independent
Safety Board
Act of 1974,
appropriation
authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 309 of the Independent Safety Board Act of 1974 (49 U.S.C. 1907) is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated for the purpose of this Act not to exceed \$3,800,000 for the transition quarter ending September 30, 1976, \$15,200,000 for the fiscal year ending September 30, 1977, and \$16,400,000 for the fiscal year ending September 30, 1978, such sums to remain available until expended."

Approved October 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1076 (Comm. on Public Works and Transportation).
SENATE REPORT No. 94-898 accompanying S. 2661 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 122 (1976):

May 17, considered and passed House.

Sept. 30, considered and passed Senate.

Public Law 94-482
94th Congress

An Act

To extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

Oct. 12, 1976
[S. 2657]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1976".

Education
Amendments
of 1976.
20 USC 1001
note.

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TITLE I—HIGHER EDUCATION

PART A—COMMUNITY SERVICES AND CONTINUING EDUCATION

EXTENSION AND REVISION OF PROGRAM

SEC. 101. (a) Section 101 of the Higher Education Act of 1965 20 USC 1001. (hereafter in this title referred to as “the Act”) is amended to read as follows:

“APPROPRIATIONS AUTHORIZED

“SEC. 101. (a) For the purpose of (1) assisting the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this title to strengthen community service programs of colleges and universities, (2) supporting the expansion of continuing education in colleges and universities and (3) supporting resource materials sharing programs, there are authorized to be appropriated \$40,000,000 for the fiscal years 1977, 1978, and 1979.

“(b) For the purpose of carrying out a program for the promotion of lifelong learning in accordance with the provisions of part B, there are authorized to be appropriated, \$20,000,000 for fiscal year 1977, \$30,000,000 for fiscal year 1978, and \$40,000,000 for fiscal year 1979.”.

(b) Title I of such Act is amended—

(1)(A) by amending the heading of section 102 to read as 20 USC 1002. follows:

“DEFINITION OF COMMUNITY SERVICE PROGRAM AND CONTINUING EDUCATION PROGRAM”;

(B) by inserting “(a)” after the section designation of such section 102; and

(C) by inserting at the end thereof the following new subsections:

“(b) For purposes of this title the term ‘continuing education program’ means postsecondary instruction designed to meet the educational needs and interests of adults, including the expansion of available learning opportunities for adults who are not adequately served by current educational offerings in their communities.

“(c) For purposes of this title, the term ‘resource materials sharing programs’ means planning for the improved use of existing community learning resources by finding ways that combinations of agencies, institutions, and organizations can make better use of existing educational materials, communications technology, local facilities, and such human resources as will expand learning opportunities for adults in the area being served.”;

20 USC 1003.

(2) by amending section 103(a) to read as follows:

“Sec. 103. (a) From the sums appropriated pursuant to section 101(a) for any fiscal year which are not reserved under section 106(a), the Commissioner shall allot to each State an amount which bears the same ratio to such sums as the population of such State bears to the population of all the States, except that, for any fiscal year beginning on or after October 1, 1976, no State shall be allotted from such sums less than the amount which such State received during the fiscal year beginning July 1, 1975.

20 USC 1004.

(3) by striking out “community service programs” in section 104 and inserting in lieu thereof “community service and continuing education programs, including resource material sharing programs,”;

State plan.

20 USC 1005.

(4) by striking out so much of section 105(a) as precedes paragraph (1) and inserting in lieu thereof the following:

“Sec. 105. (a) Any State desiring to receive its allotment of funds under this part for use in community service and continuing education programs, including resource material sharing programs, shall designate or create a State agency or institution which has special qualifications with respect to solving community problems and which is broadly representative of institutions of higher education in the State which are competent to offer community service and continuing education programs, including resource material sharing programs, and shall submit to the Commissioner a State plan. If a State desires to designate for the purpose of this section an existing State agency or institution which does not meet these requirements, it may do so if the agency or institution takes such action as may be necessary to acquire such qualifications and assure participation of such institutions, or if it designates or creates a State advisory council which meets the requirements not met by the designated agency or institution to consult with the designated agency or institution in the preparation of the State plan. A State plan submitted under this part shall—”.

(5)(A) by inserting “or combination” after “and institution” in section 105(a)(2); and

(B) by striking out “community service programs” each place it appears in such section and inserting in lieu thereof “community service and continuing education programs, including resource materials sharing programs,”;

(6)(A) by inserting “and combinations thereof” immediately after “institution of higher education” each place it appears in section 105(a)(3);

(B) by striking out “community service programs” each place it appears in such section and inserting in lieu thereof “community service and continuing education programs, including resource materials sharing programs.”; and

(C) by striking out “in the light of information regarding current and anticipated community problems in the State” in subparagraph (C) of such section;

(7) by striking out “community service programs” in section

105(a)(4) and inserting in lieu thereof "community service and continuing education programs, including resource materials sharing programs," 20 USC 1005.

(8) by inserting "or combinations thereof" after "institutions of higher education" in section 105(a)(5);

(9) by striking section 105(a)(6) and inserting in lieu thereof the following:

"(6) assurances that all institutions of higher education in the State have been given the opportunity to participate in the development of the State plan."; and

(10) by inserting immediately after section 105(b) the following new subsection:

"(c) The Commissioner shall not by standard, rule, regulation, guideline, or any other means, either formal or informal, require a State to make any agreement or submit any data which is not specifically required by this part."

(c) Section 107(a) of the Act is amended by striking out "\$25,000" and inserting in lieu thereof "\$40,000". 20 USC 1006.

(d) Section 109 of the Act is amended to read as follows: 20 USC 1008.

"JUDICIAL REVIEW

"SEC. 109. If a State's plan is not approved under section 105(b) or a State's eligibility to participate in the program is suspended as a result of the Commissioner's action under section 108(b), the State may within sixty days after notice of the Commissioner's decision institute a civil action in an appropriate United States district court. In such an action, the court shall determine the matter de novo." 20 USC 1007.

(e) Title I of the Act is further amended by redesignating sections 111, 112, and 113, and any references thereto, as sections 112, 113, and 114, respectively, and inserting immediately after section 110 the following new section: 20 USC 1009-1011.

"TECHNICAL ASSISTANCE AND ADMINISTRATION

"SEC. 111. (a) The Commissioner is authorized to reserve not to exceed 10 per centum of the amount appropriated for any fiscal year pursuant to section 101(a) in excess of \$14,500,000 for the purpose of this section. 20 USC 1008b. 20 USC 1001.

"(b) From funds reserved under subsection (a) of this section, the Commissioner shall provide technical assistance to the States and to institutions of higher education. Such technical assistance shall—

"(1) provide a national diffusion network to help assure that effective programs are known among such States and institutions;

"(2) assist with the improvement of planning and evaluation procedures; and

"(3) provide information about the changing enrollment patterns in postsecondary institutions, and provide assistance to such States and institutions in their efforts to understand these changing patterns and to accommodate them."

"(c) The Commissioner shall provide for coordination between community service and continuing education programs (including resource materials sharing programs) conducted by him with all other appropriate offices and agencies, including such offices and agencies which administer vocational education programs, adult education programs, career education programs, and student and institutional assistance programs."

Ante, p. 2085. (f) (1) Section 112 of the Act (as redesignated by subsection (e)) is amended—

(A) by striking out “the Commissioner, who shall be Chairman,” in subsection (a); and

(B) by striking out “through June 30, 1975” in subsection (f) and inserting in lieu thereof “until the programs authorized by this part are terminated”.

Ante, p. 2085.

(2) The text of section 113 of the Act (as redesignated by subsection (e)) is amended to read as follows: “Nothing in this section shall modify any authority under the Act of May 8, 1914 (Smith-Lever Act), as amended (7 U.S.C. 341-348).”.

(g) Title I of the Act is further amended—

(1) by inserting before the section heading of section 101 the following:

“PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS”;

20 USC 1002-1009.

(2) by striking out “this title” each time it appears in section 102 through section 112 of such title, and inserting in lieu thereof “this part”; and

(3) by adding at the end thereof the following new part:

“PART B—LIFELONG LEARNING

“FINDINGS

20 USC 1015.

“SEC. 131. The Congress finds that—

“(1) accelerating social and technological change have had impact on the duration and quality of life;

“(2) the American people need lifelong learning to enable them to adjust to social, technological, political and economic changes;

“(3) lifelong learning has a role in developing the potential of all persons including improvement of their personal well-being, upgrading their workplace skills, and preparing them to participate in the civic, cultural, and political life of the Nation;

“(4) lifelong learning is important in meeting the needs of the growing number of older and retired persons;

“(5) learning takes place through formal and informal instruction, through educational programs conducted by public and private educational and other institutions and organizations, through independent study, and through the efforts of business, industry, and labor;

“(6) planning is necessary at the national, State, and local levels to assure effective use of existing resources in the light of changing characteristics and learning needs of the population;

“(7) more effective use should be made of the resources of the Nation's educational institutions in order to assist the people of the United States in the solution of community problems in areas such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use; and

“(8) American society should have as a goal the availability of appropriate opportunities for lifelong learning for all its citizens without regard to restrictions of previous education or training, sex, age, handicapping condition, social or ethnic background, or economic circumstance.

"SCOPE OF LIFELONG LEARNING

"SEC. 132. Lifelong learning includes, but is not limited to, adult basic education, continuing education, independent study, agricultural education, business education and labor education, occupational education and job training programs, parent education, postsecondary education, preretirement and education for older and retired people, remedial education, special educational programs for groups or for individuals with special needs, and also educational activities designed to upgrade occupational and professional skills, to assist business, public agencies, and other organizations in the use or innovation and research results, and to serve family needs and personal development. 20 USC 1015a.

"LIFELONG LEARNING ACTIVITIES

"SEC. 133. (a) The Assistant Secretary shall carry out, from funds appropriated pursuant to section 101(b), a program of planning, assessing, and coordinating projects related to lifelong learning. In carrying out the provisions of this section, the Assistant Secretary shall— 20 USC 1015b.
20 USC 1001.

"(1) foster improved coordination of Federal support for lifelong learning programs;

"(2) act as a clearinghouse for information regarding lifelong learning, including the identification, collection, and dissemination to educators and the public of existing and new information regarding lifelong learning programs which are or may be carried out and supported by any department or agency of the Federal Government; Information clearinghouse.

"(3) review present and proposed methods of financing and administering lifelong learning, to determine—

"(A) the extent to which each promotes lifelong learning,

"(B) program and administrative features of each that contribute to serving lifelong learning,

"(C) the need for additional Federal support for lifelong learning, and

"(D) procedures by which Federal assistance to lifelong learning may be better applied and coordinated to achieve the purposes of this title;

"(4) review the lifelong learning opportunities provided through employers, unions, the media, libraries and museums, secondary schools and postsecondary educational institutions, and other public and private organizations to determine means by which the enhancement of their effectiveness and coordination may be facilitated;

"(5) review existing major foreign lifelong learning programs and related programs in order to determine the applicability of such programs in this country;

"(6) identify existing barriers to lifelong learning and evaluate programs designed to eliminate such barriers; and

"(7) to the extent practicable, seek the advice and assistance of the agencies of the Education Division (including the Office of Education, the National Institute of Education, the Fund for the Improvement of Postsecondary Education, and the National Center for Education Statistics), other agencies of the Federal Government, public advisory groups (including the National Advisory Councils on Extension and Continuing Education, Adult Education, Career Education, Community Education, and Vocational Education), Commissions (including the National Commission

on Libraries and Information Sciences and the National Commission on Manpower Policy), State agencies, and such other persons or organizations as may be appropriate, in carrying out the Commissioner's responsibilities, and make maximum use of information and studies already available.

The review required by clause (3) of this subsection shall include—

“(i) a comparative assessment of domestic and foreign tax and other incentives to encourage increased commitment of business and labor;

“(ii) a study of alternatives such as lifelong learning entitlement programs or educational vouchers designed to assist adults to undertake education or training in conjunction with, or in periods alternative to employment;

“(iii) review of possible modifications to existing Federal and State student assistance programs necessary to increase their relevance to the lifelong learning needs of all adults;

“(iv) the organization and design of funding for pre- and post-retirement training and education for the elderly; and

“(v) modifications to Federal and State manpower training, public employment, unemployment compensation, and similar funding programs so as to better facilitate lifelong education and training and retraining, for employment.

“(b) After consultation with appropriate State agencies, the Assistant Secretary is authorized—

“(1) to assist in the planning and assessment, to determine whether in each State there is an equitable distribution of lifelong learning services to all segments of the adult population;

“(2) to assist in assessing the appropriate roles for the Federal, State, and local governments, educational institutions and community organizations; and

“(3) to assist in considering alternative methods of financing and delivering lifelong learning opportunities, including—

“(A) identification of State agencies, institutions, and groups that plan and provide programs of lifelong learning,

“(B) determination of the extent to which programs are available geographically,

“(C) a description of demographic characteristics of the population served,

“(D) analysis of reasons for attendance in programs of lifelong learning, and

“(E) analysis of sources of funds for the conduct of lifelong learning programs, and the financial support of persons attending programs of lifelong learning.

“(c) The Assistant Secretary is authorized, with respect to lifelong learning, to assess, evaluate the need for, demonstrate, and develop alternative methods to improve—

“(1) research and development activities;

“(2) training and retraining people to become educators of adults;

“(3) development of curricula and delivery systems appropriate to the needs of any such programs;

“(4) development of techniques and systems for guidance and counseling of adults and for training and retraining of counselors;

“(5) development and dissemination of instructional materials appropriate to adults;

“(6) assessment of the educational needs and goals of older and retired persons and their unique contributions to lifelong learning programs;

“(7) use of employer and union tuition assistance and other educational programs, educational and cultural trust funds and other similar educational benefits resulting from collective bargaining agreements, and other private funds for the support of lifelong learning;

“(8) integration of public and private educational funds which encourage participation in lifelong learning, including support of guidance and counseling of workers in order that they can make best use of funds available to them for lifelong learning opportunities; and

“(9) coordination within communities among educators, employers, labor organizations, and other appropriate individuals and entities to assure that lifelong learning opportunities are designed to meet projected career and occupational needs of the community, after consideration of the availability of guidance and counseling, the availability of information regarding occupational and career opportunities, and the availability of appropriate educational and other resources to meet the career and occupational needs of the community.

“(d) In carrying out the provisions of this section the Assistant Secretary is authorized to enter into agreements with, and to make grants to, appropriate State agencies, institutions of higher education, and public and private nonprofit organizations.

Agreements
and grants,
authorization.

“(e) In carrying out the provisions of this section, the Assistant Secretary shall issue reports summarizing research and analysis conducted pursuant to this section, and shall develop the resources and capability to analyze and make recommendations regarding specific legislative or administrative proposals which may be considered by the President or by the Congress.

Reports.

“REPORTS

“SEC. 134. The Assistant Secretary shall transmit to the President and to the Congress a report on such results from the activities conducted pursuant to this part as may be completed by January 1, 1978, together with such legislative recommendations as he may deem appropriate. The Assistant Secretary shall similarly report annually thereafter.”.

Transmittal to
President and
Congress.
20 USC 1015c.

PART B—COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

EXTENSION OF AUTHORIZATION

SEC. 106. The first sentence of section 201(b) of the Act is amended by striking out all that follows “authorized to be appropriated” and inserting in lieu thereof “\$110,000,000 for fiscal year 1977, \$115,000,000 for fiscal year 1978, and \$120,000,000 for fiscal year 1979.”.

20 USC 1021.

REVISION OF RESEARCH LIBRARY RESOURCES

SEC. 107. Part C of title II of the Act is amended to read as follows:

“PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

“FINDINGS AND PURPOSE

20 USC 1041.

“SEC. 231. (a) The Congress finds that—

“(1) education, scholarship, and research are significant to the scientific, economic, and cultural development of the Nation, and that steady advances in the social and natural sciences are essential to solve the problems of a complex society;

“(2) the Nation’s major research libraries are often an essential element in undergraduate education, and are essential to advanced and professional education and research; and

“(3) the expansion in the scope of educational and research programs and the rapid increase in the worldwide production of recorded knowledge have placed unprecedented demands upon major research libraries, requiring programs and services that strain the capabilities of cooperative action and are beyond the financial competence of individual or collective library budgets.

“(b) It is the purpose of this part to promote research and education of higher quality throughout the United States by providing financial assistance to major research libraries.

“APPROPRIATIONS AUTHORIZED

20 USC 1042.

“SEC. 232. There are authorized to be appropriated \$10,000,000 for the fiscal year 1977, \$15,000,000 for fiscal year 1978, and \$20,000,000 for fiscal year 1979.

“ELIGIBILITY FOR ASSISTANCE

“Major research library.”

20 USC 1043.

“SEC. 233. For the purposes of this part, the term ‘major research library’ means a public or private nonprofit institution, including the library resources of an institution of higher education, an independent research library, or a State or other public library, having library collections which are available to qualified users and which—

“(1) make a significant contribution to higher education and research;

“(2) are broadly based and are recognized as having national or international significance for scholarly research;

“(3) are of a unique nature, and contain material not widely available; and

“(4) are in substantial demand by researchers and scholars not connected with that institution.

“(b) No institution receiving a grant under this part for any fiscal year may be eligible to receive a basic grant under section 202 of this title for that year.

“EQUITABLE DISTRIBUTION OF ASSISTANCE

20 USC 1044.

“SEC. 234. The Commissioner shall establish criteria designed to achieve regional balance in the allocation of funds under this part which is reasonable in light of the requirements of section 233.

Supra.

"LIMITATIONS

"SEC. 235. (a) No grant may be made under this part for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity. 20 USC 1045.

"(b) Not more than 150 institutions may receive a grant under this part.

"CONSULTATION WITH STATE AGENCY

"SEC. 236. Each institution receiving a grant under this part shall periodically inform the State Library administrative agency and the State agency, if any, concerned with the educational activities of all institutions of higher education in the State in which such institution is located, of its activities under this part." 20 USC 1046.

PART C—STRENGTHENING DEVELOPING INSTITUTIONS

EXTENSION OF AUTHORIZATION

SEC. 111. Section 301(b) of the Higher Education Act of 1965 is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1979". 20 USC 1051.

REMOVAL OF RESTRICTIONS ON WAIVERS

SEC. 112. Section 302(a) (2) of the Act is amended by striking out "except that such grants may not involve an expenditure of funds in excess of 1.4 per centum of the sums appropriated pursuant to this title for any fiscal year". 20 USC 1052.

PART D—STUDENT ASSISTANCE

BASIC EDUCATIONAL OPPORTUNITY GRANTS

SEC. 121. (a) Section 411(a) (1) of the Act is amended by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1979". 20 USC 1070a.

(b) (1) Section 411(a) (2) (A) (i) of the Act is amended by striking out "\$1,400" and inserting in lieu thereof "\$1,800".

(2) The amendment made by paragraph (1) of this subsection shall be effective for academic year 1978-1979 and thereafter.

(c) Divisions (i) and (ii) of section 411(a) (3) (A) of the Act are amended to read as follows:

"(3) (A) (i) Not later than July 1 of each calendar year, the Commissioner shall publish in the Federal Register a schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, except as is otherwise provided in division (ii), together with any amendments thereto, shall become effective July 1 of the calendar year which succeeds such calendar year. During the thirty-day period following such publication the Commissioner shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule.

"(ii) The schedule of expected family contributions required by division (i) for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If

Effective date.
20 USC 1070a
note.

Publication in
Federal Register.

Submittal to
Congress.
Publication in
Federal Register.

either the Senate or the House of Representatives adopts, prior to the first day of October next following the submission of said schedule as required by this division, a resolution of disapproval of such schedule, the Commissioner shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution and shall become effective, together with any amendments thereto, with respect to grants to be made on or after the first day of July next following. The Commissioner shall publish together with such new schedule, a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.”.

20 USC 1070a.

(d) Section 411(a)(3)(B) of the Act is amended—

(1) by inserting at the end of division (ii) the following new subdivision:

“(VI) Any educational expenses of other dependent children in the family.”.

(2) by inserting immediately after “student)” in division (iii) the following: “, and including any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code,”; and

(3) by striking out division (iv).

(e) Section 411(b) of the Act is amended by striking division (ii) of paragraph (3)(B) and redesignating subsequent divisions accordingly, and by redesignating paragraph (4) and any references thereto as paragraph (5) and inserting after paragraph (3) a new paragraph as follows:

“(4)(A) If the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 per centum or less, then all of excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

“(B) If the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 per centum, then all of such funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.”.

Repeal.

(f) Section 411(b)(3)(C) of the Act is repealed.

Supra.

(g) Section 411(b)(5) of the Act (as redesignated by subsection (e)) is amended by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1979”.

(h) Section 411 of the Act is amended by adding at the end thereof the following new subsection:

“(d)(1) In addition to payments made with respect to entitlements under this subpart, each institution of higher education shall be eligible to receive from the Commissioner the payment of \$10 per academic year for each student enrolled in that institution who is receiving a basic grant under this subpart for that year. Payment received by an institution under this subsection shall be used first to carry out the provisions of section 493A of this Act and then for such additional administrative costs as the institution of higher education determines necessary.

Post, p. 2148.

“(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection. If the sums appropriated for any fiscal year for making payments under this subsection are not sufficient to pay in full the amounts provided for in paragraph (1), then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.”

Appropriation
authorization.

(i) Section 411 of the Act is further amended by adding at the end thereof the following additional subsection:

20 USC 1070a.

“(e) (1) The Commissioner shall enter into agreements with not less than two nor more than five States for the processing by such States of all applications of their residents (through an instrumentality or agent selected by such State) for grants made under this subpart for the academic year beginning after July 1, 1977, on condition that any State grants which are subsidized in part by Federal funds, during the period for which State processing of basic education opportunity grant applications is carried out by the State, will be available to eligible State residents for use at the majority of educational institutions outside that State which are eligible institutions under subpart 1 of this part. No later than ninety days after termination of the agreements, the Commissioner shall report to the Congress on the experience with multiple State processing, including its impact on the delivery of student aid to students, and including recommendations concerning whether the option of processing applications for grants under this subpart should be made available to all States having the capacity to do so.

Agreement.

Report to
Congress.

“(2) Any State entering into an agreement with the Commissioner shall—

“(A) not be required, without the State’s consent, to perform services in excess of those required of any private agency or organization with whom the Commissioner has a contract to perform similar application processing, except such additional services as may be necessary to produce processing services of a type and quality equivalent to those produced, through the same or other means; and

“(B) be required to determine student eligibility for awards under this subpart solely on the basis of criteria set forth in this subpart and regulations promulgated by the Commissioner pursuant thereto.

“(3) The Commissioner shall promulgate such regulations as may be necessary—

Regulations.

“(A) to determine a fair per unit fee for application processing which, if the Commissioner has a contract with an agency or organization to perform similar application processing, shall be no more than the amount paid by the Commissioner per application for the same academic year to any such agency or organization; and

Fees for
processing
applications.

“(B) to otherwise carry out the purposes of this subsection.

“(4) Nothing contained in this section or other enactments of law shall be construed to prohibit any eligible State under subsection (c) of this section from—

“(A) employing student application forms that solicit information required for both the determination of eligibility under this subpart and for the determination of eligibility under the postsecondary educational grant programs of such State; and

“(B) coordinating the eligibility announcements of State post-secondary educational grants and grants under this subpart.

“(5) No State which enters into an agreement with the Commissioner may impose any fee or other charge upon a student for processing of the student’s application for a grant under this subpart.”.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

- 20 USC 1070b. SEC. 122. (a) Section 413A(b) (1) of the Act is amended by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1979”.
- 20 USC 1070b-2. (b) Section 413C(b) (4) of the Act is amended by striking out “464” and inserting in lieu thereof “494”.

STATE STUDENT INCENTIVE GRANTS

- 20 USC 1070c. SEC. 123. (a) Section 415A(b) of the Act is amended by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1979”, and by adding at the end thereof the following new paragraph:
- “(3) Sums appropriated pursuant to paragraphs (1) and (2) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.”.
- 20 USC 1070c-2. (b) Section 415C(b) of the Act is amended by redesignating clauses (4) and (5) of such section, and all references thereto, as clauses (5) and (6), respectively, and by inserting after clause (3) thereof the following new clause:
- “(4) provides that, effective with respect to any academic year beginning on or after July 1, 1977, all nonprofit institutions of higher education in the State are eligible to participate in the State program;”.
- (c) (1) Section 415A(b) (2) of the Act is amended by inserting before the period a comma and the following: “and to make bonus allotments to States pursuant to section 415E”.
- 20 USC 1070c-1. (2) Section 415B(b) is amended by striking out the word “Sums” and inserting in lieu thereof the following: “Subject to the provisions of section 415E, sums”.
- (3) Subpart 3 of part A of title IV of the Act is amended by inserting at the end thereof the following new section:

“BONUS ALLOTMENTS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

- 20 USC 1070c-4. “SEC. 415E. Whenever the sum appropriated pursuant to this subpart for any fiscal year is in excess of \$75,000,000 the Commissioner shall allot, from 33⅓ per centum of such excess sums, to each State having an agreement under section 428(b) an amount which bears the same ratio to such sum as the number of students in attendance at institutions of higher education in such State bears to the total number of students in such attendance in all such States.”.

SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

- 20 USC 1070d. SEC. 124. (a) Section 417A(b) of the Act is amended by inserting before the period a comma and the following: “and \$200,000,000 for each of the fiscal years ending prior to October 1, 1979”.
- 20 USC 1070d-1. (b) (1) Section 417B(a) of the Act is amended by striking out “section 417A(a)” and inserting in lieu thereof “subsection (b) of this section”.

(2) The matter preceding paragraph (1) of section 417B(b) of the Act is amended to read as follows:

20 USC 1070d-1.

“(b) Services provided through grants and contracts under this subpart shall be specifically designed to assist in enabling youths from low-income families who have academic potential, but who may lack adequate secondary school preparation, who may be physically handicapped, or who may be disadvantaged because of severe rural isolation, to enter, continue, or resume programs of postsecondary education, including—”.

(3) Section 417B(b)(1)(A) of the Act is amended by inserting after the comma the following: “especially such youths who have delayed pursuing postsecondary educational training,”.

(4) The first sentence of section 417B(b) of the Act is amended by—

(A) striking out “and” at the end of clause (3) of such sentence,

(B) striking out the period at the end of clause (4) of such sentence and inserting in lieu thereof a semicolon and the word “and”, and

(C) adding at the end thereof the following new clause:

“(5) a program of paying up to 90 per centum of the cost of establishing and operating or expanding service learning centers at institutions of higher education and other postsecondary educational institutions serving a substantial number of disadvantaged students which—

“(A) will provide remedial and other special services for students who are enrolled or accepted for enrollment at that institution, and

“(B) will serve, as a concentrated effort, to coordinate and supplement the ability of that institution to furnish such services to such students.”.

(5) Section 417B(b) of the Act is amended by adding at the end thereof the following new sentence: “Before making a grant or entering into a contract under clause (5) of the first sentence of this subsection the Commissioner may require any institution subject to such a contract or grant to submit an application containing or accompanied by such information, including the ability of that institution to pay the non-Federal share of the costs of the project to be assisted, as is essential to carry out the requirements of that clause.”.

Application.

(c) Section 417B of the Act is amended by adding at the end thereof the following new subsections:

“(e) In making grants or entering into contracts under clause (1) or (5) of subsection (b) of this section the Commissioner may permit students or youths from other than low-income families, not to exceed one-third of the total served, to benefit by the projects to be assisted pursuant to that grant or contract.

“(f)(1) The Commissioner is authorized to enter into contracts with institutions of higher education and other appropriate public agencies and nonprofit private organizations to provide training for staff and leadership personnel who will specialize in improving the delivery of services to students assisted under this subpart.

Contracts.

“(2) Financial assistance under this subsection may be used for (A) the operation of short-term training institutes designed to improve the skills of participants in such institutes, and (B) the development of inservice training programs for such personnel.”.

“(g) The Commissioner shall not make grants to programs authorized under clause (5) of subsection (b) of this section in any fiscal year in which the amount appropriated for carrying out this subpart is less than \$70,331,000.

“(h) It is the intention of the Congress to encourage, whenever feasible, the development of individualized programs for disadvantaged students assisted under this subpart.”

EDUCATIONAL INFORMATION PROGRAM

SEC. 125. Part A of title IV of the Act is amended by redesignating subpart 5, and all references thereto, as subpart 6, and by inserting immediately after subpart 4 the following new subpart:

“Subpart 5—Educational Information

“PROGRAM AUTHORIZATION

Federal share.
20 USC 1070d-2.

“SEC. 418A. (a) The Commissioner shall, in accordance with the provisions of this subpart, make grants to States to pay the Federal share of the cost of planning, establishing, and operating Educational Information Centers to provide educational information, guidance, counseling, and referral services for all individuals, including individuals residing in rural areas.

“(b) (1) For the purpose of enabling the Commissioner to carry out this subpart, there are authorized to be appropriated \$20,000,000 for fiscal year 1977, \$30,000,000 for fiscal year 1978, and \$40,000,000 for fiscal year 1979.

Post p. 2097.

“(2) The Commissioner shall allocate funds appropriated in each year under this subpart to each State submitting a plan approved under section 418B an amount which bears the same ratio to such funds as the population of such State bears to the population of all the States, except that for each fiscal year no State which submitted an approved plan shall receive from such funds less than \$50,000 for that year. In making allocations under this paragraph, the Commissioner shall use the latest available actual data, including data on previous participation, which is satisfactory to him.

“(c) The Federal share of the cost of planning, establishing, and operating Educational Information Centers for any fiscal year under this subpart shall be 66⅔ per centum, and the non-Federal share may be in cash or in kind.

“Educational
Information
Center.”

“(d) For the purposes of this subpart, the term ‘Educational Information Center’ means an institution or agency, or combination of institutions or agencies, organized to provide services to a population in a geographical area no greater than that which will afford all persons within the area reasonable access to the services of the Center. Such services shall include—

“(1) information and talent search services designed to seek out and encourage participation in full-time and part-time postsecondary education or training of persons who could benefit from such education or training if it were not for cultural or financial barriers, physical handicap, deficiencies in secondary education, or lack of information about available programs or financial assistance;

“(2) information and referral services to persons within the area served by the Center, including such services with regard to—

“(A) postsecondary education and training programs in the region and procedures and requirements for applying and gaining acceptance to such programs;

“(B) available Federal, State, and other financial assistance, including information on procedures to be followed in applying for such assistance;

“(C) available assistance for job placement or gaining admission to postsecondary education institutions including, but not limited to, such institutions offering professional, occupational, technical, vocational, work-study, cooperative education, or other education programs designed to prepare persons for careers, or for retraining, continuing education, or upgrading of skills;

“(D) competency-based learning opportunities, including opportunities for testing of existing competencies for the purpose of certification, awarding of credit, or advance placement in postsecondary education programs;

“(E) guidance and counseling services designed to assist persons from the area served by the Center to identify postsecondary education or training opportunities, including part-time opportunities for individuals who are employed, appropriate to their needs and in relationship to each individual's career plans; and

“(F) remedial or tutorial services designed to prepare persons for postsecondary education opportunities or training programs, including such services provided to persons enrolled in postsecondary education institutions within the area served by the Center.

Services may be provided by a Center either directly or by way of contract or other agreement with agencies and institutions within the area to be served by the Center.

“(e) Nothing in this subpart shall be construed to affect funds allocated to the establishment and operation of Educational Opportunity Centers for the disadvantaged pursuant to section 417 (B) (b) (4) of this part.

20 USC 1070d-1.

“ADMINISTRATION OF STATE PROGRAMS

“Sec. 418B. (a) Each State receiving a grant under this part is authorized in accordance with its State plan submitted pursuant to subsection (b) of this section, to make grants to, and contracts with, institutions of higher education, including institutions with vocational and career education programs, and combinations of such institutions, public and private agencies and organizations, and local education agencies in combination with any institution of higher education, for planning, establishing, and operating Educational Information Centers within the State.

Grants and contracts, authorization.
20 USC 1070d-3.

“(b) Any State desiring to receive a grant under this subpart shall submit for the approval of the Commissioner a State plan, which shall include—

State plan, submittal.

“(1) a comprehensive strategy for establishment or expansion of Educational Information Centers, designed to achieve the goal, within a reasonable period of time, of making available within reasonable distance to all residents of the State the services of an Educational Information Center;

“(2) assurances concerning the source and availability of State, local, and private funds to meet the non-Federal share of the cost of the State plan required by section 418A(c); and

Ante, p. 2096.

“(3) such other provisions as are essential to carry out the provisions of this subpart.”.

VETERANS' COST-OF-INSTRUCTION PAYMENTS

20 USC 1070e-1. SEC. 126. (a) (1) Section 420(a) (1) of the Act is amended by striking out “June 30, 1975” and inserting in lieu thereof “September 30, 1979”.

(2) Section 420(a) of the Act is amended by adding at the end thereof the following:

“(3) During the period beginning July 1, 1976, and ending September 30, 1977, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding paragraph (1), to a payment under this section, if the number of persons referred to in such paragraph (1), equals whichever is the lesser of (A) at least the number of such persons who were in attendance at such institution during the preceding academic year less the number of such persons whose eligibility for educational assistance under chapter 34 of title 38, United States Code, expired on May 31, 1976, by virtue of section 1662(c) of such title, or (B) at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year less the number of such persons whose eligibility for educational assistance under chapter 34 of title 38, United States Code, expired on May 31, 1976, by virtue of section 1662(c) of such title.”.

38 USC 1651 *et*
seq.
38 USC 1662.

(b) Section 420(c) (1) (B) (iii) of the Act is amended by inserting “(with special emphasis on educationally disadvantaged veterans)” after “outreach”, and by inserting “(with special emphasis on the veteran-student services program under section 1685 of such title 38)” after “programs”.

(c) Section 420 of the Act is amended by adding at the end thereof the following new subsections:

“(f) The Commissioner, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38 of the United States Code, and the Administrator of Veterans' Affairs shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

Administration.

“(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Office of Education.”.

Report to
Congress.
20 USC 1070e-1
note.

(d) Not later than ninety days after the enactment of this Act, the Commissioner shall prepare and submit to the Congress a report containing a summary of the activities and programs (including the number and characteristics of veterans served) at institutions of higher education receiving assistance under section 420 of the Higher Education Act of 1965 (relating to veterans' cost-of-instruction payments) and a description of the steps taken (and the results thereof) to carry out his responsibility under subsection (c) (1) of that section to monitor and determine the adequacy of efforts by such institutions.

FEDERAL AND STATE INSURED LOAN PROGRAMS

SEC. 127. (a) Part B of title IV of the Act is amended to read as follows:

"PART B—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 421. (a) The purpose of this part is to enable the Commissioner (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435), (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b), (3) to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 428(a)(1)(B), or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(c)(1)(A), and (4) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C). 20 USC 1071.

"(b) For the purpose of carrying out this part—

"(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431)(A) the sum of \$1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

"(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

"(3) there is authorized to be appropriated the sum of \$17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs.

"(4) there are authorized to be appropriated (A) the sum of \$12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

"(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to State and nonprofit institutions and organizations with which the Commissioner has an agreement under section 428(b).

Sums appropriated under clauses (1), (2), (4), and (5) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 422 until the close of the fiscal year ending June 30, 1968.

“(c) For purposes of carrying out this part—

“(1) the Commissioner shall develop and execute a plan designed to encourage the establishment of student loan insurance program by each State which does not have such a program covered by an agreement pursuant to section 428(b);

“(2) the Commissioner shall make a report to the Congress within 180 days after the enactment of the Education Amendments of 1976, containing a description of the plan developed according to paragraph (1) accompanied by a timetable for the execution of such plan; and

Report to
Congress.

“(3) the Commissioner shall make a report to the Congress before June 30, 1977, which shall include—

“(A) a description of the activities the Commissioner and his designees have undertaken pursuant to paragraph (1),

“(B) a description of such State's plans to establish a program meeting the requirements of section 428(b), and

“(C) the Commissioner's recommendations to the Congress as to what changes in law, or policy would encourage the establishment of such a program in all States without such programs.

“ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN
INSURANCE PROGRAMS

20 USC 1072.

“SEC. 422. (a) (1) From the sums appropriated pursuant to clauses (3) and (4) (A) of section 421(b), the Commissioner is authorized to make advances to any State with which he has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Commissioner may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirement of section 428(b) (1).

“Unencumbered
non-Federal
portion.”

“(2) No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term ‘unencumbered non-Federal portion’ means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of (A) the sum of (i) advances made under this section prior to July 1, 1968, (ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made, and (iii) the proceeds of earnings on advances made under this section, or (B) any amount which is required to be maintained in such fund pursuant

to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

“(3) Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Commissioner determines will best carry out the purposes of this section. Advances made by the Commissioner under this subsection shall be repaid within such period as the Commissioner may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

“(b)(1) The total of the advances to any State prior to July 1, 1968, pursuant to subsection (a) may not exceed an amount which bears the same ratio to 2½ per centum of \$700,000,000 as the population of that State aged eighteen to twenty-two, inclusive, bears to the total population of all the States aged eighteen to twenty-two inclusive. The amount available, however, for advances to any State for each fiscal year ending prior to July 1, 1968, shall not be less than \$25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below \$25,000 per year) the amount available for advances to each of the remaining States. Advances to nonprofit private institutions and organizations prior to July 1, 1968, pursuant to subsection (a) may be in such amounts as the Commissioner determines will best achieve the purposes for which they are made, except that the sum of (1) advances to such institutions and organizations for the benefit of students in any State plus (2) the amounts advanced to such State, may not exceed the maximum amount which may be advanced to that State pursuant to the first two sentences of this subsection.

“(2) The total of the advances from the sums appropriated pursuant to clause (4) (A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and (B) to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged eighteen to twenty-two, inclusive, bears to the population of all the States aged eighteen to twenty-two, inclusive, but such advances may otherwise be in such amounts as the Commissioner determines will best achieve the purposes for which they are made. The amount available, however, for advances to any State shall not be less than \$25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below \$25,000) the amount available for advances to each of the remaining States.

“(3) For the purposes of this subsection, the population aged eighteen to twenty-two, inclusive, of each State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

“(c)(1) From sums appropriated pursuant to section 421(b)(4) (B), the Commissioner shall advance to each State which has an agreement with the Commissioner under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

“(2) (A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to the greater of (i) \$50,000, or (ii) 10 per centum of the principal amount insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

“(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by (i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date, and (ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

“(C) For purposes of subparagraph (B) the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State’s reserve fund (remaining at the time of the State’s first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve fund from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

“(3) The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State’s insurance obligations.

“(4) (A) No repayment of any advances made pursuant to this subsection shall be required until such time as the sum of the advances under this subsection exceeds 20 per centum of the State’s outstanding insurance obligation determined in accordance with subparagraph (B) of this paragraph.

“(B) For purposes of this paragraph, a State’s outstanding insurance obligation shall be determined by subtracting from the total principal amount of loans insured by the State since it entered into an agreement pursuant to section 428(b), the total principal amount of loans insured by such State which have been fully repaid by the borrower, the State itself, or the Commissioner, and loans which have been canceled.

“(C) At such time as advances pursuant to this subsection reach the level indicated in subparagraph (A) of this paragraph, the amount of any excess shall be paid over to the Commissioner in a lump sum at the beginning of each fiscal year for deposit in the fund established by section 431.

“(5) Advances pursuant to this subsection shall be made to a State—

“(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before the effective date of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the two succeeding calendar years after the date so requested; and

“(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after the effective date of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

“(6) (A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Commissioner determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Commissioner may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section

428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

“(B) The Commissioner may enter into an agreement with a private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

Agreement with private nonprofit institution or organization.

“(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State,

“(ii) agrees that its insurance will not be denied any student because of his choice of eligible institutions or the student’s lack of need, and

“(iii) certifies that it is neither an institution, nor has any substantial affiliation with an institution.

“EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

“SEC. 423. (a) Except as provided in subsections (b) and (c), the Commissioner shall not issue certificates of insurance under section 429 to lenders in a State if he determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

20 USC 1073.

“(b) The Commissioner may issue certificates of insurance under section 429 to a lender in a State—

“(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State), or

“(2) for insurance of all of the loans made to student borrowers by a lender who satisfies the Commissioner that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers.

“(c) The Commissioner shall not deny, because of any provision of this section, a certificate of insurance under section 429 to any eligible lender which is an eligible institution if such lender has previously executed an agreement with the Commissioner pursuant to section 433 of this part, unless the Commissioner determines, based upon studies and surveys satisfactory to him, that access to a loan by all eligible students who make an active and diligent effort to obtain a loan under this part will be otherwise available. In order to carry out the provisions of the preceding sentence the Commissioner shall periodically assess the availability of loans to eligible students through studies and surveys undertaken by him and through review of properly conducted studies and surveys made available to him.

“SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

“SEC. 424. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part

20 USC 1074.

shall not exceed \$1,400,000,000 for the fiscal year ending June 30, 1972, \$1,600,000,000 for the fiscal year ending June 30, 1973, \$1,800,000,000 for the fiscal year ending June 30, 1974, \$2,000,000,000 for each of the fiscal years ending June 30, 1975, and 1976, and \$2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1981. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1985.

“(b) The Commissioner may, if he finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

“LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

20 USC 1075.

“SEC. 425. (a) (1) The total of loans made to a student in any academic year or its equivalent (as determined by the Commissioner) which may be covered by Federal loan insurance under this part may not exceed \$2,500 in the case of a student who has not successfully completed a program of undergraduate education, or \$5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

“(A) that in the case of a loan to a student who is or will be in his first year of a program of undergraduate education, and who has not previously enrolled in such a program which is made by an eligible lender as described in section 435(g)(1)(D) or which is made or originated (as defined in section 433(b)) by an eligible institution, the loan may not exceed the lesser of \$2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with the provisions of section 428(a)(2)(C)(i)),

“(B) that in the case of a loan made or originated (as defined in section 433(b)) by an eligible institution which is made to a student for his first academic year of postsecondary education, the loan may exceed \$1,500 only if it is to be disbursed in two or more installments none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

Regulations.

“(C) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high cost of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

“(2) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed \$7,500, in the case of any student who has not successfully completed a program of undergraduate education, and \$15,000 in the case of any

graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b), made to such person before he became a graduate or professional student).

“(b)(1)(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan plus interest, except that—

“(i) if, for any fiscal year, the total amount of payments under section 430 by the Commissioner to any eligible lender as described in section 435(g)(1)(D) exceeds 5 per centum of the sum of the loans made by such lender which are insured by the Commissioner and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 per centum of the amount of such portion;

“(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 per centum of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (c), shall be equal to 80 per centum of the amount of such portion.

“(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) shall not apply to an eligible lender as described in section 435(g)(1)(D) for the fiscal year in which such lender begins to carry on a loan program insured by the Commissioner, or for any of the four succeeding fiscal years.

“(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(g)(1)(D) shall be—

“(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1976, or

“(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

“(2) For the purposes of this subsection, the sum of the loans made by a lender which are insured by the Commissioner and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Commissioner reduced by (A) the amount the Commissioner has been required to pay to discharge his insurance obligations under this part, (B) the original principal amount of loans insured by the Commissioner which have been fully repaid, (C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2)(C), and (D) the original principal amount of loans repaid by the Commissioner under section 437.

“(3) For the purposes of this subsection, payments by the Commissioner under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

“(4) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.”

"SOURCES OF FUNDS

20 USC 1076. "SEC. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Commissioner whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED
STUDENT LOANS

20 USC 1077. "SEC. 427. (a) A loan by an eligible lender shall be insurable by the Commissioner under the provisions of this part only if—

"(1) made to a student who (A) has been accepted for enrollment at an eligible institution or, in the case of a student already attending such institution, is in good standing there as determined by the institution, (B) is carrying at least one-half of the normal fulltime workload as determined by the institution, and (C) has agreed to notify promptly the holder of the loan concerning any change of address; and

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,

"(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than five years (unless sooner repaid or unless the student, during the nine- to twelve-month period preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning not earlier than nine months nor later than one year after the date on which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

"(i) as provided in clause (C) below,

"(ii) that the period of the loan may not exceed fifteen years from the execution of the note or written agreement evidencing it,

"(iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Commissioner in effect at the time the loan is made, and

"(iv) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than five years,

“(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an ‘eligible institution’, or is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment, and any such period shall not be included in determining the ten-year period or the fifteen-year period provided in clause (B) above,

42 USC 4951
note.

“(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest that has so accrued during that period may be added on that date to the principal,

“(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Commissioner under this part, and that the lender will enter into such agreements with the Commissioner as may be necessary for the purposes of section 437.

“(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan,

“(G) provides that, in the case of each loan insured by the program, the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower;

“(H) the funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student, and

“(I) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Commissioner pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Commissioner with respect to such loan.

"(b) No maximum rate of interest prescribed and defined by the Secretary for the purposes of clause (2)(D) of subsection (a) may exceed 7 per centum per annum on the unpaid principal balance of the loan.

"(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not unless the borrower and the lender otherwise agree, be less than \$360 or the balance of all of such loans (together with interest thereon), whichever amount is less, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than \$360 or the balance of all such loans, whichever is less.

"FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

20 USC 1078.

"SEC. 428. (a) (1) Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Commissioner under this part;

"(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (5); or

"(C) which is insured under a program of a State or of a non-profit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his behalf and for his account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

"(2) (A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

"(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by such institution), which—

"(I) sets forth such student's estimated costs of attendance and

"(II) sets forth such student's estimated financial assistance; and

"(ii) meet the requirements of subparagraph (B).

"(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

"(i) is less than \$25,000; or

Interest
payment.

"(ii) is equal to or greater than \$25,000 and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

"(C) For the purposes of paragraph (1) and this paragraph—

Definitions.

"(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable commuting costs, and costs for books;

"(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under parts A, C, and E of this title, plus other scholarship, grant, or loan assistance;

"(iii) the term 'eligible institution' when used with respect to a student is the eligible institution at which the student has been accepted for enrollment or, in the case of a student who is in attendance at such an institution, at which the student is in good standing (as determined by such institution);

"(iv) the determination of need and the amount of a loan recommended by an eligible institution under subparagraph (B) (ii) with respect to a student shall be determined by subtracting from the estimated cost of attendance at such institution the total of the expected family contribution with respect to such student (as determined by means other than one formulated by the Commissioner under subpart 1 of part A of this title) plus any other resources or student financial assistance reasonably available to such student.

"(D) For the purposes of this paragraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of the execution of the note or written agreement evidencing the loan. Such regulations shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate. In the absence of fraud by the lender, such determination of the need of a student under this paragraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.

"(3) (A) Except as provided in paragraph (8), the portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b) (1) (M) of this section or in section 427(a) (2) (C); but, except as provided in paragraph (8) of this subsection, such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Commissioner the portion of interest which has been so determined. The Commissioner shall pay this portion of the interest to the holder of the loan on behalf of and for

the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

“(B) If (i) a State student loan insurance program is covered by an agreement under subsection (b), (ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than 7 per centum per annum on the unpaid principal balance, and (iii) the Commissioner determines that section 428(d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purposes of this part, then he may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the sixtieth day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State’s first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per annum (determined by the Commissioner) which shall not exceed 1 per centum of the unpaid principal balance of the loan.

20 USC 1001
note.

“(4) Each holder of a loan with respect to which payments of interest are required to be made by the Commissioner shall submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan.

“(5) The period referred to in subparagraphs (B) and (C) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1981, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his educational program, such period shall end at the close of September 30, 1985.

“(6) No payment may be made under this section with respect to the interest on a loan made from a student loan fund established under title II of the National Defense Education Act of 1958 or part E of this title.

20 USC 401 note,
20 USC 1088.

“(7) Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

“(8) (A) In the case of any eligible lender (other than an eligible institution or an agency or instrumentality of a State), which is approved by the Commissioner pursuant to subparagraph (B) of this paragraph for the purpose of authorizing multiple disbursements and which enters into a binding agreement with a student to make a loan—

“(i) for which the student is entitled to have a portion of the interest paid on his behalf under this section, and

“(ii) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months,

the amount of the interest payment and the amount of any special allowance payment to be paid under section 438 shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed, and any increase in the rate of interest on the loan attributable to such multiple disbursements shall not be deemed to violate any provision of this part relating to the maximum rate of interest on such loan. The provisions of this paragraph shall apply only in the case of loans paid in multiple disbursements, in accordance with regulations of the Commissioner, based on the need of the student for the proceeds of such loan over the course of the academic year.

“(B) The Commissioner may approve an eligible lender for the purposes of this paragraph if he determines—

Eligible
lender.

“(i) that such lender is making or will be making a substantial volume of loans on which an interest subsidy is payable under this section, and

“(ii) that such lender has sufficient experience and administrative capability in processing such loans to enable the lender to make such multiple disbursements in accordance with regulations issued by the Commissioner under this subparagraph.

“(9) With respect to any loan for which a portion of the interest is payable under this section, in the case of a student attending an eligible institution which is located in other than a State, the determinations to be made (except determinations of good standing) and the statement to be provided by such institution under paragraph (2)(A)(i) and (2)(B)(ii) of this subsection shall be made and provided by (A) the Commissioner in the case of a loan described by paragraph (1)(A), (B) the State in the case of a loan described by paragraph (1)(B), or (C) the State or a nonprofit private institution or organization as the case may be, in the case of a loan described by paragraph (1)(C).

“(b)(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Commissioner for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Commissioner determines that the student loan insurance program—

Agreement
with
Commissioner.

“(A) authorizes the insurance of not less than \$1,000 nor more than \$2,500 in the case of a student who has not successfully completed a program of undergraduate education, or \$5,000 in the case of a graduate or professional student (as defined in regulations of the Commissioner), except—

“(i) that the program may not authorize the insurance of a loan which is made by an eligible lender as described in section 435(g)(1)(D) or which is made or originated (as defined in section 433(b)) by an eligible institution to a student who has not successfully completed a program of undergraduate education in an amount in excess of \$2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with section 428(a)(2)(C)(i)),

“(ii) that the program may not authorize the insurance of a loan in excess of \$1,500 for an academic year which is made or originated (as defined in section 433(b)) by an eligible institution, and is made to a student for his first academic year of postsecondary education, unless the loan is to be disbursed in two or more installments, none of which exceeds

one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

“(iii) in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

“(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed \$7,500, in the case of any student who has not successfully completed a program of undergraduate education, and \$15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under section 428(b), made to such person before he became a graduate or professional student);

“(C) authorizes the insurance of loans to any individual student for at least six academic years of study or their equivalent (as determined under regulations of the Commissioner);

“(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the period of any insured loan may not exceed fifteen years from the date of execution of the note or other written evidence of the loan, and (iii) the note or other written evidence of any loan, may contain such provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Commissioner in effect at the time such note or written evidence was executed;

“(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than five years (unless the student, during the nine- to twelve-month period preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning not earlier than nine months nor later than one year after the student ceases to pursue a full-time course of study at an eligible institution, except—

“(i) that, if the program provides for the insurance of loans for part-time study at eligible institutions, the program shall provide that such repayment period shall begin not earlier than nine months nor later than one year after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution;

“(ii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload, as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this sub-

paragraph, except that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan have the repayment period extended so that the total repayment period is not less than five years;

“(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess of 7 per centum per annum on the unpaid principal balance of the loan (exclusive of any premium for insurance which may be passed on to the borrower);

“(G) insures not less than 80 per centum of the unpaid principal of loans insured under the program;

“(H) does not provide for collection of an excessive insurance premium;

“(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under section 428(a) (1) and (2) except in the case of loans made by an instrumentality of a State or eligible institution;

“(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

“(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

“(L) provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not be less than \$360 or the balance of all such loans (together with interest thereon), whichever amount is less, unless the borrower and the lender otherwise agree, except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than \$360 or the balance of all such loans, whichever is less;

“(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, or is pursuing a course of study pursuant to a graduate fellowship program approved by the Commissioner, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, or (v) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

“(N) provides that in the case of each loan insured by the program that the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower;

22 USC 2501
note.

42 USC 4951
note.

“(O) provides that funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student;

“(P) provides that the borrower shall, within four months after ceasing to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, contact the holder of his loan to negotiate the terms of his repayment obligations, and

“(Q) requires the borrower to promptly notify the holder of the loan concerning any change of address.

“(2) Such an agreement shall—

“(A) provide that the holder of any such loan will be required to submit to the Commissioner, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Commissioner to determine the amount of the payment which he must make with respect to that loan;

“(B) include such other provisions as may be necessary to protect the financial interests of the United States and promote the purposes of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Commissioner and the State or nonprofit private organization or institution, as the case may be; and

“(C) provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his function under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

“(c) (1) (A) The Commissioner may enter into a guaranty agreement with any State or any nonprofit private institution or organization with which he has an agreement pursuant to subsection (b), whereby the Commissioner shall undertake to reimburse it, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan with respect to which a portion of the interest is payable by the Commissioner under subsection (a), or would be payable under such subsection but for the borrower's lack of need. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a State or nonprofit private institution or organization as reimbursement under this subsection shall be equal to 80 per centum of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program.

“(B) Any State or any nonprofit private institution or organization which has entered into a supplementary agreement under section 428A of this Act whereby the Commissioner agrees to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any such insured loan in an amount equal to 100 per centum of the amount expended by it in the discharge of its insurance obligation incurred under its loan insurance program, except that—

“(i) if, for any fiscal year, the amount of such reimbursement payments by the Commissioner under this subsection exceeds 5 per centum of the loans which are insured by such institution or organization under such program and which were in repayment at the

end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 per centum of the amount of such excess; and

“(ii) if, for any fiscal year, the amount of such reimbursement payments, exceed 9 per centum of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 per centum of the amount of such excess.

“(C) For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans insured by it reduced by (i) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (ii) the original principal amount of loans insured by it which have been fully repaid, (iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to section 428(b)(1)(E) or such first installment need not be paid pursuant to section 428(b)(1)(M), and (iv) the original principal amount of loans repaid by the Commissioner under section 437.

“(2) The guaranty agreement—

Guaranty
agreement.

“(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program;

“(B) shall provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

Reports.

“(C) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Commissioner pursuant to this subsection, the undertaking of the Commissioner under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

“(D) shall provide that if, after the Commissioner has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

“(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for purposes of section 422(c); and

“(F) may include such other provisions as may be necessary to promote the purposes of this part.

"(3) To the extent provided in regulations of the Commissioner, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

Definitions.

"(4) For purposes of this subsection, the terms 'insurance beneficiary' and 'default' shall have the meanings assigned to them by section 430(e).

20 USC 981
note.

"(5) In the case of any guaranty agreement entered into prior to September 1, 1969, with a State or nonprofit private institution or organization with which the Commissioner has in effect on that date an agreement pursuant to subsection (b) of this section, or section 9(b) of the National Vocational Student Loan Insurance Act of 1965, made prior to the date of enactment of this subsection, the Commissioner may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such State, institution, or organization and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

"(6) (A) For the purpose of paragraph (2) (D) the Commissioner's equitable share of payments made by the borrower pursuant to such paragraph shall be that portion of the payments remaining after the State or the nonprofit private institution or organization with which the Commissioner has an agreement under this subsection has deducted from such payments (i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan and (ii) an amount equal to the administrative costs of collection of the loan and the administrative costs of preclaim assistance for default prevention (as such terms are defined in subparagraph (B) of this subsection) reimbursed pursuant to subsection (f), to the extent such costs do not exceed 30 per centum of such payments.

"(B) For the purpose of this paragraph, the term—

"Administrative costs of collection of the loan."

"(i) 'administrative costs of collection of the loan' means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable and

"Administrative costs of preclaim assistance for default prevention."

"(ii) 'administrative costs of preclaim assistance for default prevention' means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable,

Regulation.

subject to such additional criteria as the Commissioner may by regulation prescribe.

“(7) (A) Notwithstanding paragraph (1) (B), the amount to be paid a State or a nonprofit private institution or organization for any fiscal year—

“(i) which begins on or after the effective date of this paragraph; and

“(ii) which is either the fiscal year in which such State, institution, or organization begins to actively carry on a student loan insurance program which is subject to a guarantee agreement under this subsection, or is one of the four succeeding fiscal years, shall be 100 per centum of the amount expended by such State, organization, or institution in discharge of its insurance obligation insured under such program.

“(B) The Commissioner shall continuously monitor the operations of those States and nonprofit private institutions or organizations to which the provisions of subparagraph (A) are applicable and revoke the application of such subparagraph to any such State or nonprofit private institution or organization which he determines has not exercised reasonable prudence in the administration of such program.

“(d) No provision of any law of the United States (other than sections 427(a)(2)(D) and 427(b) of this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

“(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of 7 per centum per annum, and

“(2) which is insured (A) by the United States under this part, or (B) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.

“(e) (1) Each eligible institution shall be eligible to receive from the Commissioner the payment of \$10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section, for that year. Payments received by an institution under this subsection shall be used first by the institution to carry out the provisions of section 493A of this Act and then for such additional administrative costs as that institution determines necessary.

Post p. 2148.

“(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection. If the sums appropriated for any fiscal year for making payments under this subsection are not sufficient to pay in full the amounts provided for in paragraph (1), then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

“(f) (1) (A) The Commissioner is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has an agreement under subsection (b) of this section, for the purposes of—

“(i) the administrative costs of promotion of commercial lender participation;

“(ii) the administrative costs of collection of loans;

“(iii) the administrative costs of preclaims assistance for default prevention; or

“(iv) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

“(B) Each State or nonprofit private institution or organization to which subparagraph (A) of this paragraph applies shall spend not less than $\frac{1}{4}$ of the payments received pursuant to this paragraph on the purposes described in clause (i) or subparagraph (A), not less than $\frac{1}{2}$ of such payments on the purposes described in clauses (ii) and (iii) of subparagraph (A), and the remaining amount of such payments on the purpose described in clause (iv) of such subparagraph.

“(2)(A) The Commissioner is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has a supplemental guaranty agreement under section 428A(a)(2) of this Act for the purposes of—

“(i) the administrative costs of promotion of commercial lender participation;

“(ii) the administrative costs of collection of loans;

“(iii) the administrative costs of preclaims assistance for default prevention; or

“(iv) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed an additional one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

“(B) The provisions of subparagraph (B) of paragraph (1) shall apply to any payments made under subparagraph (A) of this paragraph.

Definitions.

“(3) For the purpose of this subsection, the term—

“(A) ‘administrative costs of promotion of commercial lender participation’ means any administrative costs incurred by an insurer which are directly related to supervising, training, or informing eligible lenders or prospective eligible lenders or inducing such lenders to improve or expand their program participation, and such costs may include (i) the costs of planning and executing instructional seminars and the costs of attending other meetings with lenders, (ii) the costs of obtaining or producing instructional or promotional materials or equipment for distribution to, or use with, lenders, (iii) postage costs associated with the distribution of instructional or promotional materials to lenders, (iv) an appropriate share of the costs of

establishing branch offices to serve the needs of lenders which are geographically distant from such insurer's primary business location, and (v) an appropriate share of the compensation of personnel whose primary responsibility is the training, supervising, or recruiting of lenders, but not including personnel whose primary responsibilities are the performing or supervising such duties as relate to the routine processing of borrower applications for loans or the maintenance of supporting records but in no case shall any such costs include any overhead expenses of such insurer associated with the insurer's primary business location.

"(B) 'administrative costs of collection of loans' means any administrative costs incurred by a guaranty agency which are directly related to the collection of loans on which default claims have been paid to participating lenders, including the compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency, and

"(C) 'preclaim assistance for default prevention' means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to lenders on delinquent loans, prior to the loans being legally in a default status, including the compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities) fees paid to locate missing borrowers, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency, subject to such additional criteria as the Commissioner may by regulation prescribe.

Regulation.

"(4) (A) No payment may be made under paragraph (1) of this subsection unless the State or the nonprofit private institution or organization submits to the Commissioner an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

Application.

"(i) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

"(ii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

"(iii) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

"(iv) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Commissioner may reasonably require to carry out the provisions of this subsection.

"(B) No payment may be made under paragraph (2) of this subsection unless the State or the nonprofit private institution or organization submits to the Commissioner an application, at such time, at least annually, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require. Each such application shall—

Application.

“(i) set forth assurances that the student loan insurance program subject to the supplemental guaranty agreement complies with clauses (A) through (F) of paragraph (2) of section 428A (a);

“(ii) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

“(iii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

“(iv) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

“(v) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Commissioner may reasonably require to carry out the provisions of this subsection.

“(g) If a nonprofit private institution or organization (1) applies to enter into an agreement with the Commissioner under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Commissioner does not have an agreement under subsection (b), and (2) as provided in the application, undertakes to meet the requirements of section 422(c) (6) (B) (i), (ii), and (iii), the Commissioner shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

Notification to
congressional
committees.

“LOAN INSURANCE SUPPLEMENTAL GUARANTY AGREEMENT

20 USC 1078-1.

“SEC. 428A. (a) (1) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c) (1) whereby the Commissioner shall undertake to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, in an amount determined in accordance with section 428(c) (1) (B), if the Commissioner determines that the student loan insurance program—

“(A) authorizes the insurance of loans in any amount up to a maximum of \$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or \$5,000 (in the case of a graduate or professional student) to any individual student in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of \$7,500 in the case of any student who has successfully completed a program of undergraduate education, and \$15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

“(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

“(C) provides for the insurance of loans for part-time study at an eligible institution in the same manner as is provided under the Federal student loan insurance program;

“(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State and if such a student is accepted for enrollment in or is attending an eligible institution outside that State;

“(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program, unless (i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution; and

“(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as the lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that the State or nonprofit private institution or organization will report to the Commissioner not later than July 1, 1977, and annually thereafter, concerning such criteria, including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.

Report to
Commissioner.

“(2) The Commissioner may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c) (1) for the purpose of qualifying such State or nonprofit private institution or organization for payment of administrative cost allowances under section 428(f) (2) if the Commissioner determines that the student loan insurance program—

“(A) authorizes the insurance of loans in any amount up to a maximum of \$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or \$5,000 (in the case of a graduate or professional student) to any individual student in any academic year or its equivalent (as determined under regulations of the Commissioner), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the

aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of \$7,500 in the case of any student who has successfully completed a program of undergraduate education, and \$15,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner and including any loans which are insured by the Commissioner under this part, or by a State or nonprofit institution or organization with which the Commissioner has an agreement under this part, made to such person before he became a graduate or professional student);

“(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

“(C) provides for the insurance of loans for parttime study at an eligible institution in the same manner as is provided under the Federal student loan insurance program;

“(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State, or if such a student is accepted for enrollment in or is attending an eligible institution within that State;

“(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for eligible institutions under the Federal student loan insurance program, unless (i) that eligible institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution;

“(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as a lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that the State or nonprofit private institution or organization will report to the Commissioner not later than July 1, 1977, and annually thereafter, concerning such criteria, including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.

“(b) Each supplemental guaranty agreement entered into under subsection (a)—

“(1) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to insure that due

diligence will be exercised in the collection of loans insured under the program;

"(2) shall set forth adequate assurance that the requirements of paragraph (1) or paragraph (2) of subsection (a) of this section, as the case may be, are met;

"(3) shall provide for the making of such reports, in such form, and containing such information as the Commissioner may reasonably require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(4) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Commissioner pursuant to subsection (a) of this section, the undertaking of the Commissioner under the supplemental guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

"(5) shall provide that if, after the Commissioner has made payment under the supplemental guaranty agreement pursuant to this section with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Commissioner), there shall be paid over to the Commissioner (for deposit in the fund established by section 431) such portion of the amount of such payments as is determined (in accordance with regulations prescribed by the Commissioner) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary: *Provided*, That, except as the Commissioner may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

"(6) may include such other provisions as may be necessary to promote the purposes of this part.

"(c) (1) To the extent provided in regulations of the Commissioner, a supplemental guaranty agreement under this section may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

"(2) For purposes of this section, the terms 'insurance beneficiary' and 'default' shall have the meanings assigned to them by section 430(e).

Definitions.

"CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE
DATE OF INSURANCE

"Sec. 429. (a) (1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Commissioner may require, and otherwise in conformity with this section, the Commissioner finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

20 USC 1079.

"(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a) (1) shall become effective upon the date of issuance of the certificate, except that the Commissioner is authorized, in accord-

ance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a) (1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon sixty days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

Application.

"(3) An application submitted pursuant to subsection (a) (1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Commissioner pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Commissioner may prescribe by or pursuant to regulation.

"(b) (1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Commissioner may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Commissioner, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Commissioner's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Commissioner and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Commissioner from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Commissioner in the absence of fraud or misrepresentation of fact or patent error.

"(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Commissioner may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

"(c) The Commissioner shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 per centum per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Commissioner. Such regulations may provide that such premium

shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Commissioner has made such payment on his own motion pursuant to section 430(a).

“(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Commissioner.

“(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Commissioner may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Commissioner may amend that certificate accordingly.

“DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

“SEC. 430. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Commissioner, and the Commissioner shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The ‘amount of the loss’ on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and interest accrued from the date of submission of a valid default claim (as determined by the Commissioner) to the date on which payment is authorized by the Commissioner, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan.

Notification to
Commissioner.
20 USC 1080.

“(b) Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Commissioner on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured. The Commissioner may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Commissioner in making such recovery. Any contract under this subsection entered into by the Commissioner shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

“Amount of the
loss.”

"(c) Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Commissioner, or to preclude forbearance by the Commissioner in the enforcement of the insured obligation after payment on that insurance.

"(d) Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Commissioner, after reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) As used in this section—

"Insurance
beneficiary."
"Default."

"(1) the term 'insurance beneficiary' means the insured or its authorized assignee in accordance with section 429(d); and

"(2) the term 'default' includes only such defaults as have existed for (A) one hundred and twenty days in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days in the case of a loan which is repayable in less frequent installments.

"INSURANCE FUND

Establishment.
20 USC 1081.

"SEC. 431. (a) There is hereby established a student loan insurance fund (hereinafter in this section called the 'fund') which shall be available without fiscal year limitation to the Commissioner for making payments in connection with the default of loans insured by him under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Commissioner as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Commissioner in connection with his operations under this part, any excess advances under section 422(c)(4)(C), and any other moneys, property, or assets derived by the Commissioner from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Commissioner under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

Investments.

Notes or other
obligations.

"(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Commissioner under this part, or in connection with any guaranty agreement made under section 428(c) or 428A(a)(1), the Commissioner is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into considera-

tion the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from such fund.

31 USC 774.

"LEGAL POWERS AND RESPONSIBILITIES

"SEC. 432. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this part, the Commissioner may—

20 USC 1082.

"(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

Regulations.

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Commissioner shall survive notwithstanding any change in the person occupying the office of Commissioner or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Commissioner or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

"(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Commissioner determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this part may be modified by the Commissioner if he determines that modification is necessary to protect the financial interest of the United States;

"(4) subject to the specific limitations in this part, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this part;

"(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guarantee agreement under section 428(c); and

"(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

	“(b) The Commissioner shall, with respect to the financial operations arising by reason of this part—
Budget program, submittal.	“(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and
31 USC 841 note.	“(2) maintain with respect to insurance under this part an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Commissioner, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Commissioner in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.
Integral set of accounts, maintenance.	
31 USC 850.	
Collection of data.	“(c) (1) (A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Commissioner and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.
Categories.	“(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.
Subcategories.	“(C) The Commissioner may designate such additional subcategories within the categories specified in subparagraph (B) as he deems appropriate.
	“(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.
Report.	“(2) (A) The Commissioner shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.
	“(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Commissioner, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.
	“(3) For purposes of clarity in communications, the Commissioner shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1) (B) of this subsection.
	“(d) (1) The functions of the Commissioner under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional offices of the Office of Education established pursuant to section 403(c) (2) of the General Education Provisions Act.
20 USC 1221c.	“(2) The functions which may be delegated pursuant to this subsection are—
	“(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates

of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

“(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Commissioner, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

“(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Commissioner issued under section 432(a)), and recommending litigation with respect to any such claim.

“INSTITUTIONAL LENDERS

“SEC. 433. (a) (1) An eligible institution may not act as an eligible lender or originate loans under this part unless it has in effect an agreement with the Commissioner under which it agrees (A) to make such loans to no more than 50 per centum of the students in attendance at the institution who are not graduate or professional students (as defined in regulations of the Commissioner), and (B) that it will not make such a loan under this part to a student, other than a graduate or professional student (as defined in regulations of the Commissioner), who has not previously received a loan from such institution until such student has provided the institution with either (i) a statement from an eligible lender (other than an eligible institution or a State or an agency of a State or a private nonprofit agency designated by a State) that the borrower sought a loan from it and was denied such loan, or (ii) a sworn statement by the borrower that the lender from which he sought such a loan declined to provide the statement described in clause (i). 20 USC 1083.

“(2) Whenever the Commissioner determines that the termination of the eligible institution's status as a lender under paragraph (1) would be a hardship to the present or prospective students of the eligible institution after considering the management of that institution, the opportunities that institution provides to economically disadvantaged students, and related factors, the Commissioner shall waive the provisions of such paragraph with respect to that institution.

“(b) (1) An eligible institution shall be deemed to have originated a loan for purposes of this section if it has had delegated to it by an eligible lender a substantial portion of the functions and responsibilities normally performed by a lender prior to the making of a loan, such as interviewing the applicant for the loan, explaining the applicant's responsibilities under the loan, obtaining completion of necessary forms, obtaining necessary documentation, or verifying that the student is eligible for the loan.

“(2) For purposes of this section, a loan is made or originated on the date of the first disbursement of any proceeds of the loan.

“PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

“SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to student members in accordance with the provisions of this part 20 USC 1084.

relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(C).

“DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM

20 USC 1085.

“SEC. 435. As used in this part:

“(a) The term ‘eligible institution’ means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner for purposes of this part, except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1) at that institution or school.

“(b) The term ‘institution of higher education’ means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsory school attendance, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor’s degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time or, (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). If the Commissioner determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

List of accrediting
agencies or
associations.

“(c) The term ‘vocational school’ means a business or trade school, or technical institution or other technical or vocational school, in any State, which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (4) is accredited (A) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, (B) if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Commissioner pursuant to this clause, and (C) if the Commissioner determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards. For the purpose of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

List of accrediting agencies or associations.

“(d) The term ‘collegiate school of nursing’ means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

“(e) The term ‘associate degree school of nursing’ means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

“(f) The term ‘accredited’ when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education.

“(g) (1) Except as provided in paragraphs (2), (3), and (4), the term ‘eligible lender’ means—

“(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, or a credit union which—

“(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

“(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless it is a bank which is wholly owned by a State;

“(B) a pension fund as defined in the Employees Retirement Income Security Act;

“(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

29 USC 1001
note.

“(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

“(E) an eligible institution which meets the requirements of paragraphs (2), (3), and (4) of this subsection and which has signed an agreement pursuant to section 433; and

“(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market.

“(2) To be an eligible lender under this part, an eligible institution—

“(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution; and

“(B) shall not be a home study school.

“(3) The term eligible lender does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Commissioner determines, after notice and opportunity for a hearing, that for each of two consecutive years 15 per centum or more of the amount of the loan described in section 428(a)(1) made with respect to students at that institution and repayable in each such year is in default, as defined in section 430(e)(2).

“(4) Whenever the Commissioner determines that—

“(A) there is reasonable possibility that an eligible institution may, within one year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

“(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

Waiver.

the Commissioner shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Commissioner prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Commissioner grants a waiver pursuant to this paragraph he shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

“Line of credit.”

“(h) The term ‘line of credit’ means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

“Due diligence.”

“(i) The term ‘due diligence’ requires the utilization by a lender, in the servicing and collection of loans insured under this part, of collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

“DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

20 USC 1086.
D.C. Code 1-265.

“SEC. 436. (a) The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Commissioner for the purposes of this title, (2) to enter into such agreements with the Commis-

sioner, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

“(b) Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid note or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

“(c) There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

Appropriation
authorization.

“REPAYMENT BY THE COMMISSIONER OF LOANS OF BANKRUPT, DECEASED, OR
DISABLED BORROWERS

“SEC. 437. (a) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

20 USC 1087.

“(b) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Commissioner shall repay the amount of the loan so discharged.

“SPECIAL ALLOWANCES

“SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, and (4) that participating lenders will have a better and more accurate way of assessing the rate of such payments for current and prospective quarters, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowance on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowance.

20 USC 1087-1.

“(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the unpaid balance of disbursed principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

“(2)(A) Subject to subparagraphs (B) and (C) and paragraph (4), the special allowance paid pursuant to this subsection shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 3.5 per centum from such average, and (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum.

“(B) Except as provided in paragraph (4), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period during the period ending September 30, 1977, to exceed 3 per centum, the special allowance rate to be paid for such period shall be reduced to the highest one-eighth of 1 per centum rate interval which would not cause such excess.

“(C) Except as provided in subparagraph (4), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period after October 1, 1977, to exceed 5 per centum, the special allowance rate to be paid for such period shall be reduced to the highest one-eighth of 1 per centum rate which would not cause such excess.

“(3) Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section. The holder of a loan with respect to which any such allowance is to be paid shall be deemed to have a contractual right, as against the United States, to receive such allowance from the Commissioner.

“(4) (A) If payment of the special allowance payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Commissioner has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

“(B) Such daily interest shall be computed at the daily equivalent rate of the special allowance rate computed pursuant to paragraph (3) plus 7 per centum and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Commissioner authorizes payment.

“(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this subparagraph shall be segregated and reported separately.

“Eligible loan.”

“(5) As used in this section, the term ‘eligible loan’ means a loan which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

“(b) The Commissioner shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to subsection (a), subject to the condition that such holder shall submit to the Commissioner, at such time or times and in such manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary and the Commissioner to carry out their functions under this section and to carry out the purposes of this section.

“(c) The Commissioner shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of students. Regulations issued under section 2(a)(6)(B)(ii) of the Emergency Insured Student Loan Act of 1969 shall remain in effect until superseded or amended under this subsection, but no payments shall be made under such Act after the effective date of this section.

"(d) There are authorized to be appropriated such sums as may be necessary for special allowances authorized by this section.

"(e) In order to assure (i) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (ii) that incentive payments on such loans are paid promptly to eligible lenders, (iii) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, and (iv) that participating lenders will have a better and more accurate way of assessing the rate of such payments for current and prospective quarters, there is established a Committee on the Process of Determining Student Loan Special Allowances (hereinafter in this section referred to as the 'Committee'). The Committee shall be composed of—

- "(1) the Commissioner of Education;
- "(2) the Secretary of Health, Education, and Welfare;
- "(3) the Secretary of Treasury;
- "(4) a representative of State and nonprofit private institutions and organizations participating under an agreement under section 428(b);
- "(5) a student financial aid administrator of an eligible institution (as defined in section 435(g)(2));
- "(6) a business officer of an eligible institution (as defined in section 435(g)(2));
- "(7) a representative of participating eligible lenders other than one defined in section 435(g)(1)(E);
- "(8) a student at an eligible institution (as defined in section 435(g)(2)); and
- "(9) a representative of the Student Loan Marketing Association, designated by the Board of Directors of the Association.

"(f) The Commissioner shall appoint the members of the Committee described in paragraphs (4), (5), (6), (7), and (8) of subsection (e) of this section, after consultation in the case of those members appointed under each such paragraph, with nationally-recognized organizations of such persons or agencies.

"(g) (1) No later than October 1, 1977, the Committee shall prepare and submit to the President of the Senate and the Speaker of the House of Representatives a report of their findings and recommendations for an improved method or methods for the determination of the quarterly rate of the special allowance paid under this Act which they believe will carry out the objectives set forth in subsection (a) of this section.

"(2) The Committee shall make every effort to reach a unanimous decision with respect to the method for the determination of the quarterly rate of the special allowance established under this section.

"(3) In developing the method for the determination of the quarterly rate of the special allowance under this section, the Committee shall consider—

"(A) the experiences of students, and eligible lenders under the method prescribed in this section, and under the method in operation prior to the enactment of this section,

"(B) the administrative costs of various types of eligible lenders under this part,

"(C) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under this part, or substitute financial indicators which equitably represent the cost of such capital,

Appropriation
authorization.

Committee on the
Process of
Determining
Student Loan
Special
Allowances.
Establishment.

Report to
Congress.

“(D) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowance, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowance to eligible lenders, and

“(E) such other factors as the Committee considers necessary to carry out the purposes of this section.

20 USC 1071.

“(4) In carrying out its responsibilities under this section, the Committee shall be given the full cooperation and assistance of the official in the Office of Education directly responsible for the administration of this part B of title IV of the Higher Education Act of 1965 and such other appropriate officials of the Office of Education as the Committee deems appropriate.

“(5) In order to assist the Committee to carry out its functions under this section, the Commissioner of Education is authorized to hire consultants, and to enter into contracts, and pay the costs of such contracts from funds regularly appropriated for the purpose of administering programs authorized by this part.

Ante, p. 2081.

“(6) The Commissioner of Education shall convene the first session of the Committee within sixty days after the date of enactment of the Education Amendments of 1976. The Chairman of the Committee shall be selected by those members who are not officials of the Federal Government from among themselves.

“(7) The Committee is not authorized to employ permanent employees or to lease or obtain the use of permanent offices or to take other steps to extend its period of service beyond the time necessary to complete its responsibilities under this section.

“(8) The Committee shall cease to exist ten days after the submission of the report prescribed in paragraph (1) of this subsection.

“STUDENT LOAN MARKETING ASSOCIATION

20 USC 1087-2.

“SEC. 439. (a) The Congress hereby declared that it is the purpose of this section (1) to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans, insured by the Commissioner under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b), and which will provide liquidity for student loan investments; and (2) in order to facilitate secured transactions involving insured student loans, to provide for perfection of security interests in insured student loans either through the taking of possession or by notice filing.

Creation of
Association.

“(b) (1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the ‘Association’). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

Taxation.

“(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Associa-

tion shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

“(3) There is hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare \$5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

Appropriation
authorization.

“(c)(1) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

Chairman.

“(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

Appointment.

“(3) When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

Common stock.

“(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

“(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

“(6) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and

duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(d) (1) The Association is authorized, subject to the provisions of this section, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Commission under this part or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b).

"(2) Any warehousing advance made under paragraph (1) of this subsection shall not exceed 80 per centum of the face amount on an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

"(3) Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by said State law for perfection of security interests in accounts.

"(e) The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (A) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than \$50,000,000 in deposits, and (B) does not discriminate on the basis of race, sex, color, creed, or national origin.

Par value of
common stock.

"(f) (1) The Association shall have common stock having a par value of \$100 per share which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions as defined in section 435(a) (other than an institution outside the United States).

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in subsection (c) (3).

"(3) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary of Health, Education, and Welfare, and, as to the Association, only on the books of the Association. The Secretary of Health, Education, and Welfare shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

"(4) To the extent that net income is earned and realized, subject to subsection (g) (2), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

“(g) (1) The Association is authorized, with the approval of the Secretary of Health, Education, and Welfare, to issue nonvoting preferred stock with a par value of \$100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association. Preferred stock.

“(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

“(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

“(h) (1) The Association is authorized with the approval of the Secretary of Health, Education, and Welfare and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

“(2) The Secretary of Health, Education, and Welfare is authorized, prior to July 1, 1982, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

“(3) To enable the Secretary of Health, Education, and Welfare to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of Health, Education, and Welfare with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

31 USC 774.

“(i) The Association shall have power—

Powers.

“(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

“(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

“(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

“(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

“(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

“(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

“(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

“(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

“(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

Audit.

“(j) The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

Report to
Treasury
Secretary.

Report to
President and
Congress.

“(k) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of

sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Health, Education, and Welfare and to the Association.

“(1) All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

12 USC 355.

“(m) In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

“(n) The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

Report to
President and
Congress.

“FIVE-YEAR NONDISCHARGEABILITY OF CERTAIN LOAN DEBTS

“Sec. 439A. (a) A debt which is a loan insured or guaranteed under the authority of this part may be released by a discharge in bankruptcy under the Bankruptcy Act only if such discharge is granted after the five-year period (exclusive of any applicable suspension of the repayment period) beginning on the date of commencement of the repayment period of such loan, except that prior to the expiration of that five-year period, such loan may be released only if the court in which the proceeding is pending determines that payment from future income or other wealth will impose an undue hardship on the debtor or his dependents.

20 USC 1087-3.

“(b) Subsection (a) of this section shall be effective with respect to any proceedings begun under the Bankruptcy Act on or after September 30, 1977.

Effective date.
11 USC 1 note.

“CRIMINAL PENALTIES

“Sec. 440. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets or property provided or insured under this part shall be fined not more than \$10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen or obtained by fraud, false statement, or forgery does not exceed \$200, the fine shall be not more than \$1,000 and imprisonment shall not exceed one year, or both.

20 USC 1087-4.

“(b) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with an application for a finding by the Commissioner under section 435(b)(4) (A) or (B), for the purpose of

qualifying an educational institution as an eligible institution under this part shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both.

Penalty.

“(c) Any person who knowingly and willfully makes any false statement to, furnishes any false information to, or conceals any material information in connection with the assignment of a loan, which is insured under this part, to another eligible lender, shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both.

“(d) Any person who knowingly and willfully makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan insured under this part shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both.

“(e) Any person who knowingly and willfully destroys any application for a loan which is insured under this part, any application for insurance of a loan under this part, or destroys or conceals any other record relating to the making or insuring of loans under this part with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than \$10,000 or imprisoned not more than five years, or both.”

Effective date.
20 USC 1071
note.

(b) The amendment made by subsection (a) of this section of this Act shall become effective October 1, 1976, except as otherwise provided therein, and to the extent such amendment makes changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendment becomes effective, except that—

(1) the changes made in sections 425(a), 427(a)(1)(C), 427(a)(2)(G) and 428(b)(1)(A), (B), and (P) shall become applicable with respect to loans to cover the costs of education for periods of enrollments beginning on or after October 1, 1976;

(2) section 422(c) shall become effective October 1, 1977;

(3) section 428(f) shall become effective October 1, 1976;

(4) the changes made in section 428(a)(2) shall become applicable with respect to the determination of interest subsidies on loans to cover the costs of education for periods of enrollment beginning on or after 30 days after the date of enactment of this Act;

(5) the new section 433 shall become effective with respect to loans made to cover the costs of education for periods of enrollment beginning on or after October 1, 1976;

(6) the changes in section 428(c) with respect to the amount of Federal guarantee payments shall become effective with respect to payments to reimburse States and nonprofit private institutions and organizations with which the Commissioner has an agreement under section 428(c) of such part which are made on or after October 1, 1976; and

(7) section 438, shall become effective with respect to fiscal quarters beginning after December 31, 1976.

20 USC 1078a.

(c)(1). Section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out “October 1, 1976” and inserting in lieu thereof “January 1, 1977.”

Repeal.
83 Stat. 141.
20 USC 1078a
note.

(2) Effective October 1, 1977, the Emergency Insured Student Loan Act of 1969 is repealed.

WORK-STUDY PROGRAM

SEC. 128. (a) Section 441(b) of the Act is amended—

42 USC 2751.

(1) by striking out the word “and” after “1974,” and

(2) by inserting before the period a comma and the following:
 “\$420,000,000 for the fiscal year ending June 30, 1976, and the transitional period beginning July 1, 1976, and ending September 30, 1976, \$450,000,000 for the fiscal year ending September 30, 1977, \$570,000,000 for the fiscal year ending September 30, 1978, \$600,000,000 for the fiscal year ending September 30, 1979, \$630,000,000 for the fiscal year ending September 30, 1980, \$670,000,000 for the fiscal year ending September 30, 1981, and \$720,000,000 for the fiscal year ending September 30, 1982.”

(b) Section 443(b) of the Act is amended by striking “461” and inserting in lieu thereof “491”, and by inserting before the period at the end thereof the following: “, and includes a combination of such institutions which have entered into a cooperative arrangement, or have designated or created a public or private nonprofit agency, institution, or organization to act on their behalf.”

42 USC 2753.

(c) (1) Section 444(a) (1) of the Act is amended by striking out the word “public” the second time it appears and by inserting in lieu thereof “Federal, State, or local public agency”, and by inserting “agency or” before the word “organization” the second time it appears in such section.

42 USC 2754.

(2) Section 444(a) (2) of the Act is amended to read as follows:

“(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 493 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 447 of this part, and may transfer funds in accordance with the provisions of section 496 of this Act;”.

Infra.

(3) Section 444(a) (4) of the Act is amended to read as follows:

“(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any additional employment together with such work-study income is in excess of the determination of the amount of such student’s need for that semester under clause (3) of this subsection, but when such excess income equals \$200 or more, continued employment under a work-study program shall not be subsidized with funds appropriated under this part;”.

(4) Section 444(a) (7) of the Act is amended to read as follows:

“(7) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment; and”.

(d) Section 447 of the Act is amended to read as follows:

42 USC 2756a.

“JOB LOCATION AND DEVELOPMENT PROGRAMS

“Sec. 447. (a) The Commissioner is authorized to enter into agreements with eligible institutions under which such institution may use

Agreements.

not more than 10 per centum or \$15,000 of its allotment under section 446, whichever is less, to establish or expand a program under which such institution, separately, in combination with other eligible institutions, or through a contract with a nonprofit organization, locates and develops jobs for currently enrolled students which are suitable to the scheduling and other needs of such students.

“(b) Agreements under subsection (a) shall—

“(1) provide that the Federal share of the cost of any program under this section will not exceed 80 per centum of such cost;

“(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

“(3) provide satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this section, not less than the average expenditures per year made during the most recent three fiscal years preceding the effective date of the agreement;

“(4) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

“(5) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

“(6) provide satisfactory assurance that Federal funds used for the purposes of this section can realistically be expected to help generate student wages exceeding in the aggregate the amount of such funds and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

“(7) provide that the institution will submit to the Commissioner an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.”.

COOPERATIVE EDUCATION

20 USC
1087a-1087c.

SEC. 129. (a) Title IV of the Act is further amended by striking out part D and any references thereto.

(b) Title VIII of the Act is amended to read as follows:

“TITLE VIII—COOPERATIVE EDUCATION

“APPROPRIATIONS AUTHORIZED

20 USC 1133.

“SEC. 801. (a) There are authorized to be appropriated—

“(1) for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, \$13,000,000;

“(2) for the fiscal year 1977, \$15,000,000;

“(3) for the fiscal year 1978, \$20,000,000;

“(4) for the fiscal year 1979, \$25,000,000; and

“(5) for each of the fiscal years 1980, 1981, and 1982, \$25,000,000,

to enable the Commissioner to make grants pursuant to section 802 to institutions of higher education, or to combinations of such institutions, for the planning, establishment, expansion, or carrying out by such institutions or combinations of programs of cooperative education. Such programs shall provide alternating periods of academic study and of public or private employment, the latter affording students not only the opportunity to earn the funds necessary for continuing and completing their education but, so far as practicable, giving them work experience related to their academic or occupational objectives.

“(b) There are further authorized to be appropriated—

(1) \$1,000,000 for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976;

“(2) \$1,500,000 for the fiscal year 1977;

“(3) \$2,500,000 for the fiscal year 1978; and

“(4) \$3,000,000 for each of the fiscal years 1978, 1979, 1980, 1981, and 1982,

to enable the Commissioner to make training, demonstration, or research grants or contracts pursuant to section 803.

“(c) Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this part.

“GRANTS FOR PROGRAMS OF COOPERATIVE EDUCATION

“SEC. 802. (a) From the sums appropriated pursuant to subsection (a) of section 801, and for the purposes set forth therein, the Commissioner is authorized to make grants to institutions of higher education that have applied therefor in accordance with subsection (b) of this section, in amounts not in excess of \$175,000 to any one such institution for any fiscal year, and to combinations of such institutions (that have so applied) in amounts not to exceed an amount equal to the product of \$125,000 times the number of institutions participating in such combination, for any fiscal year.

20 USC 1133a.

“(b) Each application for a grant authorized by subsection (a) of this section shall be filed with the Commissioner at such time or times as he may prescribe and shall—

Application.

“(1) set forth programs or activities for which a grant is authorized under this section;

“(2) specify the portion or portions of such programs or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

“(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activity not less than was expended for such purpose during the previous fiscal year;

“(4) provide that the applicant shall make such reports and keep such records as are essential to insure that the applicant's programs or activities are conducted in accordance with the provisions of this part;

“(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part; and

“(6) include such other information as is essential to carry out the provisions of this part.

“(c) No institution of higher education may receive, individually or as a participant in a combination of such institutions, grants under

this section for more than five fiscal years. No such institution or combination thereof may receive—

“(1) a grant in excess of 100 per centum of the total administrative cost for the first of such fiscal years;

“(2) a grant in excess of 90 per centum of such cost for the second of such years;

“(3) a grant in excess of 80 per centum of such cost for the third of such years;

“(4) a grant in excess of 60 per centum of such cost for the fourth of such years; or

“(5) a grant in excess of 30 per centum of such cost for the fifth of such years.

Any provision of law to the contrary notwithstanding, the Commissioner shall not waive the provisions of this subsection.

“(d) In approving applications under this section, the Commissioner shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

“(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by employers,

“(2) the commitment of the institution of higher education to cooperative education as demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance, and

“(3) such other factors as are consistent with the purposes of this section.

“GRANTS AND CONTRACTS FOR TRAINING AND RESEARCH

20 USC 1133b.

“SEC. 803. From the sums appropriated pursuant to subsection (b) of section 801, the Commissioner is authorized, for the training of persons in the planning, establishment, administration, or coordination of programs of cooperative education, for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education, or for research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education, to—

“(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

“(2) make grants to or contracts with other public or private nonprofit agencies or organizations, when such grants or contracts will make an especially significant contribution to attaining the objectives of this section.”.

DIRECT LOAN PROGRAM

20 USC 1087aa.

SEC. 130. (a) Section 461(b) of the Act is amended by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1979”.

(b) Section 461(b)(2) of the Act is amended by striking out “June 30, 1976” and inserting in lieu thereof “September 30, 1979”, and by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1979”.

20 USC 1087cc.

(c) Section 463(a) of the Act is amended by redesignating clauses (4) and (5) as clauses (5) and (6), respectively, and inserting immediately after paragraph (3) the following new clause:

“(4) provide that where a note or written agreement evidencing a note has been in default for (A) one hundred and twenty days,

in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Commissioner in a report describing the total number of loans from such fund which are in such default, and made to the Commissioner at least semiannually;”.

(d) Section 464(b) of the Act is amended by striking “, upon notice to the Commissioner;”.

20 USC 1087dd.

(e) Section 464(c)(1)(A) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: “, except that such period may begin earlier than nine months after such date upon the request of the borrower”.

(f) Section 464(c)(1)(C) of the Act is amended to read as follows:

“(C) may provide, at the option of the institution in accordance with regulations of the Commissioner, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from a student loan fund assisted under this part shall be at a rate equal to not less than \$30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than \$30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the ten-year maximum repayment period provided for in clause (A) of this paragraph;”

(g) (1) Section 464(c)(1) of the Act is amended by redesignating clauses (F) and (G) as (G) and (H), respectively, and by inserting after clause (E) the following new clause:

“(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Commissioner;”.

(2) The amendments made by this subsection shall take effect on June 23, 1972.

Effective date.

20 USC 1087dd

(h) (1) Section 466 of the Act is amended by striking out “June 30, 1980” wherever it appears and inserting in lieu thereof “September 30, 1984”.

note.

20 USC 1087ff.

(2) Section 466 of the Act is further amended by striking out “December 31, 1980” wherever it appears and inserting in lieu thereof “March 31, 1985”.

(3) Section 466(b) of the Act is amended by striking out “June 30, 1974” and inserting in lieu thereof “September 30, 1978”.

(4) Section 466(c) of the Act is amended by striking out “July 1, 1980” and inserting in lieu thereof “October 1, 1984”.

STUDENT CONSUMER INFORMATION

SEC. 131. (a) Section 493 of the Act is amended—

20 USC 1088b.

(1) by striking out “3 per centum” in subsection (a) and inserting in lieu thereof “4 per centum”;

(2) by inserting “(1)” following “1958,” and by inserting before the period a comma and the following: “and (2) shall be used by such institution to carry out the provisions of section 493A of this Act”;

(3) by striking “\$125,000” in subsection (b) and inserting in lieu thereof, “\$325,000”; and

(4) by adding at the end of said section, the following new subsection:

“(c) Payment received by an institution under this section shall be used first to carry out the provisions of section 493A of this Act and

Post, p. 2148.

then for such additional administrative costs as the institution of higher education determines necessary.”

(b) Subpart 1 of part F of title IV of the Act is further amended by inserting immediately after section 493 the following new sections:

“INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

20 USC
1088b-1.
20 USC 1070a.
Ante, p. 2108.
20 USC 1088b.

“SEC. 493A. (a) (1) Effective July 1, 1977, each institution of higher education and each eligible institution which receives payments under sections 411(d), 428(e) or 493 of this title, as the case may be, shall carry out information dissemination activities to prospective students and to enrolled students who request information regarding financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students and to any prospective student upon request. The information required by this section shall accurately describe—

“(A) the student financial assistance programs available to students who enroll at such institution,

“(B) the method by which such assistance is distributed among student recipients who enroll at such institution,

“(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such applications and the review standards employed to make awards for student financial assistance,

“(D) the rights and responsibilities of students receiving financial assistance under this title,

“(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical community costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest,

“(F) the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this subsection,

“(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, (iii) the faculty and other instructional personnel, and (iv) data regarding student retention at the institution and, when available, the number and percentage of students completing the programs in which the student is enrolled or expresses interest, and

“(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection.

“Prospective student.”

“(2) For purposes of this section, the term ‘prospective student’ means any individual who has contacted an institution of higher education or an eligible institution requesting information for the purpose of enrolling in that institution.

“(b) Effective July 1, 1977, each institution of higher education or eligible institution, as the case may be, which receives payments authorized, under section 411(d), 428(e), or section 493 of this title shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in the preceding subsection. The Commissioner may, by regulation, waive the requirement that an

employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution of higher education or eligible institution, as the case may be, in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

“(c) Within 120 days after the date of enactment of the Education Amendments of 1976, the Commissioner shall begin to make available to institutions of higher education and eligible institutions descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

Ante, p. 2081.

“STUDENT AID INFORMATION SERVICES

“SEC. 493B. In order to assist in the expansion and improvement of campus student aid information services, the Commissioner shall—

20 USC
1088b-2.

“(1) survey institutional practices of providing students with complete and accurate information about student financial aid, including the employment of part-time financial aid counselors under work-study programs, hiring other part-time persons from the community, using campus or community volunteers, and communicating through use of publications or technology; collect institutional evaluations of such practices; and disseminate the information described in this clause;

“(2) convene meetings of financial aid administrators, students, and other appropriate representatives to explore means of expanding campus financial aid information services and improving the training of part-time individuals involved in such services;

“(3) whenever possible, include student peer counselors and other part-time financial aid personnel in training programs sponsored by the Office of Education; and

“(4) make recommendations to Congress not later than October 1, 1977, concerning his findings and legislative proposals for improving the use and quality of services of part-time campus financial aid personnel.

Recommendations
to Congress.

“STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

“SEC. 493C. (a) It is the purpose of this section to make incentive grants available to the States to be administered, in consultation with statewide financial aid administrator organizations, for the purpose of designing and developing programs to increase the proficiency of institutional and State financial aid administrators in all aspects of student financial aid.

Grants.
20 USC
1088b-3.

“(b) There are hereby authorized to be appropriated \$280,000 for each year ending prior to October 1, 1978, for equal division among the States.

Appropriation
authorization.

“(c) To receive a grant under this section a State must provide appropriate assurance to the Commissioner that the grant will be matched from State funds by an amount at least equal to the amount of the grant.

20 USC 1070b,
1087a, 1088.

“(d) From the funds otherwise allotted to the States for subpart 2 of part A, and for part C and part E of this title for States which have obtained a grant under this section, the Commissioner shall transfer to such State an amount equal to .05 per centum of such funds or \$10,000, whichever is less, and shall reduce such State allotment by that amount.

Application.

“(e) A State which desires to obtain a grant under this section for any fiscal year shall submit an application therefor through or by the State agency administering its program of student grants, or if such agency does not exist, through or by any agency or organization designated for such purpose by the State, at such time or times, and containing such information as may be required by such regulations as the Commissioner may prescribe for the purpose of enabling the Commissioner to disburse the funds.”.

ELIGIBILITY FOR STUDENT ASSISTANCE

20 USC 1088f.

SEC. 132. Section 497 of the Act is amended by adding at the end thereof the following new subsection:

“(e) Any student assistance received by a student under this title shall entitle the student receiving it to payments only if—

“(1) that student is maintaining satisfactory progress in the course of study he is pursuing, according to the standards and practices of the institution at which the student is in attendance, and

“(2) that student does not owe a refund on grants previously received at such institution under this title, or is not in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Commissioner under this title for attendance at such institution.”.

FISCAL RESPONSIBILITY

SEC. 133. (a) Title IV of the Act is further amended by adding after section 497 the following new sections:

“FISCAL ELIGIBILITY OF INSTITUTIONS

Regulations.

20 USC 1088f-1.
Ante, p. 2129.

“SEC. 497A. (a) Notwithstanding any other provisions of this title, or of section 434(c) of the General Education Provisions Act, the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

“(1) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Commissioner under this title;

“(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

“(3) the establishment by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a) (2) (A) (i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to re-enroll; and

Ante, p. 2108.

“(4) the limitation, suspension or termination of the eligibility for any program under this title of any otherwise eligible institution, whenever the Commissioner has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Commissioner agree to an extension or unless limitation or termination proceedings are initiated by the Commissioner within that period of time.

“(b) The Commissioner shall, for the purpose of carrying out the provisions of this section with respect to subpart 1 of part A of this title, enter into special arrangements with institutions of higher education at which students receiving basic grants under that subpart are enrolled. The Commissioner shall include special provisions designed to carry out the provisions of this section in agreements with institutions of higher education under section 413C, in agreements with eligible institutions under section 443, and in agreements with institutions of higher education under section 463.

20 USC 1070a.

20 USC

1070b-1.

42 USC 2753.

20 USC 1087cc.

“(c) Upon determination that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Commissioner may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (a) (3), until he finds that such practices have been corrected.

“(d) The Commissioner shall publish a list of State agencies which he determines to be reliable authority as to the quality of public post-secondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

“(e) For the purpose of this section the term ‘eligible institution’ means any such institution described in section 435(a) of this Act.”

“Eligible institution.”

Ante, p. 2130.*Ante*, p. 2133.

20 USC 1087-1 note.

(b) (1) Any regulations for the carrying out of section 438, as in effect on the date immediately prior to the effective date of this subsection shall be deemed to remain in force until amended or superseded by new regulations of the Commissioner.

(2) Within 120 days of the effective date of this subsection, the Commissioner is directed to issue a comprehensive revision of the regulations heretofore prescribed for the carrying out of section 438, for the purpose of modifying such regulations, to the extent possible, to make them applicable to all programs under title IV of the Act.

20 USC 1061.

PART E.—EDUCATION PROFESSIONS DEVELOPMENT

REVISION OF TITLE V

SEC. 151. (a) (1) The heading of title V of the Act is amended to read as follows:

“TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS”.

(2) Part A of such title is repealed.

Repeal.

(3) Title V of the Act is amended—

20 USC

(A) by striking out

1091-1092.

“PART B—ATTRACTING AND QUALIFYING TEACHERS”,

and

(B) by striking out

“Subpart 1—Teachers Corps”.

Repeal.

20 USC

1108-1110c,

1111-1117,

1119-1119b-1.

(4) (A) Subpart 2 of part B, and parts C, D, and E of such title are repealed.

(B) Part F of title V of the Act is amended by adding at the end thereof a new section:

“AUTHORIZATION OF APPROPRIATIONS

20 USC 1119c-4.

“SEC. 555. There are authorized to be appropriated for the purposes of carrying out this part \$25,000,000 for each of the fiscal years ending prior to October 1, 1977.”.

Repeal.

20 USC

1119c-1119c-4.

Infra.

20 USC 1102.

(C) Effective September 30, 1977, part F of such title is repealed.

(5) (A) Section 511(a) of the Act (as amended by section 152(a) (1)) is amended by striking out “subpart” and inserting in lieu thereof “part”.

(B) Section 512 of the Act is amended by striking out “subpart” and inserting in lieu thereof “part”.

20 USC 1103.

(C) Section 513 of the Act is amended by striking out “subpart” and inserting in lieu thereof “part”.

Effective date.

20 USC 1101

note.

(b) The amendments made by subsection (a) (except the amendment made by paragraph 4(C) thereof) shall take effect on September 30, 1976.

TEACHER CORPS

20 USC 1101.

SEC. 152. (a) (1) Section 511 of the Act is amended by inserting “(a)” after the section designation and by adding at the end thereof the following:

Appropriation
authorization.

“(b) For the purpose of carrying out the provisions of this part there are authorized to be appropriated \$50,000,000 for the fiscal year 1977, \$75,000,000 for the fiscal year 1978, and \$100,000,000 for the fiscal year 1979.”.

(2) Section 511(a) of the Act (as redesignated by paragraph (1) of this subsection) is further amended by striking out the words “and teacher aides” both places they appear and inserting in lieu thereof a comma and the following: “teacher aides, and other educational personnel”.

20 USC 1103.

(b) Section 513(a) of the Act is amended—

(1) by striking out “two” the first time it appears in paragraph (1), and inserting in lieu thereof “five” and by inserting after “teacher aides” the following: “and other educational personnel”;

(2) by striking out in paragraph (3) “teaching teams, each of which shall consist of an experienced teacher and a number of teacher-interns who, in addition to teaching duties, shall be afforded time by the local educational agency for a teacher-intern training program carried out under the guidance of an experienced teacher” and inserting in lieu thereof “Teacher Corps programs each of which shall include teacher-intern teams led by experienced teachers, and may include additional experienced teachers, teacher aides, and other educational personnel, who may be afforded time by the local educational agency for a training program carried out”; and

(3) by amending paragraph (7) to read as follows:

“(7)(A) make available technical assistance to State and local educational agencies and institutions of higher education for carrying out arrangements entered into under this title; and

“(B) provide planning, technical assistance, monitoring, documenting, disseminating, and evaluation services for arrangements made under this title;”.

(c) Section 513(b) of the Act is amended by striking out “for teacher-interns while teaching” and inserting in lieu thereof “for Teacher Corps members while serving”. 20 USC 1103.

(d) Section 513 of the Act is further amended by adding at the end thereof the following new subsections:

“(e)(1) No arrangement may be entered into under the provisions of paragraph (1), (2), (3), (5), or (6) of subsection (a) of this section unless that arrangement is prepared with the participation of an elected council which shall be representative of the community in which the project subject to that arrangement is located and of the parents of the students of the elementary or secondary schools, or both, to be served by any such project.

“(2) Each council selected pursuant to this subsection shall participate with the local educational agency or institution of higher education, or both, in the planning, carrying out, and evaluation of projects subject to arrangements under paragraphs (1), (2), (3), (5), and (6) of subsection (a) of this section.

“(3) The Commissioner is authorized in each fiscal year to arrange for the payment of necessary secretarial and administration expenses of each council elected pursuant to the provisions of this subsection for the purposes of carrying out its functions under this subsection.

“(f) The Commissioner shall establish procedures seeking, with respect to the Teacher Corps members enrolled after the date of enactment of the Education Amendments of 1976, goal of having approximately five individuals who are at the time of enrollment, or who previously have been, employed as teachers by local educational agencies to one individual who has not been so employed. The Commissioner may waive the procedure established under this subsection if he makes a determination that there are insufficient qualified applicants to maintain the goal sought by this subsection, or that there are insufficient employment opportunities for individuals who are not so employed, and submits a report to the Congress of such a determination. *Ante*, p. 2081.

“(g) Notwithstanding any other provision of law, the Commissioner shall develop and establish specific criteria for entering into arrangements under this part in order to assist applicants for assistance under this part to develop proposals to be submitted. Criteria established under this subsection shall be used by the Commissioner in selecting proposals under this title.”.

(e) Section 514 of the Act is amended by adding at the end thereof the following new subsection: 20 USC 1104.

“(f) The Commissioner is authorized to compensate local educational agencies for released time for educational personnel of the agency who are being trained in Teacher Corps projects assisted under this title.”.

TEACHER TRAINING PROGRAMS

SEC. 153. (a) Title V of the Act is further amended by inserting immediately before the heading of section 511 the following:

“PART A—TEACHER CORPS PROGRAM”

and by adding at the end thereof the following new part:

“PART B—TEACHER TRAINING PROGRAMS**“AUTHORIZATION OF APPROPRIATIONS**

20 USC 1119. “SEC. 531. There are authorized to be appropriated \$75,000,000 for the fiscal year 1977 and for each of the fiscal years ending prior to October 1, 1979, to carry out the provisions of this part. Of the sums so appropriated for any fiscal year not less than 10 per centum shall be available for each of the programs authorized by sections 532 and 533.

“TEACHER CENTERS

Grants.
20 USC 1119a. “SEC. 532. (a) (1) The Commissioner is authorized to make grants to local educational agencies in accordance with the provisions of this section to assist such agencies in planning, establishing, and operating teacher centers.

“Teacher center.” “(2) For the purpose of this section, the term ‘teacher center’ means any site operated by a local educational agency (or a combination of such agencies) which serves teachers, from public and non-public schools of a State, or an area or community within a State, in which teachers, with the assistance of such consultants and experts as may be necessary, may—

“(A) develop and produce curricula designed to meet the educational needs of the persons in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula; and

“(B) provide training to improve the skills of teachers to enable such teachers to meet better the special educational needs of persons such teachers serve, and to familiarize such teachers with developments in curriculum development and educational research, including the manner in which the research can be used to improve their teaching skills.

“(b) Each teacher center shall be operated under the supervision of a teacher center policy board, the majority of which is representative of elementary and secondary classroom teachers to be served by such center fairly reflecting the make-up of all schoolteachers, including special education and vocational education teachers. Such board shall also include individuals representative of, or designated by, the school board of the local educational agency served by such center, and at least one representative designated by the institutions of higher education (with departments or schools of education) located in the area.

Application. “(c) (1) Any local educational agency desiring to receive a grant under this section shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Commissioner may by regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. Only applications so recommended shall be transmitted to the Commissioner for his approval.

“(2) Any local educational agency which has submitted an application in accordance with paragraph (1) of this subsection which is dissatisfied with the action of the appropriate State educational agency may petition the Commissioner to request further consideration by the State educational agency.

“(d) In approving any application under this section, the Commissioner shall insure that there is adequate provision for the furnishing of technical assistance to, and dissemination of information derived from, the proposed teacher center by the appropriate State educational agency. Such State agency shall be adequately compensated by the Commissioner for such review of applications, recommendations, submissions, technical assistance, and dissemination services.

“(e) Any local educational agency having an application approved under this section may contract with an institution of higher education to carry out activities under, or provide technical assistance in connection with, such application.

“(f) Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that teacher centers be operated by local educational agencies, 10 per centum of the funds expended under this section may be expended directly by the Commissioner to make grants to institutions of higher education to operate teacher centers, subject to the other provisions of this section.

“TRAINING FOR HIGHER EDUCATION PERSONNEL

“SEC. 533. (a) The Commissioner is authorized to make grants to institutions of higher education to assist such institutions in the training of individuals—

Grants.
20 USC
1119a-1.

“(1) preparing to serve as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education if such individuals are (A) from cultural or educational backgrounds which have hindered such individuals in achieving success in the field of education, or (B) preparing to serve in educational programs designed to meet the special needs of students from such backgrounds; or

“(2) serving as teachers, including guidance and counseling personnel, administrative personnel, or education specialists in institutions of higher education, if such individuals are to be trained to meet changing personnel needs, such as in areas determined to be national priority areas pursuant to section 532 of this title.

“(b) Grants made under this section may be used only to assist in paying the cost of courses of training or study, including short term or regular institutes, symposia or other inservice training, for teachers, including guidance and counseling personnel, administrative personnel, or educational specialists in institutions of higher education.”

PART F—FINANCIAL ASSISTANCE FOR THE IMPROVEMENT OF UNDERGRADUATE INSTRUCTION

EXTENSION OF AUTHORIZATION

SEC. 156. (a) Section 601(b) of the Act is amended by striking out that part of the text thereof which precedes “to enable” and inserting in lieu thereof the following: “There are authorized to be appropriated \$60,000,000 for each of the fiscal years ending prior to October 1, 1979,”.

20 USC 1121.

- 20 USC 1121. (b) Section 601(c) of the Act is amended by striking out that part of the text thereof which precedes "to enable" and inserting in lieu thereof the following: "There are authorized to be appropriated \$10,000,000 for each of the fiscal years ending prior to October 1, 1979,".

REVISION OF MAINTENANCE OF EFFORT

- 20 USC 1124. SEC. 157. (a) Section 604(b) of the Act is amended by striking out all after the first sentence of such section and inserting in lieu thereof the following: "The Commissioner shall establish basic criteria for making determinations under this subsection."

(b) Section 604 of the Act is amended by adding at the end thereof the following new subsection:

- Grants. "(c) An institution of higher education shall be eligible for a grant for a project pursuant to this part in any fiscal year only if such institution has expended from current funds available for that year for instructional and library purposes, other than personnel costs, during the preceding fiscal year an amount not less than the amount expended, per equivalent full-time student or in the aggregate, whichever is less, by such institution from current funds for such purposes during the second preceding fiscal year. A combination of institutions of higher education shall be eligible for such a grant in accordance with regulations of the Commissioner prescribing requirements for maintenance of effort. The Commissioner shall establish basic criteria for making determinations under this subsection, and may waive so much of the requirement of this subsection as he determines is equitable in accordance with objective criteria of general applicability."

PART G—CONSTRUCTION OF ACADEMIC FACILITIES

EXTENSION OF PROGRAM

- 20 USC 1132a. SEC. 161. (a) Section 701(b) is amended by striking out "June 30, 1974, and June 30, 1975" and inserting in lieu thereof "prior to October 1, 1979".
- 20 USC 1132b. (b) Section 721(b) is amended by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "for each of the fiscal years ending prior to October 1, 1979".
- 20 USC 1132c. (c) Section 741(b) is amended by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "for each of the fiscal years ending prior to October 1, 1979".
- 20 USC 1132c-4. (d) Section 745(c) (2) is amended by striking out "July 1 of each of the four succeeding years" and inserting in lieu thereof, "the first day of each fiscal year during the period ending September 30, 1979".
- 20 USC 1132d-1. (e) Section 762(a) is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1979".

REVISION OF PROGRAM

SEC. 162. (a) Title VII of the Act is amended—

- (1) by inserting ", RECONSTRUCTION AND RENOVATION" immediately after "CONSTRUCTION" in the heading of such title;
- (2) by inserting ", RECONSTRUCTION, AND RENOVATION" immediately after "CONSTRUCTION" each place it appears in the headings of Parts A, B and C of such title;
- (3) by inserting ", reconstruction, or renovation" immediately after "construction" each place it appears in sections 701(a),
- 20 USC 1132a,
1132b, 1132c.

702(c)(1), 703(c)(1), 704(a)(2)(A), 705(a), 705(b), 706(a)(1), 707(a)(2), 707(c)(1), 741(a)(2), 742(a)(3), 745(a), 745(e)(3), 746(a)(1), 781(a), 781(b), 782(3), and 782(5);

(4) by inserting "reconstructed or renovated" after "constructed," in section 705(b), section 781, and section 782(1);

(5) by striking out "construction" in section 707(a)(2)(F) and inserting in lieu thereof, "project"; and

(6) by inserting "reconstruct or renovate" after the word "construct" in section 742(a)(4).

(b) Section 701(c) of the Act is amended by inserting "an appropriate amount, but in no case less than" immediately before "24 per centum".

(c) Section 704(b) of the Act is amended to read as follows:

"(b) The Commissioner shall not disapprove any State plan submitted under this section unless he determines after reasonable notice and opportunity for hearing and comment, that the plan is inconsistent with a specific provision of this section or other relevant sections of this title."

(d) Section 705(a) of the Act is amended by striking out "on the campus of such institution".

(e) Section 721(a) of the Act is amended by inserting "(1)" immediately after "(a)" and by adding at the end thereof the following new paragraph:

"(2) The Commissioner is authorized to make grants to or enter into contracts with institutions of higher education for the construction of facilities for model intercultural programs designed to integrate the educational requirements of substantive knowledge and language proficiency."

(f) Section 743(b)(5) of the Act is amended by inserting before the semicolon the following: "including (A) the granting of a temporary moratorium on the repayment of principal or interest or both to any institution of higher education or higher education building agency the Commissioner finds to be temporarily unable to make such repayment without undue financial hardship, if such institution or agency presents, and the Commissioner approves, a specific plan to make such repayment including a schedule for such repayment, and (B) the granting to any such institution or agency for which he has authorized a loan under this part prior to January 1, 1976, of the option to pay into the fund established under section 744 an amount equal to 75 per centum of the total current obligation of the institution or agency under this part, in full accord and satisfaction of such total current obligation, if such institution or agency desiring to exercise such an option makes payment from non-Federal sources prior to October 1, 1979."

(g)(1) Section 745(b) of the Act is amended by striking out "section 744(b)(2)" and inserting in lieu thereof "section 742(b)".

(2) Section 745(c)(2) of the Act is amended by striking out "four" and inserting in lieu thereof "six", and by inserting before the period at the end thereof a comma and the following: "and October 1, 1977 and on October 1 of each of the succeeding fiscal years".

(h) Section 762(a) of the Act is amended by striking out "Office of Emergency Planning" and inserting in lieu thereof "Office of Emergency Preparedness".

(i) Title VII of the Act is further amended by redesignating Part E and all references thereto as Part F and by inserting immediately after Part D the following new part:

20 USC 1132a-
1132a-6, 1132c,
1132c-1, 1132c-
4, 1132c-5,
1132e, 1132e-1.
20 USC 1132a-4,
1132e, 1132e-1.
20 USC 1132a-6.
20 USC 1132c-1.
20 USC 1132a.

20 USC 1132a-3.

20 USC 1132a-4.

20 USC 1132b.

Grants and
contracts.

20 USC 1132c-2.

20 USC 1132c-3.

20 USC 1132c-4.

20 USC 1132d-1.

20 USC 1132e.

"PART E—RECONSTRUCTION AND RENOVATION

Grants.

20 USC

1132d-11.

20 USC 1132a.

20 USC 1132b.

20 USC 1132c.

20 USC 1132c-3.

"SEC. 771. (a) The Commissioner is authorized to make grants from funds appropriated under section 701(b), grants from funds appropriated under section 721(b), loans from funds appropriated under section 741(b), or loans, to the extent provided in advance by appropriations Acts, from any unused amounts in the fund established under section 744, notwithstanding any prior restrictions on the use of such unused amounts, to institutions of higher education and to higher education building agencies for the reconstruction or renovation of academic facilities if the primary purpose of such reconstruction or renovation is—

"(1) to enable such institutions to economize on the use of energy resources, or

"(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

42 USC 4151.

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, or

"(B) environmental protection or health and safety programs mandated by Federal, State or local law, if such requirements were not in effect at the time such facilities were constructed.

"(b) (1) In determining whether the primary purpose of a proposed reconstruction or renovation is to conserve energy, the Commissioner shall consult with other Federal agencies which have specific expertise in energy conservation.

"(2) In determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to meet environmental protection standards or health or safety requirements imposed under law, the Commissioner shall consult with the appropriate Federal, State or local agency responsible for the administration of such law.

"(3) In determining whether the primary purpose of a proposed reconstruction or renovation is to enable such facility to comply with the Act of August 12, 1968, the Commissioner shall consult with the Architectural and Transportation Barriers Compliance Board and the Administrator of General Services.

"(c) A loan pursuant to this section shall be repaid within such period not exceeding twenty years as may be determined by the Commissioner."

20 USC

1132e-1.

(j) Section 782 of the Act is amended—

(1) by inserting immediately before the period at the end of paragraph (1)(B) in section 782 the following: "except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection"; and

(2) by striking out paragraph (2) of such section and inserting in lieu thereof the following:

Definitions.

"(2)(A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combina-

tion of either of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Commissioner by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2) (A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Commissioner by regulation; and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons."

PART H—GRADUATE PROGRAMS

EXTENSION AND REVISION OF GRADUATE FELLOWSHIPS AND ASSISTANCE

SEC. 171. (a) (1) Section 901 (a) (3) is amended by striking out "clauses (2), (3), and (4)" and inserting in lieu thereof "clauses (1) and (2)". 20 USC 1134.

(2) Section 901(c) of the Act is amended to read as follows:

"(c) There are authorized to be appropriated \$50,000,000 for each of the fiscal years ending prior to October 1, 1979, for the purpose of this part."

(3) (A) Section 902(b) of the Act is amended by inserting "(1)" before "sets forth", and by inserting before the period a comma and the following: "and (2) provides assurances that the institution has notified the appropriate State commission (established or designated under section 1202 of this Act) and that the State commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner". 20 USC 1134a.

(B) Section 902 of the Act is amended by adding at the end thereof the following new subsection:

"(c) In considering an application under this part for a program of activities from an institution of higher education within a State, the Commissioner shall assure that consideration is given to the degree to which such program will be consistent with State, regional, or national priorities."

20 USC 1134b. (4) Section 903(b) of the Act is amended by striking out the word “and” at the end of clause (4), by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and the word “and” and by adding at the end thereof the following new clauses:

“(6) the development of proposed graduate and professional programs; and

“(7) needed innovation in graduate and professional programs.”

(b) Part B of title IX of the Act is amended to read as follows:

“PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

“APPROPRIATIONS AUTHORIZED

20 USC 1134d. “SEC. 921. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

“NUMBER OF FELLOWSHIPS

20 USC 1134e. “SEC. 922. (a) During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1979, the Commissioner is authorized to award not to exceed seven thousand five hundred fellowships to be used for study in graduate programs at institutions of higher education. Such fellowships may be awarded for such period of study as the Commissioner may determine but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

“(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

“(c) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.

“AWARD OF FELLOWSHIPS AND APPROVAL OF GRADUATE PROGRAMS

20 USC 1134f. “SEC. 923. (a) The total number of fellowships authorized by section 922(a) to be awarded during a fiscal year shall be awarded by the Commissioner on such bases as he may determine, except that recipi-

ents of such fellowships shall be individuals who have been admitted or who are enrolled in graduate or professional programs approved by the Commissioner and who are pursuing, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree. The Commissioner shall approve a graduate program of an institution of higher education only upon his finding that the application contains satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare its fellowship recipients (1) for academic careers at some level of education beyond the high school, or (2) for other than academic careers in professional career fields of importance to the national interest, as determined by the Commissioner.

“(b) In determining priorities and procedures for the award of fellowships under this section the Commissioner shall—

“(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school,

“(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority,

“(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally underrepresented in colleges and universities, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of individuals of that group in any community, State, section, or other area,

“(4) assure that consideration in awarding fellowships under this part is given (A) to individuals who have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies, or (B) to individuals with varied backgrounds and experiences who have acquired such backgrounds and experiences in other than academic settings,

“(5) seek to achieve a reasonably equitable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollments in institutions of higher education and population.

“(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

“FELLOWSHIP STIPENDS

“SEC. 924. (a) The Commissioner shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs. 20 USC 1134g.

“(b) The Commissioner shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and col-

lected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

“FELLOWSHIP CONDITIONS

20 USC 1134h.

“SEC. 925. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 924 only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

“(b) The Commissioner is authorized to require reports containing such information in such form and to file at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.”

20 USC 1134i.

(c) (1) Section 941 of the Act is amended to read as follows:

“AWARD OF PUBLIC SERVICE FELLOWSHIPS

“SEC. 941. (a) During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1979, the Commissioner is authorized to award not to exceed five hundred fellowships in accordance with the provisions of this part for graduate or professional study for persons who plan to pursue a career in public service. Such fellowships shall be awarded for such periods as the Commissioner may determine, but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such a twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

“(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

“(c) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's

academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipend, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part."

Appropriation
authorization.
20 USC 1134j.

(2) Section 942 of the Act is amended by striking out the "and" at the end of clause (1), by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "and" and by inserting at the end thereof the following new clauses:

"(3) attract persons other than recent college graduates to pursue a career in public service; and

"(4) provide additional training for individuals who by past activities, occupation, or training have demonstrated a commitment to a career in public service."

(3) (A) Section 943(4) (A) of the Act is amended by inserting after "enter" the following: "or continue in". 20 USC 1134k.

(B) Section 943(4) (B) of the Act is amended by inserting after the word "enter" the following: "or continue in".

(4) Section 944(b) of the Act is amended by inserting before the period at the end thereof a comma and the following: "except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection." 20 USC 1134l.

(d) (1) Section 961(b) (1) of the Act is amended by striking out "two" and by inserting after "fiscal years" the following: "ending prior to October 1, 1979". 20 USC 1134n.

(2) The third sentence of section 961(c) is amended by striking out "to exceed 3 years" and inserting in lieu thereof the following: "in excess of thirty-six months, except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six-month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such a twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient".

(3) Section 961 of the Act is amended by adding at the end thereof the following new subsection:

"(d) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award."

(4) Section 963 of the Act is amended to read as follows:

20 USC 1134p.

"STIPENDS AND INSTITUTIONS OF HIGHER EDUCATION ALLOWANCES

"SEC. 963. (a) The Commissioner shall pay to persons awarded fellowships under this part such stipends (including such allowances for

subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

“(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.”.

20 USC 1134r-1. (5) Section 966 of the Act is amended by striking out “July 1, 1978” and inserting in lieu thereof “October 1, 1979”.

(e) Title IX of the Act is amended by inserting after part D the following new part:

“PART E—ANNUAL FELLOWSHIP REPORT

“REPORT ON GRADUATE FELLOWSHIPS AND ASSISTANCE

20 USC 1134r-2. “SEC. 971. (a) Within one hundred and twenty days after the end of each fiscal year during which grants or fellowships are awarded under the provisions of this title the Commissioner shall prepare and submit to the Congress a report which—

“(1) specifies the authority for and amount of each grant or fellowship so awarded;

“(2) identifies the institutions which received such grants; and

“(3) identifies the institutions which students receiving such fellowships attended.

“(b) Each report required by this section shall contain an evaluation which—

“(1) examines the extent to which grants or fellowships awarded under this title emphasized studies relating to—

“(A) innovation in the field of graduate education;

“(B) emerging fields of knowledge;

“(C) areas of overriding national concern; or

“(D) the education and employment of personnel in areas which the Commissioner finds to be of special need; and

“(2) examines the extent to which grants and fellowships awarded under this title made substantial progress toward achieving the purposes of the various parts of this title under which they were awarded.”.

LAW SCHOOL CLINICAL ASSISTANCE PROGRAM

20 USC 1136b. SEC. 172. Section 1103 of the Act is amended by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1979”.

PART I—COMMUNITY COLLEGES AND STATE POSTSECONDARY PLANNING

EXTENSION AND REVISION OF TITLE X

SEC. 176. (a) (1) The heading of title X of the Act is amended to read as follows:

**“TITLE X—ESTABLISHMENT AND EXPANSION
OF COMMUNITY COLLEGES”.**

(2) Such title is amended by striking out

“PART A—ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLEGES

“Subpart 1—Statewide Plans”

and inserting in lieu thereof:

“PART A—STATEWIDE PLANS”.

(3) Section 1001(a) of the Act is amended by striking out “subpart” and inserting in lieu thereof “part”. 20 USC 1135.

(4) Section 1001(b) (1) of the Act is amended to read as follows: Appropriation authorization.
 “(b) (1) There are authorized to be appropriated \$15,700,000 for each of the fiscal years ending prior to October 1, 1979, to carry out the provisions of this section.”

(5) Section 1001 of the Act is further amended by striking the last sentence of subsection (c) and inserting in lieu thereof: “The Commissioner shall not disapprove any plan unless he determines, after reasonable notice and opportunity for hearing and comment, that it is inconsistent with the requirements set forth in this section.”

(b) (1) Such title is further amended by striking out “Subpart 2” in the heading following section 1001 and inserting in lieu thereof “Part B”.

(2) (A) Section 1011(a) of the Act is amended by striking out “subpart” and inserting in lieu thereof “part”. 20 USC 1135a.

(B) Section 1011(b) of the Act is amended to read as follows: Appropriation authorization.
 “(b) For the purpose of carrying out this part, there are authorized to be appropriated \$150,000,000 for each of the fiscal years ending prior to October 1, 1979.”

(3) Section 1012(b) of the Act is amended by striking out “subpart” and inserting in lieu thereof “part”. 20 USC 1135a-1.

(c) Part B of title X of the Act as in effect prior to the amendments made by subsection (b) of this section is repealed. Repeal.
 20 USC

(d) The amendments made by paragraphs (1), (2), (3) of subsection (a), paragraphs (1), 2(A), (3) of subsection (b), and subsection (c) shall take effect on September 30, 1977. 1135b-1135b-9.
 Effective date.
 20 USC 1135
 note.

EXPANSION GRANTS

SEC. 177. Section 1014 of the Act is amended to read as follows: 20 USC
 1135a-3.

“EXPANSION GRANTS

“SEC. 1014. (a) The Commissioner is authorized to make grants, consistent with the terms of the appropriate State plan approved under section 1001, to existing community colleges to enable them to carry out the provisions of subsections (b) and (c) of this section. Of the funds appropriated for subpart 2 of this part, the Commissioner shall make grants pursuant to subsection (b), before making grants under any other subsection or section of this subpart, until such time as he determines all approved requests relating to subsection (b) have been funded.

“(b) The Commissioner is authorized to make grants to eligible institutions to assist them in modifying their educational programs and instructional delivery systems to provide educational programs

especially suited to those persons whose educational needs have been inadequately served, especially those among the handicapped, older persons, persons who can attend only part-time, and persons who otherwise would be unlikely to continue their education beyond the high school. Such programs may include, but are not limited to, methods designed to eliminate such barriers to student access as inflexible course schedules, location of instructional programs, and inadequate transportation.

“(c) The Commissioner is also authorized to make grants to eligible institutions to assist them in expanding their enrollment capacity or in establishing new educational sites as documented in the State plan. Any grants related to facilities may only be made to institutions which have provided the Commissioner with such assurances as he requires that they have first explored the possibilities of using existing facilities on the campus of the applying institution, existing facilities in the community which are suitable and available for educational programs without unreasonable cost to the institution, and explored the willingness of other institutions within a reasonable commuting distance to provide educational programs, or space or other components of an educational delivery system, through contract or other agreement with the institution.”.

REVISION OF DEFINITION OF COMMUNITY COLLEGE

20 USC
1135a-7.

SEC. 178. Paragraphs (2) and (3) of section 1018 of the Act are amended to read as follows:

“(2) admits as regular students persons who are high school graduates or the equivalent, or beyond the age of compulsory school attendance;

“(3) provides a postsecondary education program leading to an associate degree or acceptable for credit toward a bachelor's degree;”.

AUTHORIZATION FOR STATEWIDE PLANNING

20 USC 1142b.

SEC. 179. (a) Section 1203 of the Act is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

Grants.

“(c) The Commissioner is authorized to make grants to State commissions established pursuant to section 1202(a), and to interstate compact postsecondary educational agencies approved by the Commissioner for the purpose of this subsection, applying jointly for the purpose of this subsection, to enable the participating commissions to plan, develop, and carry out interstate cooperative postsecondary education projects designed to increase the accessibility of postsecondary educational opportunities for the residents of the participating States and to assist such States to carry out postsecondary education programs in a more effective and economical manner.”.

(b) Section 1203(d) of the Act (as redesignated by this section) is amended to read as follows:

“(d) (1) There are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1979, to carry out the provisions of this section other than subsection (c) of this section.

“(2) There are authorized to be appropriated \$2,000,000 for each fiscal year ending prior to October 1, 1979, to carry out the provisions of subsection (c) of this section.”.

PART J—GENERAL PROVISIONS

DEFINITIONS

SEC. 181. Section 1201(a) of the Act is amended by inserting immediately after the second sentence the following new sentence: "Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution."

20 USC 1141.

ANTIDISCRIMINATION AMENDMENT

SEC. 182. Title XII of the Act is amended by adding at the end thereof the following new sections:

"ANTIDISCRIMINATION

"SEC. 1207. Institutions of higher education receiving Federal financial assistance may not use such financial assistance whether directly or indirectly to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except no institution shall be barred from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or have its curriculum restricted on the subject of discrimination, against any such person."

20 USC 1145b.

FUNDING REQUIREMENT

SEC. 183. Title XII of the Act is amended by adding at the end thereof (after the section added by section 182) the following new section:

"FUNDING REQUIREMENT

"SEC. 1208. (a) Except as provided in subsection (b)—

20 USC 1145c.

"(1) if the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1978 equals or exceeds an amount equal to the greater of—

20 USC 1070a,
1070b;
42 USC 2751;
20 USC 1087aa.

"(A) \$2,800,000,000; or

"(B) the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1977,

no payments, awards, or grants may be made from the portion of the funds appropriated therefor in excess of such amount unless the sum of the appropriations available for carrying out title I, part C of title VII, and title X equals or exceeds 50 per centum of such amount; and

20 USC 1001,
1132c, 1135.

"(2) if the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1979 equals or exceeds an amount equal to the greater of—

"(A) \$3,100,000,000; or

"(B) the sum of the appropriations available for carrying out subparts 1 and 2 of part A, and parts C and E, of title IV in fiscal year 1978,

no payments, awards, or grants may be made from the portion of the funds appropriated therefor in excess of such amount unless the sum of the appropriations available for carrying out title I, part C of title VII, and title X equals or exceeds 50 per centum of such amount.

20 USC 1001,
1132c, 1135.

“(b) The provisions of subsection (a) shall not be effective for any fiscal year in which the sum of the appropriations available for carrying out title I, part C of title VII, and title X equals or exceeds \$215,000,000.

20 USC 1226a.

“(c) The provisions of section 414 of the General Education Provision Act shall not apply to the provisions of this section.”.

TITLE II—VOCATIONAL EDUCATION

EXTENSION OF CERTAIN VOCATIONAL EDUCATION PROGRAMS

SEC. 201. (a) Section 102(a) of the Vocational Education Act of 1963 is amended by striking out the first sentence and inserting in lieu thereof: “There are authorized to be appropriated \$500,000,000 for the fiscal year ending September 30, 1977, for the purposes of carrying out parts B and C of this title.”.

20 USC 1242.

(b) Section 102(b) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: “There are also authorized to be appropriated \$30,000,000 for each fiscal year ending prior to October 1, 1977 for the purpose of section 122(a) (4) (A).”.

20 USC 1262.

(c) The first sentence of section 102(c) of the Vocational Education Act of 1963 is amended by inserting immediately after “1975,” the following: “and \$40,000,000 for the fiscal year ending September 30, 1977.”.

20 USC 1243.

(d) Section 103(d) (2) is amended by striking out the first sentence and inserting in lieu thereof the following: “The allotment ratios shall be promulgated by the Commissioner for each fiscal year between October 1 and December 31 of the preceding fiscal year.”.

20 USC 1244.

(e) Section 104(a) (4) of such Act is amended by striking out “five” and inserting in lieu thereof “seven”.

(f) Section 104(a) (5) of such Act is amended by striking out “1976” and inserting in lieu thereof “1977”.

20 USC 1302.

(g) Section 142(a) of such Act is amended by striking out “and” after “1970,” by striking out “five” and inserting in lieu thereof “six”, and by inserting immediately after “succeeding fiscal years” the following: “, and \$20,000,000 for the fiscal year ending September 30, 1977.”.

20 USC 1321.

(h) Section 151(b) of such Act is amended by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1976”.

20 USC 1322.

(i) Section 152(a) (1) of such Act is amended by striking out “July 1, 1975,” and inserting in lieu thereof “October 1, 1976”.

20 USC 1323.

(j) Section 153(d) (2) of such Act is amended by striking out that part thereof which follows “not exceed \$5,000,000” and inserting in lieu thereof the following: “for fiscal year 1976.”.

20 USC 1341.

(k) The first sentence of section 161(a) (1) of such Act is amended by striking out “and” after “\$35,000,000”, by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1976”, and by inserting immediately after “\$50,000,000,” the following: “and for the fiscal year ending September 30, 1977, \$45,000,000.”.

(l) The first sentence of section 161(c) of such Act is amended by striking out “five” and inserting in lieu thereof “seven”.

(m) Section 172(a) of such Act is amended by striking out “and” after “\$50,000,000,” by striking out “July 1, 1975” and inserting in lieu thereof “October 1, 1976”, and by inserting immediately after “\$75,000,000,” the following: “and for the fiscal year ending September 30, 1977, \$25,000,000.” 20 USC 1352.

(n) Section 181(a) of such Act is amended by striking out “July 1, 1975,” and inserting in lieu thereof “October 1, 1976, and \$15,000,000 for the fiscal year ending September 30, 1977, for”. 20 USC 1371.

(o) Section 189(b) of such Act is amended by striking out “and” after “1969,” by striking out “July 1, 1975,” and inserting in lieu thereof “October 1, 1976, and \$5,000,000 for the fiscal year ending September 30, 1977.”. 20 USC 1391.

(p) Section 193 of such Act is amended by striking out “for the fiscal year ending June 30, 1975” and inserting in lieu thereof “for each of the fiscal years ending prior to October 1, 1976, and \$10,000,000 for the fiscal year ending September 30, 1977.”. 20 USC 1393b.

(q) Part F of title V of the Higher Education Act of 1965 is amended by adding at the end thereof a new section to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 555. There are authorized to be appropriated for the purposes of carrying out this part \$25,000,000 for each of the fiscal years ending prior to October 1, 1977.”. 20 USC 1119c-4.

REVISION OF THE VOCATIONAL EDUCATION ACT OF 1963

SEC. 202. (a) The Vocational Education Act of 1963 is amended to read as follows:

“TITLE I—VOCATIONAL EDUCATION

“PART A—STATE VOCATIONAL EDUCATION PROGRAMS

“DECLARATION OF PURPOSE

“SEC. 101. It is the purpose of this part to assist States in improving planning in the use of all resources available to them for vocational education and manpower training by involving a wide range of agencies and individuals concerned with education and training within the State in the development of the vocational education plans. It is also the purpose of this part to authorize Federal grants to States to assist them— 20 USC 2301.

“(1) to extend, improve, and, where necessary, maintain existing programs of vocational education,

“(2) to develop new programs of vocational education,

“(3) to develop and carry out such programs of vocational education within each State so as to overcome sex discrimination and sex stereotyping in vocational education programs (including programs of homemaking), and thereby furnish equal educational opportunities in vocational education to persons of both sexes, and

“(4) to provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis,

so that persons of all ages in all communities of the State, those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market, but need to upgrade their skills or

learn new ones, those with special educational handicaps, and those in postsecondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

“Subpart 1—General Provisions

“AUTHORIZATION OF APPROPRIATIONS

20 USC 2302.

“SEC. 102. (a) There are authorized to be appropriated \$880,000,000 for fiscal year 1978, \$1,030,000,000 for fiscal year 1979, \$1,180,000,000 for fiscal year 1980, \$1,325,000 for fiscal year 1981, and \$1,485,000 for fiscal year 1982, for the purpose of carrying out subparts 2 and 3 of this part.

“(b) There are also authorized to be appropriated \$35,000,000 for fiscal year 1978, \$40,000,000 for fiscal year 1979, \$45,000,000 for fiscal year 1980, \$50,000,000 for fiscal year 1981, and \$50,000,000 for fiscal year 1982, for the purpose of carrying out subpart 4 of this part.

“(c) There are also authorized to be appropriated \$55,000,000 for fiscal year 1978, \$65,000,000 for fiscal year 1979, \$75,000,000 for fiscal year 1980, \$80,000,000 for fiscal year 1981, and \$80,000,000 for fiscal year 1982 for the purpose of carrying out subpart 5 of this part.

“(d) There are also authorized to be appropriated \$25,000,000 for fiscal year 1978 and for each fiscal year ending prior to October 1, 1982, for the purpose of assisting States in—

“(1) preparing the five-year plans required under section 107;

“(2) preparing the annual program plans and accountability reports, including the collection of necessary data, required to be submitted under section 108;

“(3) conducting the evaluations required by section 112; and

“(4) State administration of vocational education programs assisted under this act.

“ALLOTMENTS AMONG STATES

20 USC 2303.

“SEC. 103. (a) (1) (A) Subject to the provisions of subsection (d) of this section, from the sums appropriated pursuant to section 102(a), the Commissioner shall first reserve an amount equal to 5 per centum of such sums. From the amount so reserved, the Commissioner shall transfer an amount, not to be less than \$3,000,000 but not to exceed \$5,000,000 in any fiscal year, to the National Occupational Information Coordinating Committee established pursuant to section 161 and the remainder of the amount so reserved shall be used by the Commissioner for programs of national significance under subpart 2 of part B.

“(B) (i) From the remainder of the sums appropriated pursuant to section 102(a), the Commissioner is authorized to reserve for purposes of this subparagraph an amount approximately equivalent to the same percentage of that appropriation as the population aged fifteen to twenty-four, inclusive, which is eligible to receive educational benefits as Indians from the Bureau of Indian Affairs is to the total population of all the States aged fifteen to twenty-four, inclusive, except that such amount shall not exceed 1 per centum of such remaining appropriation.

“Act of April 16, 1934.”

“(ii) For purposes of this subparagraph, the term ‘Act of April 16, 1934’ means the Act entitled ‘An Act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and

for other purposes', enacted April 16, 1934 (48 Stat. 596; 25 U.S.C. 452-457).

"(iii) The Commissioner is directed, upon the request of any Indian tribe which has contracted with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, to enter into a contract or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the purposes of this Act, except that such contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence. From any remaining funds reserved pursuant to division (i) of this subparagraph (B), the Commissioner is authorized to enter into an agreement with the Commissioner of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians described in division (i) of this subparagraph (B), and the Secretary of the Interior is authorized to receive these funds for that purpose. For the purposes of this Act, the Bureau of Indian Affairs shall be deemed to be a State board; and all the provisions of this Act shall be applicable to the Bureau as if it were a State board.

25 USC 450f
note.

25 USC
455-457.

"(2) From the remainder of the sums appropriated pursuant to section 102(a) and from all of the sums appropriated pursuant to sections 102 (b), (c), and (d), the Commissioner shall allot to each State for each fiscal year—

"(A) an amount which bears the same ratio to 50 per centum of the sums being allotted as the product of the population aged fifteen to nineteen, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(B) an amount which bears the same ratio to 20 per centum of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

"(C) an amount which bears the same ratio to 15 per centum of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

"(D) an amount which bears the same ratio to 15 per centum of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

"(b)(1) The amount of any State's allotment under subsection (a) for any fiscal year which is less than \$200,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under such subsection, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from being thereby reduced to less than that amount.

"(2) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year for carrying out the program for which such amount has been allotted shall be available, from time to time, for reallocation, on such dates during such year as the Commissioner shall fix, on the basis of criteria established by regulation, among other States, except that funds appropriated under section 102(b) may only be reallocated for the use set forth in section 140. Any amount reallocated to a State under this subsection for any fiscal year shall remain available for obligation during the next succeeding fiscal year and shall be deemed to be part of its allotment for the year in which it is obligated.

"(c)(1) The allotment ratio for any State shall be 1.00 less the product of—

"(A) 0.50; and

"(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40, and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be 0.60.

"(2) The allotment ratios shall be promulgated by the Commissioner for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available.

"Per capita income."

"(3) The term 'per capita income' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

"(4) For the purposes of this section, population shall be determined by the Commissioner on the basis of the latest estimates available to him.

"(d) The amount of any State's allotment under this section from appropriations provided under section 102, for any fiscal year shall not be less than the total amount of payments made to the State under allotments determined under this Act for the fiscal year ending June 30, 1976.

"(e) From the sums allotted to a State under this section from appropriations made under section 102(a), 80 per centum of such sums shall be available to each State for the purpose of carrying out subpart 2 of this part and 20 per centum shall be available for the purpose of carrying out subpart 3 of this part.

"STATE ADMINISTRATION

20 USC 2304.

"Sec. 104. (a) (1) Any State desiring to participate in the programs authorized by this Act shall, consistent with State law, designate or establish a State board or agency (hereinafter in this Act referred to as the 'State board') which shall be the sole State agency responsible for the administration, or for the supervision of the administration, of such programs. The responsibilities of the State board shall include—

"(A) the coordination of the development of policy with respect to such programs;

“(B) the coordination of the development, and the actual submission to the Commissioner, of the five-year State plan required by section 107 and of the annual program plan and accountability report required by section 108; and

“(C) the consultation with the State advisory council on vocational education and other appropriate State agencies, councils, and individuals involved in the planning and reporting as required by sections 107 and 108.

Except with respect to those functions set forth in the preceding sentence, the State board may delegate any of its other responsibilities involving administration, operation, or supervision, in whole or in part, to one or more appropriate State agencies.

“(2) Each State board shall certify to the Commissioner, as part of its annual program plan and accountability report submitted pursuant to section 108, any delegation of its responsibilities for administration, operation, or supervision of vocational education programs under this Act to other appropriate State agencies, setting forth the specific responsibility delegated and the specific agency involved.

“(3) Each State board shall also certify to the Commissioner, as part of its five-year plan and as part of its annual program plan and accountability report, that each of the agencies, councils, and individuals required to be involved in formulating the five-year plan and the annual plan and report have been afforded the opportunity to be involved in accordance with the provisions of this Act.

“(b) (1) Any State desiring to participate in the programs authorized by this Act shall also assign such full-time personnel as may be necessary to assist the State board in fulfilling the purposes of this Act by—

“(A) taking such action as may be necessary to create awareness of programs and activities in vocational education that are designed to reduce sex stereotyping in all vocational education programs;

“(B) gathering, analyzing, and disseminating data on the status of men and women, students and employees in the vocational education programs of that State;

“(C) developing and supporting actions to correct any problems brought to the attention of such personnel through activities carried out under clause (B) of this sentence;

“(D) reviewing the distribution of grants by the State board to assure that the interests and needs of women are addressed in the projects assisted under this Act;

“(E) reviewing all vocational education programs in the State for sex bias;

“(F) monitoring the implementation of laws prohibiting sex discrimination in all hiring, firing, and promotion procedures within the State relating to vocational education;

“(G) reviewing and submitting recommendations with respect to the overcoming of sex stereotyping and sex bias in vocational education programs for the annual program plan and report;

“(H) assisting local educational agencies and other interested parties in the State in improving vocational education opportunities for women; and

“(I) making readily available to the State board, the State and National Advisory Councils on Vocational Education, the State Commission on the Status of Women, the Commissioner and the general public, information developed pursuant to this subsection.

“(2) From the funds appropriated to carry out subpart 2, each State shall reserve \$50,000 in each fiscal year to carry out this subsection.

“State.”

“(3) For the purpose of this subsection, the term ‘State’ means any one of the fifty States and the District of Columbia.

“STATE AND LOCAL ADVISORY COUNCILS

20 USC 2305.

“SEC. 105. (a) Any State which desires to participate in programs under this Act for any fiscal year shall establish a State advisory council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Members of each State advisory council shall be appointed for terms of three years except that (1) in the case of the members appointed for fiscal year 1978, one-third of the membership shall be appointed for terms of one year each and one-third shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be for such terms as remain unexpired. Each State advisory council shall have as a majority of its members persons who are not educators or administrators in the field of education and shall include as members one or more individuals who—

“(1) represent, and are familiar with, the vocational needs and problems of management in the State;

“(2) represent, and are familiar with, the vocational needs and problems of labor in the State;

“(3) represent, and are familiar with, the vocational needs and problems of agriculture in the State;

“(4) represent State industrial and economic development agencies;

“(5) represent community and junior colleges;

“(6) represent other institutions of higher education, area vocational schools, technical institutes, and postsecondary agencies or institutions which provide programs of vocational or technical education and training;

“(7) have special knowledge, experience, or qualifications with respect to vocational education but are not involved in the administration of State or local vocational education programs;

“(8) represent, and are familiar with, public programs of vocational education in comprehensive secondary schools;

“(9) represent, and are familiar with, nonprofit private schools;

“(10) represent, and are familiar with, vocational guidance and counseling services;

“(11) represent State correctional institutions;

“(12) are vocational education teachers presently teaching in local educational agencies;

“(13) are currently serving as superintendents or other administrators of local educational agencies;

“(14) are currently serving on local school boards;

“(15) represent the State Manpower Services Council established pursuant to section 107 of the Comprehensive Employment and Training Act of 1973;

“(16) represent school systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

“(17) are women with backgrounds and experiences in employment and training programs, and who are knowledgeable with respect to the special experiences and problems of sex discrimination in job training and employment and of sex stereotyping in vocational education, including women who are members of minority groups and who have, in addition to such backgrounds and

29 USC 817.

experiences, special knowledge of the problems of discrimination in job training and employment against women who are members of such groups;

“(18) have special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons;

“(19) represent the general public, including a person or persons representing and knowledgeable about the poor and disadvantaged; and

“(20) are vocational education students who are not qualified for membership under any of the preceding clauses of this paragraph.

Members of the State advisory council may not represent more than one of the above-specified categories. In appointing the State advisory council the Governor or the State board of education, as the case may be, shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the State.

“(b) Not less than ninety days prior to the beginning of any fiscal year in which a State desires to receive a grant under this Act, the State shall certify the establishment of, and membership of, its State advisory council to the Commissioner.

“(c) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and shall select from among its membership a Chairman. The time, place, and manner of meeting, as well as council operating procedures and staffing, shall be as provided by the rules of the State advisory council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

“(d) (1) Each State advisory council shall advise the State board in the development of the five-year State plan submitted under section 107 and the annual program plan and accountability report submitted under section 108 and shall advise the State board on policy matters arising out of the administration of programs under such plans and reports.

“(2) Each state advisory council shall also evaluate vocational education programs, services, and activities assisted under this Act, and publish and distribute the results thereof.

“(3) Each State advisory council shall prepare and submit to the Commissioner and to the National Advisory Council created under section 162, through the State board, an annual evaluation report, accompanied by such additional comments of the State board as the State board deems appropriate, which (A) evaluates the effectiveness of vocational education programs, services, and activities carried out in the year under review in meeting the program goals set forth in the five-year State plan submitted under section 107 and the annual program plan and accountability report submitted under section 108, including a consideration of the program evaluation reports developed by the State pursuant to section 112 and of the analysis of the distribution of Federal funds within the State submitted by the State board pursuant to section 108, and (B) recommends such changes in such programs, services, and activities as may be deemed necessary.

“(4) (A) Each State advisory council shall identify, after consultation with the State Manpower Services Council, the vocational education and employment and training needs of the State and assess the extent to which vocational education, employment training, voca-

Evaluation
report.
Post, p. 2199.

tional rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the State Manpower Services Council, which comments shall be included in the annual report submitted by the State advisory council pursuant to this section and in the annual report submitted by the State council pursuant to section 107 of the Comprehensive Employment and Training Act of 1973.

29 USC 817.

“(e) Each State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under this Act and to contract for such services as may be necessary to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

Appropriation authorization.

“(f) (1) There are hereby authorized to be appropriated \$8,000,000 for fiscal year 1978, \$8,500,000 for fiscal year 1979, \$9,000,000 for fiscal year 1980, \$10,000,000 for fiscal year 1981, and \$8,000,000 for fiscal year 1982, for the purpose of making grants to State advisory councils to carry out the functions specified in this section. From the sums appropriated pursuant to this subsection, the Commissioner shall, subject to the provisions of the following sentence, make grants to State advisory councils to carry out the functions specified in this section, and shall pay to each State advisory council an amount equal to the reasonable amounts expended by it in carrying out its functions under this Act in such fiscal year, except that no State advisory council shall receive an amount to exceed \$200,000 or an amount less than \$75,000. In the case of Guam, American Samoa, and the Trust Territory of the Pacific Islands, the Commissioner may pay the State advisory council in each such jurisdiction an amount less than the minimum specified in the preceding sentence if he determines that the council can perform its functions with a lesser amount.

“(2) The expenditure of these funds is to be determined solely by the State advisory council for carrying out its functions under this Act, and may not be diverted or reprogramed for any other purpose by any State board, agency or individual. Each council shall designate an appropriate State agency or other public agency, eligible to receive funds under this Act, to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

Local advisory councils.

“(g) (1) Each eligible recipient receiving assistance under this Act to operate vocational education programs shall establish a local advisory council to provide such agency with advice on current job needs and on the relevancy of courses being offered by such agency in meeting such needs. Such local advisory councils shall be composed of members of the general public, especially of representatives of business, industry, and labor; and such local advisory councils may be established for program areas, schools, communities, or regions, whichever the recipient determines best to meet the needs of that recipient.

“(2) Each State board shall notify eligible recipients within the State of the responsibilities of such recipients under the provisions of paragraph (1); and each State advisory council shall make available to such recipients and the local advisory councils of such recipients such technical assistance as such recipients may request to establish and operate such councils.

“GENERAL APPLICATION

20 USC 2306.

“Sec. 106. (a) Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this Act shall, through its

State board, submit to, and maintain on file with, the Commissioner a general application providing assurances—

“(1) that the State will provide for such methods of administration as are necessary for the proper and efficient administration of the Act;

“(2) that the State board will cooperate with the State advisory council on vocational education in carrying out its duties pursuant to section 105 and with the agencies, councils, and individuals specified in sections 107 and 108 to be involved in the formulation of the five-year State plan and of the annual program plans and accountability reports;

“(3) that the State will comply with any requests of the Commissioner for making such reports as the Commissioner may reasonably require to carry out his functions under this Act;

“(4) that funds will be distributed to eligible recipients on the basis of annual applications which—

“(A) have been developed in consultation (i) with representatives of the educational and training resources available in the area to be served by the applicant and (ii) with the local advisory council required to be established by this Act to assist such recipients,

“(B) (i) describe the vocational education needs of potential students in the area or community served by the applicant and indicate how, and to what extent, the program proposed in the application will meet such needs, and (ii) describe how the findings of any evaluations of programs operated by such applicant during previous years, including those required by this Act, have been used to develop the program proposed in the application,

“(C) describe how the activities proposed in the application relate to manpower programs conducted in the area by a prime sponsor established under the Comprehensive Employment and Training Act of 1973, if any, to assure a coordinated approach to meeting the vocational education and training needs of the area or community, and

29 USC 801 note.

“(D) describe the relationship between vocational education programs proposed to be conducted with funds under this Act and other programs in the area or community which are supported by State and local funds;

and that any eligible recipient dissatisfied with final action with respect to any application for funds under this Act shall be given reasonable notice and opportunity for a hearing;

“(5) (A) that the State shall, in considering the approval of such applications, give priority to those applicants which—

“(i) are located in economically depressed areas and areas with high rates of unemployment, and are unable to provide the resources necessary to meet the vocational education needs of those areas without Federal assistance, and

“(ii) propose programs which are new to the area to be served and which are designed to meet new and emerging manpower needs and job opportunities in the area and, where relevant, in the State and the Nation; and

“(B) that the State shall, in determining the amount of funds available under this Act which shall be made available to those applicants approved for funding, base such distribution on economic, social and demographic factors relating to the need for

vocational education among the various populations and the various areas of the State, except that—

“(i) the State will use as the two most important factors in determining this distribution (I) in the case of local educational agencies, the relative financial ability of such agencies to provide the resources necessary to meet the need for vocational education in the areas they service and the relative number or concentration of low-income families or individuals within such agencies, and (II) in the case of other eligible recipients, the relative financial ability of such recipients to provide the resources necessary to initiate or maintain vocational education programs to meet the needs of their students and the relative number or concentration of students whom they serve whose education imposes higher than average costs, such as handicapped students, students from low-income families, and students from families in which English is not the dominant language; and

“(ii) the State will not allocate such funds among eligible recipients within the State on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis, or deny funds to any recipient which is making a reasonable tax effort solely because such recipient is unable to pay the non-Federal share of the cost of new programs;

“(6) that Federal funds made available under this Act will be so used as to supplement, and to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the Act, and in no case supplant such State or local funds;

“(7) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act);

“(8) that funds received under this Act will not be used for any program of vocational education (except personnel training programs under section 135, renovation programs under subpart 4 of part B, and homemaking programs under subpart 5 of this part which cannot be demonstrated to prepare students for employment, be necessary to prepare individuals for successful completion of such a program, or be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation;

“(9) that the State has instituted policies and procedures to insure that copies of the State plan and annual program plan and accountability report and all statements of general policies, rules, regulations, and procedures issued by the State board and by any State agencies to which any responsibility is delegated by the State board concerning the administration of such plan and report will be made reasonably available to the public; and

“(10) that the funds used for purposes of section 110(a) are consistent with the State plan submitted pursuant to section 613 (a) of the Education of the Handicapped Act.

“(b) Such general application shall be considered to be the general application required to be submitted by the State for funds received under the Vocational Education Act of 1963 under the provisions of subsection (b) of section 434 of the General Education Provisions Act.

"FIVE-YEAR STATE PLANS"

"SEC. 107. (a) (1) Any State desiring to receive funds under this Act shall submit to the Commissioner, during fiscal year 1977 and during each fifth fiscal year occurring thereafter, a State plan for vocational education for the five fiscal years succeeding each such fiscal year. In formulating this plan, the State board shall involve the active participation of— 20 USC 2307.

"(A) a representative of the State agency having responsibility for secondary vocational education programs, designated by that agency;

"(B) a representative of the State agency, if such separate agency exists, having responsibility for postsecondary vocational education programs, designated by that agency;

"(C) a representative of the State agency, if such separate agency exists, having responsibility for community and junior colleges, designated by that agency;

"(D) a representative of the State agency, if such separate agency exists, having responsibility for institutions of higher education in the State, designated by that agency;

"(E) a representative of a local school board or committee, as determined by State law;

"(F) a representative of vocational education teachers, as determined by State law;

"(G) a representative of local school administrators, as determined by State law;

"(H) a representative of the State Manpower Services Council appointed pursuant to section 107(a)(2)(A)(i) of the Comprehensive Employment and Training Act of 1973, designated by that council; 29 USC 817.

"(I) a representative of the State agency or commission responsible for comprehensive planning in postsecondary education, which planning reflects programs offered by public, private non-profit and proprietary institutions, and includes occupational programs at a less-than-baccalaureate degree level, if such separate agency or commission exists, designated by that agency or commission; and

"(J) a representative of the State advisory council on vocational education, designated by that council.

This participation shall include at least four meetings during the planning year between representatives of the State board and representatives of all of these agencies, councils, and individuals, meeting as a group. The first of these meetings shall be before the plan is developed; the second meeting shall be to consider the first draft of the plan; the third meeting shall be to consider the draft of the plan rewritten to reflect the results of the second meeting; and the fourth meeting shall be to approve the final plan. If these agencies, councils, and individuals, and the State board are not able to agree upon the provisions of the State plan, the State board shall have the responsibility for reaching a final decision on those provisions; but the State board shall include in the plan (a) the recommendations rejected by the board, (b) the agency, council, or individual making each such recommendation, and (c) the reasons of the State board for rejecting these recommendations. Any agency or council described above which is dissatisfied with any final decision of the State board may appeal the board's decision to the Commissioner. In such a case the Commissioner shall afford such agency or council and the State board reasonable notice and opportunity for a hearing and shall determine whether

the State board's decision is supported by substantial evidence, as shown in the State plan, and will best carry out the purposes of the Act. Any agency or State board dissatisfied with a final action of the Commissioner under this subsection may appeal to the United States Court of Appeals for the circuit in which the State is located in accordance with the procedure specified in section 434(d) (2) of the General Education Provisions Act.

20 USC 1233c.

"(2) The State board shall, during the years in which it formulates any five-year plan required under this section, conduct a series of public hearings, after giving sufficient public notice, throughout all regions of the State in order to permit all segments of the population to give their views on the goals which ought to be adopted in the State plan, including the courses to be offered, the allocations of responsibility for these courses among the various levels of education and among the various institutions of the States, and the allocations of local, State, and Federal resources to meet those goals. These views shall be included in the final State plan with a description of how such views are reflected in the plan; and if particular views are not reflected, then the plan shall set out the reasons for rejecting them.

Submittal to
Commissioner.

"(b) The five-year State plans shall be submitted to the Commissioner by the July 1st preceding the beginning of the first fiscal year for which such plan is to take effect and shall—

"(1) assess the current and future needs for job skills within the State and, where appropriate, within the pertinent region of the country, through consideration of the latest available data of present and projected employment, including the data available under section 161;

"(2) set out explicitly the goals the State will seek to achieve by the end of the five-year period of the State plan in meeting the need for particular job skills identified through the assessment undertaken in accordance with paragraph (1), including (A) a description of these goals in terms of—

"(i) the courses and other training opportunities to be offered to achieve those skills,

"(ii) the projected enrollments of those courses and other training opportunities,

"(iii) the allocations of responsibility for the offering of those courses and training opportunities among the various levels of education and among the various institutions of the State, and

"(iv) the allocations of all local, State, and Federal financial resources available in the State among these courses and training opportunities, levels of education, and institutions within the State,

and (B) the reasons for choosing these courses and training opportunities, enrollments, allocations of responsibilities, and allocations of resources;

"(3) (A) set out explicitly the planned uses of Federal, State, and local vocational education funds for each fiscal year of the State plan and show how these uses will enable the State to achieve these goals, including (i) a description of these uses of funds in terms of the elements listed in clauses (2) (A) (i) through (2) (A) (iv) above, and (ii) the reasons for choosing these particular uses, except that the State will continue to use approximately the same amount of its State grant under subpart 2 of this part for programs in secondary schools during fiscal years 1978 and 1979 as it had used during fiscal years 1975 and 1976 unless the State is

able to demonstrate in its five-year plan the need to shift funds from such use;

“(B) (i) set out explicitly the uses which the State intends to make of the funds available to it under this Act, as those uses are set out in sections 120, 130, 140, and 150, and set out the reasons for choosing such uses; and (ii) set out explicitly the uses which the State intends to make of these funds to meet the special needs of handicapped and disadvantaged persons and persons who have limited English-speaking ability;

“(4) (A) set forth policies and procedures which the State will follow so as to assure equal access to vocational education programs by both women and men including—

“(i) a detailed description of such policies and procedures,

“(ii) actions to be taken to overcome sex discrimination and sex stereotyping in all State and local vocational education programs, and

“(iii) incentives, to be provided to eligible recipients so that such recipients will—

“(I) encourage the enrollment of both women and men in nontraditional courses of study, and

“(II) develop model programs to reduce sex stereotyping in all occupations; and

“(B) set forth a program to assess and meet the needs of persons described in section 120(b)(1)(L) which shall provide for (i) special courses for such persons in learning how to seek employment, and (ii) placement services for such graduates of vocational education programs and courses; and

“(5) set out criteria which have been developed for coordinating manpower training programs conducted by prime sponsors established under the Comprehensive Employment and Training Act of 1973 with vocational education programs assisted under this Act and for coordinating such vocational education programs with such manpower training programs.

29 USC 801 note.

“ANNUAL PROGRAM PLANS AND ACCOUNTABILITY REPORTS

“SEC. 108. (a) (1) Any State desiring to receive funds under this Act shall submit to the Commissioner an annual program plan and accountability report for each of the fiscal years included in the five-year State plan. In formulating this plan and report, the State board shall involve the active participation of the agencies, councils, and individuals who are required to be involved in formulating the five-year State plan as described in section 107. This participation shall include at least three meetings during each fiscal year between representatives of the State board and representatives of all of these agencies, councils, and individuals, meeting as a group. The first of these meetings shall be before the plan and report is developed; the second meeting shall be to consider the draft of the plan and report; and the third meeting shall be to approve the final plan and report. If these agencies, councils, and individuals, and the State board are not able to agree upon the provisions of the plan and report, the State board shall have the same responsibility for reaching a final decision on those provisions as it has for reaching a final decision on the five-year State plan under section 107; and the same requirements shall be applicable concerning inclusion of rejected recommendations, appeal of the board's decision to the Commissioner, and judicial review as are applicable to the five-year State plan under section 107.

20 USC 2308.

Public hearing.

"(2) The State board shall, during each fiscal year, conduct a public hearing, after giving sufficient public notice, on the annual planning and accountability report in order to permit all segments of the population to give their views on the provisions of the plan and report. These views shall be included in the final plan and report with a description of how such views are reflected in the plan and report; and if particular views are not reflected, then the plan and report shall set out the reasons for rejecting them.

Report to
Commissioner.

"(b) The annual program plan and accountability report shall be submitted to the Commissioner by the July 1st preceding the beginning of the fiscal year for which the plan is to be effective. This plan and report shall contain:

"(1) planning provisions which—

"(A) set out any updating of the five-year State plan deemed necessary to reflect later or more accurate employment data or a different level of funding than was anticipated;

"(B) (i) set out explicitly how the State during that fiscal year will comply with the uses of Federal, State, and local funds proposed for that fiscal year in the five-year plan, including a description of these uses in terms of the elements listed in clauses (2) (A) (i) through (2) (A) (iv) of section 107, and describe how these uses of funds may differ from those proposed in the five-year plan and give the reasons for any such changes;

"(ii) set out explicitly the uses which the State intends to make of the funds available to it under this Act for that fiscal year, as those uses are set out in sections 120, 130, 140, and 150, and describe how those uses may differ from the uses proposed in the five-year plan and give the reasons for any such changes, and set out explicitly the proposed distribution of such funds among eligible recipients, together with an analysis of the manner in which such distribution complies with the assurance given in the general application under section 106(a) (5) relating to the distribution of Federal funds; and

"(C) show the results of the—

"(i) coordination of programs funded under this Act with manpower training programs and of manpower training programs with programs funded under this Act;

"(ii) compliance of the State plan with the provision contained in section 107(b) (4) (A) concerning providing equal access to programs by both men and women; and

"(iii) participation of local advisory councils required to be established under section 105(g); and

"(2) reporting provisions which—

"(A) show explicitly the extent to which the State during the fiscal year preceding the submission of the plan and report has achieved the goals of the five-year plan and the degree to which the uses of Federal, State, and local funds proposed for that fiscal year in the plan have been complied with, including a description of these goals and uses in terms of the elements listed in clauses (2) (A) (i) through (2) (A) (iv) of section 107(b);

"(B) show explicitly how funds available under this Act have been used during that fiscal year, including a description of the uses of these funds among the authorized uses of

funds set out in sections 120, 130, 140, and 150, and including a description of the distribution of these funds among local educational agencies and other eligible recipients in conformity with the requirements contained in section 106(a)(5), and give the results achieved with these funds; and

“(C) contain a summary of the evaluations of programs required to be conducted by section 112 and a description of how the information from these evaluations has been, or is being, used by the State board to improve its programs.

“SUBMISSION OF PLANS; WITHHOLDING AND JUDICIAL REVIEW

“Sec. 109. (a)(1) The Commissioner shall not approve a five-year State plan submitted under section 107 until he has made specific findings, in writing, as to the compliance of such plan with the provisions of this Act and he is satisfied that adequate procedures are set forth to insure that the assurances of the general application submitted under section 106 and the provisions of the State plan will be carried out. 20 USC 2309.

“(2) The Commissioner shall not approve an annual program plan and accountability report submitted under section 108 until he has made specific findings, in writing, as to the compliance of such plan and report with the provisions of this Act, he is satisfied that adequate procedures are set forth to insure that the assurances of the general application submitted under section 107 are being carried out, and he is satisfied that the annual plan and report shows progress in achieving the goals set forth in the five-year State plan.

“(3) (A) In carrying out the provisions of this subsection, the Commissioner shall provide for appropriate review of each State's five-year plan and annual program plan and report by the various agencies administering programs within the Office of Education related to the vocational education programs being proposed under the State plan or the program plan and report.

“(B) In carrying out the provisions of this subsection, the Commissioner shall not approve a State plan or annual program plan and report until he has received assurances that the personnel assigned to review programs within the State to assure equal access by both men and women under the provisions of section 104(b) have been afforded the opportunity to review the plan or program plan and report.

“(C) In carrying out the provisions of this subsection, the Commissioner shall not approve a State plan or annual program plan and report unless the State has complied in compiling this plan or program plan and report with the nationally uniform definitions and information elements which have been developed pursuant to section 161.

“(b)(1) The Commissioner shall not finally disapprove any State plan or program plan and report submitted under this Act, or any modification thereof, without first affording the State board submitting the plan or program plan and report reasonable notice and opportunity for a hearing.

“(2) The Commissioner shall not disapprove any plan or program plan and report submitted under this Act solely on the basis of the distribution of State and local expenditures for vocational education.

“(c) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State board, finds that—

“(1) the State plan or program plan and report has been so changed that it no longer complies with the provisions of this Act, or

“(2) in the administration of the plan or program plan and report there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State board that no further payments will be made to the State under this Act (or, in his discretion, further payments to the State will be limited to programs under or portions of the State plan or program plan and report not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to such State under this Act (or shall limit payments to programs under, or portions of, the State plan or program plan and report not affected by such failure).

Petition for
appeal.

“(d) A State board which is dissatisfied with a final action of the Commissioner under this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set aside such action, in whole or in part, temporarily or permanently, but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

“(e) (1) If any eligible recipient is dissatisfied with the final action of the State board or other appropriate State administering agency with respect to approval of an application by such eligible recipient for a grant pursuant to this Act, such eligible recipient may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the State board or other appropriate State administering agency. The State board or such other agency thereupon shall file in the court the record of the proceedings on which the State board or such other agency based its action, as provided in section 2112 of title 28, United States Code.

“(2) The findings of fact by the State board or other appropriate administering agency, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the State board or other such agency to take further evidence, and the State board or such other agency may thereupon make new or

modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings.

“(3) The court shall have jurisdiction to affirm the action of the State board or other appropriate administering agency or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

“(f) (1) The Commissioner shall prescribe and implement rules to assure that any hearing conducted under section 434(c) of the General Education Provisions Act in connection with funds made available from appropriations under this Act shall be held within the State of the affected unit of local government or geographic area within the State.

20 USC 1233c.

“(2) For the purposes of paragraph (1)—

Definitions.

“(A) the term ‘unit of local government’ means a county, municipality, town, township, village, or other unit of general government below the State level; and

“(B) the term ‘geographic area within a State’ means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

“NATIONAL PRIORITY PROGRAMS

“SEC. 110. (a) For each fiscal year, at least 10 per centum of each State’s allotment under section 103 shall be used to pay 50 per centum of the cost of vocational education for handicapped persons.

20 USC 2310.

“(b) (1) For each fiscal year, at least 20 per centum of each State’s allotment under section 103 shall be used to pay 50 per centum of the cost of vocational education for disadvantaged persons (other than handicapped persons), for persons who have limited English-speaking ability, and for providing stipends authorized under section 120(b) (1) (G).

“(2) From the funds used by a State pursuant to paragraph (1), each State shall use an amount equivalent to the same percentage of the funds reserved pursuant to that paragraph as the population aged fifteen to twenty-four, inclusive, having limited English-speaking ability is to the total population of the State aged fifteen to twenty-four, inclusive, for providing vocational education for such persons with limited English-speaking ability, except that such amount shall not exceed the full sum used pursuant to paragraph (1).

“(c) For each fiscal year, at least 15 per centum of each State’s allotment under section 103 shall be used to pay 50 per centum of the cost of vocational education for (1) persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs, and (2) persons who have already entered the labor market, or are unemployed, or who have completed or left high school and who are not described in paragraph (1).

“(d) Each State shall use, to the maximum extent possible, the funds required to be used for the purposes specified in subsections (a) and (b) to assist individuals described in those subsections to participate in regular vocational education programs.

“PAYMENTS TO STATES

“SEC. 111. (a) (1) The Commissioner shall pay, from the amount available to each State for grants under this part (except subpart 5) to eligible recipients, an amount equal to—

20 USC 2311.

“(A) 50 per centum of the cost of carrying out its annual program plan as approved pursuant to section 109, other than programs and activities for persons described in section 110;

“(B) 50 per centum of the cost of vocational education programs for persons with special needs described in section 110(a), (b), and (c); and

“(C) 100 per centum of the cost of vocational education programs described in sections 122(f), 133(b), and 140; except that in the case of the Trust Territory of the Pacific Islands and American Samoa, such amount shall be equal to 100 per centum of such expenditures.

“(2) (A) In addition, the Commissioner shall pay, from the amount available to each State for administration of State plans appropriated under section 102(d), an amount equal to the Federal share of the cost of administration of such plan.

“(B) For the purpose of this paragraph, the Federal share for any fiscal year shall be 50 per centum, except that (1) for fiscal year 1978 it shall be 80 per centum and for fiscal year 1979 it shall be 60 per centum, and (2) whenever the Commissioner determines in exceptional circumstances that for the fiscal year preceding fiscal year 1978 State and local expenditures for vocational education in a State exceed ten times the Federal expenditure for vocational education in that State, and that the State has an appropriate, economic, and efficient State administration of the program, the Commissioner shall set the Federal share for fiscal year 1978 for that State in excess of the Federal share specified in clause (1), but not to exceed 100 per centum.

“(b) (1) No payments shall be made in any fiscal year under this Act to any local educational agency or to any State unless the Commissioner finds, in the case of a local educational agency, that the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of vocational education by that agency for the fiscal year preceding the fiscal year for which the determination was made was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year or, in the case of a State, that the fiscal effort per student or the aggregate expenditures of that State for vocational education in that State for the fiscal year preceding the fiscal year for which the determination was made was not less than such fiscal effort per student or the aggregate expenditures for vocational education for the second preceding fiscal year.

“(2) No payments shall be made in any fiscal year under this Act to any postsecondary educational institution unless the Commissioner finds that the aggregate amount or the amount per student spent by such institution from current funds for vocational education purposes for the fiscal year preceding the fiscal year for which the determination was made was not less than such amount spent by such institution from current funds for the second preceding fiscal year.

“FEDERAL AND STATE EVALUATIONS

20 USC 2312.

“SEC. 112. (a) In order for the Federal government to assist the States in operating the best possible programs of vocational education—

“(1) the Commissioner shall within four months of the receipt of a State's annual program plan and accountability report transmit to that State board an analysis of such plan and report, including suggestions for improvements in the State's programs and findings contained in any program or fiscal audits performed in that State pursuant to paragraph (2); and

"(2) the Bureau of Occupational and Adult Education shall, in at least ten States a fiscal year during the period beginning October 1, 1977, and ending September 30, 1982, conduct a review analyzing the strengths and weaknesses of the programs assisted with funds available under this Act within those States; and the Department of Health, Education, and Welfare shall, in the same period, conduct fiscal audits of such programs within those States.

"(b) (1) In order for the States to assist local educational agencies and other recipients of funds in operating the best possible programs of vocational education—

"(A) each State shall, during the five-year period of the State plan, evaluate the effectiveness of each program within the State being assisted with funds available under this Act; and the results of these evaluations shall be used to revise the State's programs, and shall be made readily available to the State advisory council; and

"(B) each State shall evaluate, by using data collected, wherever possible, by statistically valid sampling techniques, each such program within the State which purports to impart entry level job skills according to the extent to which program completers and leavers—

"(i) find employment in occupations related to their training, and

"(ii) are considered by their employers to be well-trained and prepared for employment, except that in no case can pursuit of additional education or training by program completers or leavers be considered negatively in these evaluations.

"(2) Each State, in formulating its plans to fulfill these requirements, shall annually consult with the State advisory council which shall assist the State in developing these plans, monitor the evaluations conducted by the State, and use the results of these evaluations in compiling its annual report required by section 105.

"(c) The Commissioner shall prepare and submit annually to the Congress, within nine months of the termination of each fiscal year, a report on the status of vocational education in the country during that fiscal year. This report shall include data on the information elements developed in the national vocational education data reporting and accounting system and an analysis of such data, and a summary of the findings of the reviews and audits required by paragraph (2) of subsection (a) and of the evaluations performed pursuant to paragraphs (1) and (2) of subsection (b).

Report to
Congress.

"Subpart 2—Basic Grant

"AUTHORIZATION OF GRANTS AND USES OF FUNDS

"SEC. 120. (a) From the sums made available for grants under this subpart pursuant to section 103, the Commissioner is authorized to make grants to States to assist them in conducting vocational education programs in accordance with the requirements of this subpart.

20 USC 2330.

"(b) (1) Grants to States under this subpart may be used, in accordance with five-year State plans and annual program plans approved pursuant to section 109, for the following purposes:

"(A) vocational education programs;

"(B) work study programs as described in section 121;

"(C) cooperative vocational education programs as described in section 122;

- “(D) energy education programs as described in section 123;
- “(E) construction of area vocational education school facilities;
- “(F) support of full-time personnel to perform the duties described in section 104(b);
- “(G) the provision of stipends, subject to the restriction contained in paragraph (2), which shall not exceed reasonable amounts, as prescribed by the Commissioner pursuant to regulations, for students entering or already enrolled in vocational education programs, if those students have acute economic needs which cannot be met under work-study programs;
- “(H) placement services for students who have successfully completed vocational education programs, subject to the restriction contained in paragraph (2);
- “(I) industrial arts programs where such programs will assist in meeting the purposes of this Act;
- “(J) support services for women who enter programs designed to prepare individuals for employment in jobs which have been traditionally limited to men, including counseling as to the nature of such programs and the difficulties which may be encountered by women in such programs, and job development and job followup services;
- “(K) day care services for children of students in secondary and postsecondary vocational education programs;
- “(L) vocational education for—
 - “(i) persons who had solely been homemakers but who now, because of dissolution of marriage, must seek employment;
 - “(ii) persons who are single heads of households and who lack adequate job skills;
 - “(iii) persons who are currently homemakers and part-time workers but who wish to secure a full-time job; and
 - “(iv) women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered for job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered job areas for males; and
- “(M) construction and operation of residential vocational schools as described in section 124.

“(2) No funds shall be used for the purposes specified in subparagraph (G) or (H) of paragraph (1) unless the State board first makes a specific finding in each instance of funding that the funding of this particular activity is necessary due to inadequate funding in other programs providing similar activities or due to the fact that other services in the area are inadequate to meet the needs.

“WORK STUDY PROGRAMS

20 USC 2331.

“SEC. 121.(a) Funds available to the States under section 120 may be used for grants to local educational agencies for work-study programs which—

“(1) are administered by the local educational agencies and are made reasonably available (to the extent of available funds) to all youths in the area served by such agency who are able to meet the requirements of paragraph (2);

“(2) provide that employment under such work-study programs shall be furnished only to a student who (A) has been

accepted for enrollment as a full-time student in a vocational education program which meets the standards prescribed by the State board and the local educational agency for vocational education programs assisted under this Act, or in the case of a student already enrolled in such a program, is in good standing and in full-time attendance, (B) is in need of the earnings from such employment to commence or continue his vocational education program, and (C) is at least fifteen years of age and less than twenty-one years of age at the commencement of his employment, and is capable, in the opinion of the appropriate school authorities, of maintaining good standing in his vocational education program while employed under the work-study program;

“(3) provide that, pursuant to regulations of the Commissioner, no student shall be employed under such work-study program for more than a reasonable number of hours in any week in which classes in which he is enrolled are in session, or for compensation which exceeds payments under comparable Federal programs, unless the student is attending a school that is not within a reasonable commuting distance from his home, when the compensation may be set by the Commissioner at a higher level;

“(4) provide that employment under such work-study program shall be for the local educational agency or for some other public or nonprofit private agency or institution; and

“(5) provide that, in each fiscal year during which such program remains in effect, such agency shall expend (from sources other than payments from Federal funds under this section) for the employment of its students (whether or not in employment eligible for assistance under this section) an amount that is not less than its average annual expenditure for work-study programs of a similar character during the three fiscal years preceding the fiscal year in which its work-study program under this section is approved.

“(b) Each State in operating work-study programs from funds made available under section 120 shall—

“(1) adopt policies and procedures which assure that Federal funds used for this purpose will be expended solely for the payment or compensation of students employed pursuant to the work-study programs meeting the requirements of subsection (a); and

“(2) set forth principles for determining the priority to be accorded applications from local educational agencies for work-study programs, which principles shall give preference to applications submitted by local educational agencies serving communities having substantial numbers of youths who have dropped out of school or who are unemployed, and provide for undertaking such programs, insofar as financial resources available therefor make possible, in the order determined by the application of such principles.

“(c) Students employed in work-study programs assisted pursuant to this section shall not by reason of such employment be deemed employees of the United States, or their service Federal service, for any reason.

“COOPERATIVE VOCATIONAL EDUCATION PROGRAMS

“SEC. 122. Funds available to the States under section 120 may be used for establishing or expanding cooperative vocational education programs through local educational agencies with the participation of

20 USC 2332.

public and private employers. Such programs shall include provisions assuring that—

“(a) funds will be used only for developing and operating cooperative vocational programs as defined in section 195(18) which provide training opportunities that may not otherwise be available and which are designed to serve persons who can benefit from such programs;

“(b) necessary procedures are established for cooperation with employment agencies, labor groups, employers, and other community agencies in identifying suitable jobs for persons who enroll in cooperative vocational education programs;

“(c) provision is made, where necessary, for reimbursement of added costs to employers for on-the-job training of students enrolled in cooperative programs, provided such on-the-job training is related to existing career opportunities susceptible of promotion and advancement and which do not displace other workers who perform such work;

“(d) ancillary services and activities to assure quality in cooperative vocational education programs are provided for, such as preservice and inservice training for teacher coordinators, supervision, curriculum materials, travel of students and coordinators necessary to the success of such programs, and evaluation;

“(e) priority for funding cooperative vocational education programs through local educational agencies is given to areas that have high rates of school dropouts and youth unemployment;

“(f) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served, whose educational needs are of the type which the program or project involved is to meet, provision has been made for the participation of such students;

“(g) Federal funds used for the purposes of this section will not be commingled with State or local funds; and

“(h) such accounting, evaluation, and followup procedures as the Commissioner deems necessary will be provided.

“ENERGY EDUCATION

20 USC 2333.

“SEC. 123. (a) (1) Funds available to States under section 120 may be used to make grants to postsecondary educational institutions to carry out programs for the training of miners, supervisors, technicians (particularly safety personnel), and environmentalists in the field of coal mining and coal mining technology, including acquisition of equipment necessary for the conduct of such program.

“(2) Grants made under this section shall be made pursuant to applications which describe with particularity a program for the training of miners, supervisors, and technicians in the field of coal mining and coal mining technology, including provision for supplementary demonstration projects or short-term seminars, which program may include such curriculums as (A) the extraction, preparation, and transportation of coal, (B) the reclamation of coal mined land, (C) the strengthening of health and safety programs for coal mine employees, (D) the disposal of coal mine wastes, and (E) the chemical and physical analysis of coal and materials, such as water and soil, that are involved in the coal mining process.

“(b) Funds available under section 120 may also be used to make grants to postsecondary educational institutions to carry out programs for the training of individuals needed for the installation of solar

energy equipment, including training necessary for the installation of glass paneled solar collectors and of wind energy generators, and for the installation of other related applications of solar energy.

“RESIDENTIAL VOCATIONAL SCHOOLS

“SEC. 124. (a) Funds available to the States under section 120 20 USC 2334. may be used for the construction, equipment, and operation of residential schools to provide vocational education (including room, board, and other necessities) for youths, at least fifteen years of age and less than twenty-one years of age at the time of enrollment, who need full-time study on a residential basis in order to benefit fully from such education. In using funds available under section 120 for this purpose, the States shall give special consideration to the needs of large urban areas and isolated rural areas having substantial numbers of youths who have dropped out of school or who are unemployed.

“(b) No funds made available under section 120 may be used for the purposes of this section for residential vocational schools to which juveniles are assigned as the result of their delinquent conduct or in which the students are segregated because of race.

“Subpart 3—Program Improvement and Supportive Services

“AUTHORIZATION OF GRANTS AND USES OF FUNDS

“SEC. 130. (a) From the sums made available for grants under this subpart pursuant to section 103 the Commissioner is authorized 20 USC 2350. to make grants to States to assist them in improving their vocational education programs and in providing supportive services for such programs in accordance with the provisions of this subpart.

“(b) Grants to States under this subpart may be used, in accordance with five-year State plans, and annual program plans approved pursuant to section 109, for the following purposes:

- “(1) research programs as described in section 131;
- “(2) exemplary and innovative programs as described in section 132;
- “(3) curriculum development programs as described in section 133;
- “(4) provision of guidance and counseling services, programs, and activities as described in section 134;
- “(5) provision of pre-service and in-service training as described in section 135; and
- “(6) grants to overcome sex bias as described in section 136.

“RESEARCH

“SEC. 131. (a) Funds available to the States under section 130(a) 20 USC 2351. may be used for support of State research coordination units and for contracts by those units pursuant to comprehensive plans of program improvement involving—

- “(1) applied research and development in vocational education;
- “(2) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings, including programs and projects to overcome problems of sex bias and sex stereotyping;
- “(3) improved curriculum materials for presently funded programs in vocational education and new curriculum materials for

new and emerging job fields, including a review and revision of any curricula developed under this section to insure that such curricula do not reflect stereotypes based on sex, race, or national origin;

“(4) projects in the development of new careers and occupations, such as—

“(A) research and experimental projects designed to identify new careers in such fields as mental and physical health, crime prevention and correction, welfare, education, municipal services, child care, and recreation, requiring less training than professional positions, and to delineate within such career roles with the potential for advancement from one level to another;

“(B) training and development projects designed to demonstrate improved methods of securing the involvement, cooperation, and commitment of both the public and private sectors toward the end of achieving greater coordination and more effective implementation of programs for the employment of persons in the fields described in subparagraph (A), including programs to prepare professionals (including administrators) to work effectively with aides; and

“(C) projects to evaluate the operation of programs for the training, development, and utilization of public service aides, particularly their effectiveness in providing satisfactory work experiences and in meeting public needs;

and

“(5) dissemination of the results of the contracts made pursuant to paragraphs (1) through (4), including employment of persons to act as disseminators, on a local level, of these results.

“(b) No contract shall be made pursuant to subsection (a) unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such contract.

“EXEMPLARY AND INNOVATIVE PROGRAMS

20 USC 2352.

“SEC. 132. (a) Funds available to the States under section 130(a) may be used for contracts, as part of the comprehensive plans of program improvement mentioned in section 131(a), for the support of exemplary and innovative programs, including—

“(1) programs designed to develop high quality vocational education programs for urban centers with high concentrations of economically disadvantaged individuals, unskilled workers, and unemployed individuals;

“(2) programs designed to develop training opportunities for persons in sparsely populated rural areas and for individuals migrating from farms to urban areas;

“(3) programs of effective vocational education for individuals with limited English-speaking ability;

“(4) establishment of cooperative arrangements between public education and manpower agencies, designed to correlate vocational education opportunities with current and projected needs of the labor market; and

“(5) programs designed to broaden occupational aspirations and opportunities for youth, with special emphasis given to youth who have academic, socioeconomic, or other handicaps, including—

“(A) programs and projects designed to familiarize elementary and secondary school students with the broad range of occupations for which special skills are required, and the requisites for careers in such occupations; and

“(B) programs and projects to facilitate the participation of employers and labor organizations in postsecondary vocational education.

“(b) Every contract made by a State for the purpose of funding exemplary and innovative projects shall give priority to programs and projects designed to reduce sex stereotyping in vocational education and shall, to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provide for the participation of such students; and such contract shall also provide that the Federal funds will not be commingled with State or local funds.

“(c) The annual program plan and accountability report covering the final year of financial support by the State for any such program or project shall indicate the proposed disposition of the program or project following the cessation of Federal support and the means by which successful or promising programs or projects will be continued and expanded within the State.

“CURRICULUM DEVELOPMENT

“SEC. 133. (a) Funds available to the States under section 130(a) may be used for contracts for the support of curriculum development projects, including— 20 USC 2353.

“(1) the development and dissemination of vocational education curriculum materials for new and changing occupational fields and for individuals with special needs, as described in section 110; and

“(2) the development of curriculum and guidance and testing materials designed to overcome sex bias in vocational education programs, and support services designed to enable teachers to meet the needs of individuals enrolled in vocational education programs traditionally limited to members of the opposite sex,

“(b) No contract shall be made pursuant to subsection (a) unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such contract.

“VOCATIONAL GUIDANCE AND COUNSELING

“SEC. 134. (a) Not less than 20 per centum of the funds available to the States under section 130(a) shall be used to support programs for vocational development guidance and counseling programs and services which, subject to the provisions of subsection (b), shall include— 20 USC 2354.

“(1) initiation, implementation, and improvement of high quality vocational guidance and counseling programs and activities;

“(2) vocational counseling for children, youth, and adults, leading to a greater understanding of educational and vocational options;

“(3) provision of educational and job placement services, including programs to prepare individuals for professional occupations or occupations requiring a baccalaureate or higher degree, including followup services;

“(4) vocational guidance and counseling training designed to acquaint guidance counselors with (A) the changing work patterns of women, (B) ways of effectively overcoming occupational sex stereotyping, and (C) ways of assisting girls and women in selecting careers solely on their occupational needs and interests, and to develop improved career counseling materials which are free;

“(5) vocational and educational counseling for youth offenders and adults in correctional institutions;

“(6) vocational guidance and counseling for persons of limited English-speaking ability;

“(7) establishment of vocational resource centers to meet the special needs of out-of-school individuals, including individuals seeking second careers, individuals entering the job market late in life, handicapped individuals, individuals from economically depressed communities or areas, and early retirees; and

“(8) leadership for vocational guidance and exploration programs at the local level.

“(b) Each State which chooses to fund activities described in paragraph (1) or (2) of subsection (a) of this section shall use those funds, insofar as is practicable, for funding programs, services, or activities by eligible recipients which bring individuals with experience in business and industry, the professions, and other occupational pursuits into schools as counselors or advisors for students, and which bring students into the work establishments of business and industry, the professions, and other occupational pursuits for the purpose of acquainting students with the nature of the work that is accomplished therein, and for funding projects of such recipients in which guidance counselors obtain experience in business and industry, the professions, and other occupational pursuits which will better enable those counselors to carry out their guidance and counseling duties.

“VOCATIONAL EDUCATION PERSONNEL TRAINING

20 USC 2355.

“SEC. 135. (a) Funds available to the States under section 130(a) may be used to support programs or projects designed to improve the qualifications of persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel, including programs or projects—

“(1) to train or retrain teachers, and supervisors and trainers of teachers, in vocational education in new and emerging occupations;

“(2) which provide in-service training for vocational education teachers and other staff members, to improve the quality of instruction, supervision, and administration of vocational education programs, and to overcome sex bias in vocational education programs;

“(3) which provide for exchange of vocational education teachers and other personnel with skilled workers or supervisors in business, industry, and agriculture (including mutual arrange-

ments for preserving employment and retirement status and other employment benefits during the period of exchange), and the development and operation of cooperative programs involving periods of teaching in schools providing vocational education and of experience in commercial, industrial, or other public or private employment related to the subject matter taught in such school;

“(4) to prepare journeymen in the skilled trades or occupations for teaching positions;

“(5) to train and to provide in-service training for teachers and supervisors and trainers of teachers in vocational education to improve the quality of instruction, supervision, and administration of vocational education for persons with limited English-speaking ability and to train or retrain counseling and guidance personnel to meet the special needs of persons with limited English-speaking ability; and

“(6) which provide short-term or regular-session institutes designed to improve the qualifications of persons entering or reentering the field of vocational education in new and emerging occupational areas in which there is a need for such personnel.

“(b) A State may include in the terms of any grant or contract under this section provisions authorizing the payment, to persons participating in the training programs supported under this section, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Commissioner may determine, pursuant to regulations, consistent with prevailing practices under comparable programs.

“GRANTS TO ASSIST IN OVERCOMING SEX BIAS

“SEC. 136. Funds available to the States under section 130(a) may be used to support activities which show promise of overcoming sex stereotyping and bias in vocational education. 20 USC 2356.

“Subpart 4—Special Programs for the Disadvantaged

“SPECIAL PROGRAMS FOR THE DISADVANTAGED

“SEC. 140. (a) From the sums made available for grants under this subpart pursuant to sections 102 and 103, the Commissioner is authorized to make grants to States to assist them in conducting special programs for the disadvantaged (as defined in section 195(16)) in accordance with the requirements of this subpart. 20 USC 2370.

“(b) (1) Grants to States under this subpart shall be used, in accordance with five-year State plans and annual program plans approved pursuant to section 109, for allocation within the State to areas of high concentrations of youth unemployment and school dropouts, and shall be used to pay the full cost of vocational education for disadvantaged persons.

“(2) Such funds may be granted to eligible recipients only if (A) to the extent consistent with the number of students enrolled in non-profit private schools in the area to be served whose educational needs are of the type which the program or project involved is to meet, provision has been made for the participation of such students, and (B) effective policies and procedures have been adopted which assure that Federal funds made available under this subpart to accommodate students in nonprofit private schools will not be commingled with State or local funds.

“Subpart 5—Consumer and Homemaking Education

“CONSUMER AND HOMEMAKING EDUCATION

20 USC 2380.

“SEC. 150. (a) From the sums made available for grants under this subpart pursuant to sections 102 and 103, the Commissioner is authorized to make grants to States to assist them in conducting consumer and homemaking education programs.

“(b) Grants to States under this subpart may be used, in accordance with five-year State plans and annual program plans approved pursuant to section 109, solely for (1) educational programs in consumer and homemaking education consisting of instructional programs, services, and activities at all educational levels for the occupations of homemaking including but not limited to, consumer education, food and nutrition, family living and parenthood education, child development and guidance, housing and home management (including resource management), and clothing and textiles which (A) encourage participation of both males and females to prepare for combining the roles of homemakers and wage earners; (B) encourage elimination of sex stereotyping in consumer and homemaking education by promoting the development of curriculum materials which deal (i) with increased numbers of women working outside the home, and increased numbers of men assuming homemaking responsibilities and the changing career patterns for women and men and (ii) with appropriate Federal and State laws relating to equal opportunity in education and employment; (C) give greater consideration to economic, social, and cultural conditions and needs especially in economically depressed areas and such courses may include where appropriate bilingual instruction; (D) encourage outreach programs in communities for youth and adults giving considerations to special needs such as, but not limited to, aged, young children, school-age parents, single parents, handicapped persons, educationally disadvantaged persons, and programs connected with health care delivery systems, and programs providing services for courts and correctional institutions; (E) prepare males and females who have entered or are preparing to enter the work of the home; (F) emphasize consumer education, management of resources, promotion of nutritional knowledge and food use, and parenthood education to meet the current societal needs, and (2) ancillary services, activities and other means of assuring quality in all homemaking education programs such as teacher training and supervision, curriculum development, research, program evaluation, special demonstration, and experimental programs, development of instructional materials, exemplary projects, provision of equipment, and State administration and leadership.

“(c) Notwithstanding the provisions contained in section 111(a), from a State's allotment determined under section 103 for any fiscal year from the funds appropriated pursuant to section 102(c), the Commissioner shall pay to such State an amount equal to 50 per centum of the amount expended for the purposes set forth in subsection (b), except that the Commissioner shall pay an amount to each State equal to 90 per centum of the amount used in areas described in subsection (d).

“(d) At least one-third of the Federal funds made available under this section to each State shall be used in economically depressed areas or areas with high rates of unemployment for programs designed to assist consumers and to help improve home environments and the quality of family life.

“PART B—NATIONAL PROGRAMS

“Subpart 1—General Provisions

“FEDERAL ADMINISTRATION

“SEC. 160. (a) There is established in the United States Office of Education a Bureau of Occupational and Adult Education (hereinafter in this Act referred to as the ‘Bureau’), which shall be responsible for (1) the administration of all the programs authorized by this Act and the Adult Education Act, (2) functions of the Office of Education relating to manpower training and development, (3) functions of that Office relating to postsecondary vocational, technical, and occupational training funded under this Act, (4) the administration of any other Act of Congress vesting authority in the Commissioner for vocational, occupational, and adult education, and (5) the administration of those portions of any Act of Congress relating to career education which are relevant to the purposes of other Acts of Congress administered by the Bureau. 20 USC 2390.

“(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner, and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code. 20 USC 1201 note.

“(2) Additional positions are created for, and shall be assigned to, the Bureau as follows: 5 USC 5332 note.

“(A) three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education,

“(B) seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling, and

“(C) three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the administration of the programs in the Bureau.

“(3) The Commissioner shall assign to the Bureau, by the end of fiscal year 1978, at least 50 per centum more persons to directly administer the programs authorized under this Act than were assigned to directly administer this Act during fiscal year 1976.

“VOCATIONAL EDUCATION DATA AND OCCUPATIONAL INFORMATION DATA SYSTEMS

“SEC. 161. (a)(1) The Commissioner and the Administrator of the National Center for Education Statistics shall, by September 30, 1977, jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system. 20 USC 2391.

This system shall include information resulting from the evaluations required to be conducted by section 112 (as such section will be in effect on October 1, 1977) and other information on vocational—

- “(A) students (including information on their race and sex),
- “(B) programs,
- “(C) program completers and leavers,
- “(D) staff,
- “(E) facilities, and
- “(F) expenditures.

“(2) In developing this system, the Commissioner and the Administrator shall endeavor as much as possible to make the system compatible with the occupational information data system developed pursuant to subsection (b) and other information systems involving data on programs assisted under the Comprehensive Employment and Training Act of 1973.

29 USC 801 note.

“(3) (A) After the completion of the development of these information elements and uniform definitions pursuant to paragraph (1), the Administrator shall immediately begin to design, implement, and operate this information system which shall be in full operation for the fiscal year beginning October 1, 1977.

“(B) Any State receiving assistance under this Act shall cooperate with the Administrator in supplying the information required to be submitted by the Administrator and shall comply in its reports with the information elements and definitions developed jointly by the Administrator and the Commissioner pursuant to paragraph (1). Each State shall submit this data to the Administrator in whatever form he requires; and, whenever possible, this reporting shall include reporting of data by labor market areas within the State.

“(4) The Administrator shall have the responsibility for updating this national vocational education information and accounting system and for preparing annual acquisition plans of data for operating this system. These plans shall be submitted to the Commissioner for his review and comment.

National
Occupational
Information
Coordinating
Committee.
Establishment.

“(b) (1) There is hereby established a National Occupational Information Coordinating Committee which shall consist of the Commissioner, the Administrator, the Commissioner of Labor Statistics, and the Assistant Secretary for Employment and Training. This Committee, with funds available to it under section 103(a) (as such section will be in effect on October 1, 1977), shall—

“(A) in the use of program data and employment data, improve coordination between, and communication among, administrators and planners of programs authorized by this Act and by the Comprehensive Employment and Training Act of 1973, employment security agency administrators, research personnel, and employment and training planning and administering agencies at the Federal, State, and local levels;

“(B) develop and implement, by September 30, 1977, an occupational information system to meet the common occupational information needs of vocational education programs and employment and training programs at the national, State, and local levels, which system shall include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications; and

“(C) assist State occupational information coordinating committees established pursuant to paragraph (2).

“(2) By September 30, 1977, each State receiving assistance under this Act and under the Comprehensive Employment and Training

Act of 1973 shall establish a State occupational information coordinating committee composed of representatives of the State board, the State employment security agency, the State Manpower Services Council, and the agency administering the vocational rehabilitation program. This committee shall, with funds available to it from the National Coordinating Committee established pursuant to paragraph (1), implement an occupational information system in the State which will meet the common needs for the planning for, and the operation of, programs of the State board assisted under this Act and of the administering agencies under the Comprehensive Employment and Training Act of 1973.

29 USC 801 note.

“NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

“SEC. 162. (a) The National Advisory Council on Vocational Education, established pursuant to section 104(a) of the Vocational Education Act of 1963, in effect prior to the enactment of the Education Amendments of 1976, shall continue to exist during the period for which appropriations are authorized under this Act. Individuals who are members of the Council on the date of the enactment of this Act may continue to serve for the terms for which they were appointed. Members appointed to succeed such individuals shall be appointed by the President for terms of three years. The Council shall consist of twenty-one members, each of whom shall be designated as representing one of the categories set forth in the following sentence. The National Advisory Council shall include individuals—

20 USC 2392.

20 USC 1244.

“(1) representative of labor and management, including persons who have knowledge of semiskilled, skilled, and technical employment;

“(2) representative of new and emerging occupational fields;

“(3) knowledgeable in the field of vocational guidance and counseling;

“(4) representing the National Commission for Manpower Policy created pursuant to title V of the Comprehensive Employment and Training Act of 1973;

29 USC 951.

“(5) representing nonprofit private schools;

“(6) who are women with backgrounds and experiences in employment and training programs, who are knowledgeable with respect to problems of sex discrimination in job training and in employment, including women who are members of minority groups and who have, in addition to such backgrounds and experiences, special knowledge of the problems of discrimination in job training and employment against women who are members of such groups;

“(7) knowledgeable about the administration of State and local vocational education programs, including members of school boards and private institutions;

“(8) experienced in the education and training of handicapped persons and of persons of limited English-speaking ability (as defined in section 703(a) of the Elementary and Secondary Education Act of 1965);

20 USC 880b-1.

“(9) familiar with the special problems and needs of individuals disadvantaged by their socioeconomic backgrounds;

“(10) having special knowledge of postsecondary and adult vocational education programs;

“(11) familiar with the special problems of individuals in correctional institutions; and

“(12) representative of the general public who are not Federal employees, including parents and students, except that they must not be representative of categories (1) through (11), and who shall constitute not less than one-third of the total membership. The National Council shall have as a majority of its members persons who are not educators or administrators in the field of education. In appointing the National Advisory Council, the President shall insure that there is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the country. The President shall select the chairman. The National Advisory Council shall meet at the call of the Chairman, but not less than four times a year.

“(b) The National Advisory Council shall—

“(1) advise the President, Congress, Secretary, and Commissioner concerning the administration of, preparation of general regulations and budget requests for, and operation of, vocational education programs supported with assistance under this Act;

“(2) review the administration and operation of vocational education programs under this Act, and other pertinent laws affecting vocational education and manpower training (including the effectiveness of such programs in meeting the purposes for which they are established and operated), make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this Act and such other pertinent laws) to the President, Congress, Secretary, and Commissioner;

“(3) make such other reports or recommendations to the President, Congress, Secretary, Commissioner, or head of any other Federal department or agency as it may deem desirable;

“(4) (A) identify, after consultation with the National Commission for Manpower Policy, the vocational education and employment and training needs of the Nation and assess the extent to which vocational education, employment training, vocational rehabilitation, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the National Commission, which comments shall be included in one of the reports submitted by the National Advisory Council pursuant to this section and in one of the reports submitted by the National Commission pursuant to section 505 of the Comprehensive Employment and Training Act of 1973;

“(5) conduct such studies, hearings, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

“(6) conduct independent evaluations of programs carried out under this Act and publish and distribute the results thereof; and

“(7) provide technical assistance and leadership to State advisory councils established pursuant to section 105, in order to assist them in carrying out their responsibilities under this Act.

“(c) There are authorized to be appropriated \$450,000 for the fiscal year ending September 30, 1978, \$475,000 for the fiscal year ending September 30, 1979, and \$500,000 for each of the fiscal years ending prior to September 30, 1982 for the purposes of this paragraph. The Council is authorized to use the funds appropriated pursuant to the preceding sentence to carry out its functions as set forth in this section and to engage such technical assistance as may be required to assist it in performing these functions.

29 USC 955.

Appropriation
authorization.

“Subpart 2—Programs of National Significance

“PROGRAM IMPROVEMENT

“SEC. 171. (a) Funds reserved to the Commissioner under section 103 for programs under this part shall be used primarily for contracts, and in some cases for grants, for— 20 USC 2401.

“(1) activities authorized by sections 131, 132, 133, 134, 135, and 136, if such activities are deemed to be of national significance by the Commissioner;

“(2) support of a national center for research in vocational education, chosen once every five years, which center shall be a nonprofit agency, shall be assisted by an advisory committee appointed by the Commissioner, shall have such locations, including contracts with one or more regional research centers, as shall be determined by the Commissioner after consultation with the national center and its advisory committee taking into consideration the vocational education research resources available, geographical area to be served and the schools, programs, projects, and students and areas to be served by research activities, and shall, either directly or through other public agencies—

“(A) conduct applied research and development on problems of national significance in vocational education;

“(B) provide leadership development through an advanced study center and inservice education activities for State and local leaders in vocational education;

“(C) disseminate the results of the research and development projects funded by the center;

“(D) develop and provide information to facilitate national planning and policy development in vocational education;

“(E) (i) act as a clearinghouse for information on contracts made by the States pursuant to section 131, section 132, and section 133 and on contracts made by the Commissioner pursuant to this section; and (ii) compile an annotated bibliography of research, exemplary and innovative program projects, and curriculum development projects assisted with funds made available under this Act since July 1, 1970; and

“(F) work with States, local educational agencies, and other public agencies in developing methods of evaluating programs, including the follow-up studies of program completers and leavers required by section 112, so that these agencies can offer job training programs which are more closely related to the types of jobs available in their communities, regions, and States; and

“(3) training and development programs as described in section 172.

“(b) (1) The Commissioner shall not make a grant pursuant to paragraph (1) of subsection (a) unless the applicant can demonstrate a reasonable probability that such grant will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such grant.

“(2) Every contract made by the Commissioner for the purpose of funding exemplary and innovative projects pursuant to paragraph (1) of subsection (a) shall, to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the project involved is to meet, provide for the participation of such students; and such con-

Coordinating
Committee on
Research in
Vocational
Education.
Establishment.

tract shall also provide that the Federal funds will not be commingled with State or local funds.

“(3) The Commissioner shall, from the funds made available to him under this section, make contracts to convert to use in local educational agencies, in private nonprofit schools, and in other public agencies, curriculum materials involving job preparation which have been prepared for use by the armed services of the United States.

“(4) There is hereby established a Coordinating Committee on Research in Vocational Education within the Education Division of the Department of Health, Education, and Welfare which shall be composed of the Director of the National Institute of Education, the Commissioner, and the Director of the Fund for the Improvement of Postsecondary Education, or their representatives. This Committee shall—

“(A) develop a plan for each fiscal year (i) establishing national priorities for the use of funds available to these agencies for vocational education research, career education research, education and work research, development, exemplary and innovative program projects, and curriculum development projects; and (ii) coordinating the efforts of these agencies in seeking to achieve these national priorities in order to avoid duplication of effort; and

“(B) develop an effective management information system on the projects funded pursuant to this plan in order to achieve the best possible monitoring and evaluation of these projects and the widest possible dissemination of their results.

“(5) (A) From the sums reserved to the Commissioner under section 103 for this part, the Commissioner may pay all or part of the costs of contracts and grants authorized by this section.

“(B) Funds reserved for contracts and grants under this section shall be available for expenditure until expended, unless a law is enacted in specific restriction of this subsection; and these funds may be used for contracts and grants for a period not to exceed three fiscal years.

“TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL
EDUCATION PERSONNEL

20 USC 2402.

“SEC. 172. (a) From funds available to him under section 103, the Commissioner shall provide (1) opportunities for experienced vocational educators to spend full time in advanced study of vocational education for a period not to exceed three years in length; (2) opportunities for certified teachers who have been trained to teach in other fields to become vocational educators, if those teachers have skills and experience in vocational fields for which they can be trained to be vocational educators; and (3) opportunities for persons in industry who have skills and experience in vocational fields for which there is a need for vocational educators, but who do not necessarily have baccalaureate degrees, to become vocational educators.

“(b) (1) In order to meet the needs in all States for qualified vocational education personnel (such as administrators, supervisors, teacher educators, researchers, guidance and counseling personnel, and instructors in vocational education programs) the Commissioner shall make available leadership development awards in accordance with the provisions of this subsection only upon his determination that—

“(A) persons selected for awards have had not less than two years of experience in vocational education or in industrial train-

ing, or military technical training; or, in the case of researchers, experience in social science research which is applicable to vocational education;

“(B) persons receiving such awards are currently employed or are reasonably assured of employment in vocational education and have successfully completed, as a minimum, a baccalaureate degree program; and

“(C) persons selected are recommended by their employer, or others, as having leadership potential in the field of vocational education and are eligible for admission as a graduate student to a program of higher education approved by the Commission under paragraph (2).

“(2) (A) The Commissioner shall, for a period not to exceed three years, pay to persons selected for leadership development awards such stipends (including such allowances or subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

“(B) The Commissioner shall, in addition to the stipends paid to persons under subparagraph (A), pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported programs not to exceed the equivalent of \$4,500 per person per academic year or its equivalent, and \$1,000 per person per summer session or its equivalent, but any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection. Any funds from grants received under this paragraph which remain after deducting normal tuition fees, and deposits attributable to such students, shall be used by the institution receiving such funds for the purpose of improving the program of vocational education offered by that institution.

“(3) The Commissioner shall approve the vocational education leadership development program of an institution of higher education only upon finding that—

“(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, guidance and counseling, research, and curriculum development;

“(B) such program is designed to further substantially the objective of improving vocational education through providing opportunities for graduate training of vocational education teachers, supervisors, and administrators, and of university level vocational education teacher educators and researchers; and

“(C) such programs are conducted by a school of graduate study in the institution of higher education.

“(4) In order to meet the needs for qualified vocational education personnel such as teachers, administrators, supervisors, and teacher educators, in vocational education programs in all the States, the Commissioner in carrying out this section shall apportion leadership development awards equitably among the States, taking into account such factors as the State's vocational education enrollments, and the incidence of youth unemployment and school dropouts in the State.

“(5) Persons receiving leadership awards under the provisions of this subsection shall continue to receive the payments provided in paragraph (3) only during such periods as the Commissioner finds

that they are maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field of vocational education in an institution of higher education, and are not engaging in gainful employment, other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

“(6) From the funds reserved to the Commissioner pursuant to section 103 for this part, the Commissioner shall make awards meeting the requirements of paragraphs (1) through (5) of this subsection.

“(7) In approving training and development programs for vocational education personnel, the Commissioner shall give special consideration to programs which are designed to familiarize awardees with new curricular materials in vocational education.

“Institution of
higher
education.”
20 USC 1141.

“(8) For purposes of this subsection, the term ‘institution of higher education’ means any such institution as defined under section 1201(a) of the Higher Education Act of 1965.

“(c) (1) In order to meet the need to provide adequate numbers of teachers and related classroom instructors in vocational education and in order to take full advantage of the education which has been provided to already certified teachers who are unable to find employment in their fields of training and of individuals employed in industry who have skills and experiences in vocational fields, the Commissioner shall make available fellowships in accordance with the provisions of this subsection to such individuals upon his determination that—

“(A) individuals selected for such fellowships are presently certified, or had been so certified within the last ten years, by a State as teachers in elementary and secondary schools or in community and junior colleges, and have past or current skills and experiences in vocational fields for which they can be trained to be vocational educators; or

“(B) individuals selected for such fellowships are individuals employed in industry (who need not be baccalaureate degree holders) who have skills and experiences in vocational fields for which there is a need for vocational educators, and that individuals receiving such awards have been accepted by a teacher training institution in a program to assist those persons in gaining the skills to become a vocational educator.

“(2) (A) The Commissioner shall, for a period not to exceed two years, pay to persons selected for fellowships under this subsection stipends (including such allowances for subsistence and other expenses for such person and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

“(B) The Commissioner shall, in addition to the stipends paid to persons under paragraph (1), pay to the institution of higher education at which such person is pursuing his course of study such amount as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported programs not to exceed the equivalent of \$4,500 per person per academic year or its equivalent, and \$1,000 per person per summer session or its equivalent, but any amount charged such person for tuition and nonrefundable fees and deposits shall be deducted from the amount payable to the institution of higher education under this subsection. Any funds from grants received under this paragraph which remain after deducting normal tuition, fees, and deposits attributable to such students, shall be used by the institution receiving such funds for the purpose of improving the program of vocational education offered by that institution.

“(3) The Commissioner shall approve the program at an institution of higher education which has as its purpose assisting certified teachers or assisting persons from industry in becoming vocational education teachers only upon finding that—

“(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, guidance and counseling, research, and curriculum development; and

“(B) such program is available to persons receiving these fellowships so that they can receive the same type of education and training being offered in the institution for undergraduate students who are preparing to become vocational education teachers.

“(4) In order to meet the needs for qualified vocational education teachers in vocational education programs in all the States, the Commissioner in carrying out this subsection shall apportion fellowships equitably among the States, taking into account such factors as the State's vocational education enrollments, and the incidence of youth unemployment and school dropouts in the State.

“(5) Persons receiving fellowships under the provisions of this subsection shall continue to receive the payments provided in paragraph (2) only during such periods as the Commissioner finds that they are maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field of vocational education in an institution of higher education, and are not engaging in gainful employment, other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

“(6) From the funds reserved to the Commissioner pursuant to section 103 for this part, the Commissioner shall make awards meeting the requirements of paragraphs (1) through (5) of this subsection.

“(7) In carrying out this subsection, the Commissioner shall, before the beginning of each fiscal year, publish a listing of the areas of teaching in vocational education which are presently in need of additional personnel and of the areas which will have need of additional personnel in the future; and the Commissioner shall, in making the fellowships under the authority of this subsection, grant these fellowships, to the maximum degree possible, to persons who are seeking to become teachers in the areas identified by the Commissioner as needing additional teachers.

“Subpart 3—Bilingual Vocational Training

“STATEMENT OF FINDINGS

“SEC. 181. The Congress hereby finds that one of the most acute problems in the United States is that which involves millions of citizens, both children and adults, whose efforts to profit from vocational education are severely restricted by their limited English-speaking ability because they came from environments where the dominant language is other than English; that such persons are therefore unable to help to fill the critical need for more and better educated personnel in vital occupational categories; and that such persons are unable to make their maximum contribution to the Nation's economy and must, in fact, suffer the hardships of unemployment or underemployment. The Congress further finds that there is a critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate vocational instruction of such language-handicapped persons and to prepare such persons to perform adequately in a work environment requiring English

20 USC 2411.

language skills, and a corresponding shortage of instructional materials and of instructional methods and techniques suitable for such instruction.

“GENERAL RESPONSIBILITIES OF THE COMMISSIONER

20 USC 2412.

“Sec. 182. (a) The Commissioner and the Secretary of Labor together shall—

“(1) develop and disseminate accurate information on the status of bilingual vocational training in all parts of the United States;

“(2) evaluate the impact of such bilingual vocational training on the shortages of well-trained personnel, the unemployment or underemployment of persons with limited English-speaking ability, and the ability of such persons to acquire sufficient job skills and English language skills to contribute fully to the economy of the United States; and

Report to
President and
Congress.

“(3) report their findings annually to the President and the Congress.

“(b) The Commissioner shall consult with the Secretary of Labor with respect to the administration of this part. Regulations and guidelines promulgated by the Commissioner to carry out this part shall be consistent with those promulgated by the Secretary of Labor pursuant to section 301 (b) of the Comprehensive Employment and Training Act of 1973 and shall be approved by the Secretary of Labor before issuance.

29 USC 871.

“AUTHORIZATION OF APPROPRIATIONS

20 USC 2413.

“Sec. 183. There are authorized to be appropriated \$60,000,000 for the fiscal year ending September 30, 1978, \$70,000,000 for the fiscal year ending September 30, 1979, \$80,000,000 for the fiscal year ending September 30, 1980, \$90,000,000 for the fiscal year ending September 30, 1981, and \$80,000,000 for the fiscal year ending September 30, 1982, to carry out the provisions of sections 184, 186, and 188 of this part, except that 65 per centum of such amounts shall be available only for grants and contracts under section 184, 25 per centum shall be available only for grants and contracts under section 186, and 10 per centum shall be available only for grants and contracts under section 188.

“AUTHORIZATION OF GRANTS

20 USC 2414.

“Sec. 184. (a) From the sums made available for grants under this section pursuant to section 183, the Commissioner is authorized to make grants to and enter into contracts with appropriate State agencies, local educational agencies, postsecondary education institutions, private nonprofit vocational training institutions, and to other nonprofit organizations especially created to serve a group whose language as normally used is other than English in supplying training in recognized occupations and in new and emerging occupations, which shall include instruction in the English language designed to insure that participants in the training will be assisted to pursue such occupations in environments where English is the language normally used, and to enter into contracts with private for-profit agencies and organizations, to assist them in conducting bilingual vocational training programs for persons of all ages in all communities of the United States which are designed to insure that vocational training programs are available to all individuals who desire and need such bilingual vocational education.

“(b) The Commissioner shall pay to each applicant which has an application approved under section 189B an amount equal to the total sums expended by the applicant for the purposes described in section 185 and set forth in that application.

“USE OF FEDERAL FUNDS

“SEC. 185. Grants and contracts under section 184 may be used, in accordance with applications approved under section 189B, for— 20 USC 2415.

“(1) bilingual vocational training programs for persons who have completed or left elementary or secondary school and who are available for education by a postsecondary educational institution;

“(2) bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment; and

“(3) training allowances for participants in bilingual vocational training programs subject to the same conditions and limitations as are set forth in section 111 of the Comprehensive Employment and Training Act of 1973.

29 USC 821.

“AUTHORIZATION OF GRANTS FOR INSTRUCTOR TRAINING PROGRAMS

“SEC. 186. (a) From the sums made available for grants and contracts under this section pursuant to section 183, the Commissioner is authorized to make grants to and enter into contracts with States, or educational institutions, either public or private, to assist them in conducting training for instructors of bilingual vocational training programs, and whenever the Commissioner determines that it will contribute to carrying out the purposes of this part, to make grants to, and enter into contracts with, States or educational institutions either public or private, to assist them in conducting training for instructors in bilingual vocational education programs. 20 USC 2416.

“(b) The Commissioner shall pay to each applicant which has an application approved under section 189B an amount equal to the total sums expended by the applicant for the purposes described in section 187 and set forth in that application.

“USE OF FEDERAL FUNDS

“SEC. 187. Grants and contracts under section 186 may be used, in accordance with applications approved under section 189B, for— 20 USC 2417.

“(1) providing preservice training designed to prepare persons to participate in bilingual vocational training or vocational education programs as instructors, aides, or other ancillary personnel such as counselors, and inservice and development programs designed to enable such personnel to continue to improve their qualifications while participating in such programs; and

“(2) fellowships or traineeships for persons engaged in such preservice or inservice training.

“AUTHORIZATION OF GRANTS FOR DEVELOPMENT OF INSTRUCTIONAL MATERIALS, METHODS, AND TECHNIQUES

“SEC. 188. (a) From the sums made available for grants and contracts under this section pursuant to section 183, the Commissioner is authorized to make grants and enter into contracts with States, public 20 USC 2418.

and private educational institutions, and to other appropriate non-profit organizations, and to enter into contracts with private for-profit individuals and organizations, to assist them in developing instructional material, methods, or techniques for bilingual vocational training.

“(b) The Commissioner shall pay to each applicant which has an application approved under section 189B an amount equal to the total sums expended by the applicant for the purposes described in section 189 and set forth in that application.

“USE OF FEDERAL FUNDS

20 USC 2419.

“SEC. 189. Grants and contracts under section 188 may be used, in accordance with applications approved under section 189B, for—

“(1) research in bilingual vocational training;

“(2) training programs designed to familiarize State agencies and training institutions with research findings and successful pilot and demonstration projects in bilingual vocational training;

“(3) experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings; and

“(4) other demonstration and dissemination projects.

“APPLICATIONS

20 USC 2420.

“SEC. 189A. (a) A grant or contract for assistance under this part may be made only upon application to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Each such application shall—

“(1) provide that the activities and services for which assistance under this part is sought will be administered by or under the supervision of the applicant;

“(2) (A) in the case of assistance under section 184, set forth a program for carrying out the purposes described in section 185,

“(B) in the case of assistance under section 186, set forth a program for carrying out the purposes described in section 187, and

“(C) in the case of assistance under section 188, set forth a program for carrying out the purposes described in section 189;

“(3) in the case of assistance under section 184, set forth a program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes of this part;

“(4) in the case of assistance under section 186—

“(A) describe the capabilities of the applicant institution, including a listing of the vocational training or vocational education courses offered by that institution, together with appropriate accreditation by regional or national associations, if any, and approval by appropriate State agencies of the course offered,

“(B) set forth the qualifications of the principal staff who will be responsible for the training program, and

“(C) contain a statement of the minimum qualifications of the persons to be enrolled in the training program, a description of the selection process for such persons, and the amounts of the fellowships or traineeships, if any, to be granted to persons so enrolled; and

"(5) in the case of assistance under section 188, set forth the qualifications of the staff who will be responsible for the program for which assistance is sought.

"(b) No grant or contract may be made under section 184 directly to a local educational agency or a postsecondary educational institution or a private vocational training institution or any other eligible agency or organization unless that agency, institution, or organization has submitted the application to the State board established under section 104 of this Act, or in the case of a State that does not have such a board, the similar State agency, for comment and includes the comment of that board or agency with the application.

"APPLICATION APPROVAL BY THE COMMISSIONER

"SEC. 189B. (a) The Commissioner may approve an application for assistance under this subpart only if— 20 USC 2421.

"(1) the application meets the requirements set forth in subsection (a) of the previous section;

"(2) in the case of an application submitted for assistance under section 184 to an agency, institution, or organization other than the State board established under section 104 of this Act, the requirement of subsection (b) of the previous section is met;

"(3) in the case of an application submitted for assistance under section 184 or section 186 the Commissioner determines that the program is consistent with criteria established by him, where feasible, after consultation with the State board established under section 104 of this Act, for achieving equitable distribution of assistance under this subpart within that State; and

"(4) in the case of an application submitted for assistance under section 186 the Commissioner determines that the applicant institution actually has an ongoing vocational training program in the field for which persons are being trained; and that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual job training program for which the persons are being trained.

"(b) An amendment to an application shall, except as the Commissioner may otherwise provide, be subject to approval in the same manner as the original application.

"Subpart 4—Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities

"PURPOSE

"SEC. 191. It is the purpose of this part to provide emergency assistance, for a limited period of time, to local educational agencies in urban and rural areas which are unable to provide vocational education designed to meet today's manpower needs due to the age of their vocational education facilities or the obsolete nature of the equipment used for vocational training, in order to assist such agencies in the modernization of facilities and equipment and the conversion of academic facilities necessary to assure that such facilities will be able to offer vocational education programs which give reasonable promise of of employment, including the remodeling and renovation of such facilities to make the facilities comply with the requirements of the Act of August 2, 1968, commonly known as the Architectural Barriers Act of 1968. 20 USC 2441. 42 USC 4151.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 2442.

"SEC. 192. There are authorized to be appropriated \$25,000,000 for fiscal year 1978, \$50,000,000 for fiscal year 1979, \$75,000,000 for fiscal year 1980, and \$100,000,000 for fiscal year 1981, to carry out the purpose of this part.

"APPLICATIONS

20 USC 2443.

"SEC. 193. (a) Any local educational agency desiring to receive assistance under this subpart shall submit to the Commissioner, through its State board, an application therefor, which application shall set forth—

"(1) a description of the facility to be remodeled or renovated, including the date of construction of such facility and the extent of reconstruction necessary to enable such facility to provide a modern program of vocational education;

"(2) a description of the equipment to be replaced or modernized with the assistance of funds made available under this subpart;

"(3) a description of the extent to which the modernization or conversion of facilities and equipment, if assisted with funds made available under this subpart, would be consistent with, and further the goals of, the five-year State plan developed pursuant to section 107;

"(4) the financial ability of the local educational agency to undertake such modernization without Federal assistance;

"(5) assurances that the facility to be remodeled or renovated will meet standards adopted pursuant to the Act of August 12, 1968;

"(6) the extent of State and local funds available to match Federal funds made available under this subpart, together with the sources and amounts of such funds;

"(7) such other information as the State board determines to be appropriate; and

"(8) such other information as the Commissioner may require by regulation.

"(b) In approving applications submitted under this subpart, the Commissioner shall apply only the following criteria:

"(1) the need for such assistance, taking into account such factors as—

"(A) the age and obsolescence of the facilities and equipment for which emergency modernization assistance is sought,

"(B) the rate of youth unemployment in the labor market area served by the local educational agency,

"(C) the number of youth aged seventeen through twenty-one residing in the labor market area served by the local educational agency who are unemployed, and

"(D) the percentage such youth represent, as compared with the vocational education enrollment in the local educational agency,

"(E) the ability of the facility to comply with the standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4156), commonly known as the Architectural Barriers Act of 1968; and

"(2) the degree to which the modernization of facilities and equipment proposed in the application afford promise of achiev-

ing the goals set forth in the five-year State plan developed pursuant to section 107.

“(c) The Commissioner shall rank all approved applications according to their relative need for assistance and, except as provided in subsection (d), shall pay, from sums appropriated for this part, 75 per centum of the cost of such approved applications, until such appropriation shall be exhausted.

“(d) The Commissioner shall consult with the Administrator of General Services and the Architectural and Transportation Barriers Compliance Board to determine whether the proposed remodeling or renovation will meet standards adopted pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968.

Consultation.

42 USC 4151.

Waiver.

“(e) Upon a finding, in writing, that a local educational agency with an approved application is suffering from extreme financial need and would not, because of the limitation of Federal financial assistance to 75 per centum of the cost of the approved project, be able to participate in the program authorized by this subpart, the Commissioner may waive such limitation and may pay the full cost of the approved project.

“PAYMENT

“SEC. 194. (a) Upon his approval of an application for assistance under this subpart, the Commissioner shall reserve from the appropriation available therefor the amount required for the payment of the Federal share of the cost of such application as determined under subsection (c) or (d) of section 193.

20 USC 2444.

“(b) The Commissioner shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

“PART C—DEFINITIONS

“DEFINITIONS

“SEC. 195. As used in this Act—

20 USC 2461.

“(1) The term ‘vocational education’ means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree; and, for purposes of this paragraph, the term ‘organized education program’ means only (A) instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and (B) the acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment; and the term ‘vocational education’ does not mean the construction, acquisition or initial equipment of buildings, or the acquisition or rental of land.

“(2) The term ‘area vocational education school’ means—

“(A) a specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market, or

“(B) the department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market, or

“(C) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market, or

“(D) the department or division of a junior college or community college or university operating under the policies of the State board and which provides vocational education in no less than five different occupational fields, leading to immediate employment but not necessarily leading to a baccalaureate degree, if it is available to all residents of the State or an area of the State designated and approved by the State board, and if, in the case of a school, department, or division described in (C) or (D), if it admits as regular students both persons who have completed high school and persons who have left high school.

“(3) The term ‘school facilities’ means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

“(4) The term ‘construction’ includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and includes site grading and improvement and architect fees.

“(5) The term ‘Commissioner’ means the Commissioner of Education.

“(6) The term ‘Secretary’ means the Secretary of Health, Education, and Welfare.

“(7) The term ‘handicapped’, when applied to persons, means persons who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired persons who by reason thereof require special education and related services, and who, because of their handicapping condition, cannot succeed in the regular vocational education program without special education assistance or who require a modified vocational education program.

“(8) The term ‘State’ includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

“(9) The term ‘State board’ means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

“(10) The term ‘local educational agency’ means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program.

“(11) The term ‘State educational agency’ means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

“(12) The term ‘postsecondary educational institution’ means a nonprofit institution legally authorized to provide postsecondary edu-

cation within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school.

“(13) The term ‘eligible recipient’ means a local educational agency or a postsecondary educational institution.

“(14) The term ‘National Advisory Council’ means the National Advisory Council on Vocational Education continued under section 162.

“(15) The term ‘industrial arts education programs’ means those education programs (A) which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning experiences involving activities such as experimenting, designating, constructing, evaluating, and using tools, machines, materials, and processes and (B) which assist individuals in the making of informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

“(16) The term ‘disadvantaged’ means persons (other than handicapped persons) who have academic or economic handicaps and who require special services and assistance in order to enable them to succeed in vocational education programs, under criteria developed by the Commissioner based on objective standards and the most recent available data.

“(17) The term ‘low-income family or individual’ means such families or individuals who are determined to be low-income according to the latest available data from the Department of Commerce.

“(18) The term ‘cooperative education’ means a program of vocational education for persons who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but these two experiences must be planned and supervised by the school and employers so that each contributes to the student’s education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

“(19) The term ‘curriculum materials’ means materials consisting of a series of courses to cover instruction in any occupational field which are designed to prepare persons for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field.

“(20) For the purposes of this Act, the term ‘administration’ means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision, but not including ancillary services.”

RELATED AMENDMENTS

SEC. 203. (a)(1) Section 107(a)(2)(A) of the Comprehensive Employment and Training Act of 1973 is amended by redesignating clauses (iii) through (vii) (and any cross references thereto) as clauses (iv) through (viii) respectively, and by inserting immediately after clause (ii) the following new clause:

29 USC 817.

“(iii) one representative of the State Advisory Council on Vocational Education created pursuant to section 105 of the Vocational Education Act of 1963;”

Ante, p. 2174.

(2) Section 107(b) of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof a new paragraph (4) to read as follows:

“(4)(i) identify, after consultation with the State Advisory Council on Vocational Education, the employment and training and vocational education needs of the State and assess the extent to which employment training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (ii) comment at least once annually, on the reports of the State Advisory Council on Vocational Education, which comments shall be included in the annual report submitted by the Council pursuant to this section and in the annual report submitted by the State Advisory Council pursuant to section 105 of the Vocational Education Act of 1963.”

Ante, p. 2174.

29 USC 952.

(b)(1) Section 502(a) of the Comprehensive Employment and Training Act of 1973 is amended by striking out “eleven members” in paragraph (2) and inserting in lieu thereof “ten members”, by redesignating such paragraph (2) (and any cross reference thereto) as paragraph (3), and by inserting immediately after paragraph (1) the following new paragraph:

“(2) a representative of the National Advisory Council on Vocational Education created pursuant to section 162 of the Vocational Education Act of 1963; and”.

29 USC 953.

(2) Section 503 of the Comprehensive Employment and Training Act of 1973 is amended by striking out “and” after paragraph (4), redesignating paragraph (5) (and any cross reference thereto) as paragraph (6), and by inserting immediately after paragraph (4) the following new paragraph:

“(5)(i) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (ii) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education, which comments shall be included in one of the reports submitted by the National Commission pursuant to this section and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963; and”.

Ante, p. 2199.

EFFECTIVE DATES AND REPEALERS

20 USC 1242
note.

SEC. 204. (a)(1) Section 201 shall be effective upon date of enactment.

20 USC 2301
note; 29 USC 817
note.

(2) Sections 202 and 203 shall be effective on October 1, 1977, except that—

20 USC 2302
note, 2307 note.

(A) the amendments made by the revised section 102(d) (relating to an authorization of appropriations for planning) and section 107 (relating to planning during fiscal year 1977) shall be effective upon enactment, and

20 USC 2303
note, 2391 note.

(B) the amendments made by section 103(a)(1) (relating to reserving funds for the National Occupational Information Coordinating Committee) and section 161 (relating to the national vocational education data reporting and accounting system and the National Occupational Information Coordinating Committee and similar State committees) shall be effective upon enactment.

(b) Upon the effective date of section 202, individuals who are members of the State advisory councils on vocational education may continue to serve for the terms for which they were appointed, except that no such member may serve for more than two fiscal years after such effective date unless reappointed pursuant to the amendments contained in that section.

20 USC 2301
note.

(c) Effective October 1, 1977, there are hereby repealed—

Repeals.

(1) title V, part F of the Education Professions Development Act.

20 USC
1119c-1119c-4.

(2) title X, part B of the Higher Education Act, and

20 USC
1135b-1135b-9.

(3) section 1071 of the Higher Education Act.

20 USC 1135c.

TITLE III—EXTENSIONS AND REVISIONS OF OTHER EDUCATION PROGRAMS

PART A—EXTENSION AND REVISION OF RELATED PROGRAMS

EXTENSION OF TITLE III OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 301. (a) The first sentence of section 301 of the National Defense Education Act of 1958 is amended by striking out “June 30, 1977” and inserting in lieu thereof “September 30, 1978”.

20 USC 441.

(b) The second sentence of such section is amended by striking out “July 1, 1977” and inserting in lieu thereof “October 1, 1978”.

EXTENSION AND REVISION OF TITLE VI OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 302. (a) The heading of title VI of the National Defense Education Act of 1958 is amended to read as follows: “TITLE VI—FOREIGN STUDIES AND LANGUAGE DEVELOPMENT”.

(b) Title VI of the National Defense Education Act of 1958 is amended by redesignating section 603 as section 604 and by inserting after section 602 the following new section:

“GRANT PROGRAM TO PROMOTE CULTURAL UNDERSTANDING

“SEC. 603. (a) The Congress finds that—

20 USC 512a.

“(1) the well-being of the United States and its citizens is affected by policies adopted and actions taken by, or with respect to, other nations and areas; and

“(2) the United States must afford its citizens adequate access to the information which will enable them to make informed judgments with respect to the international policies and actions of the United States.

It is, therefore, the purpose of this section to support educational programs which will increase the availability of such information to students in the United States.

“(b) The Commissioner is authorized, by grant or contract, to stimulate locally designed educational programs to increase the understanding of students in the United States about the cultures and actions of other nations in order to better evaluate the international and domestic impact of major national policies.

“(c) Grants or contracts under this section—

“(1) may be made to any public or private agency or organization, including, but not limited to, institutions of higher education, State and local educational agencies, professional associations, educational consortia, and organizations of teachers;

“(2) may include assistance for in-service training of teachers and other education personnel, the compilation of existing information and resources about other nations in forms useful to various types of educational programs, and the dissemination of information and resources to educators and educational officials upon their request, but shall not be used for the development of new curriculums or the acquisition of equipment or remodeling of facilities; and

“(3) may be made for projects and programs at all levels of education, and may include projects and programs carried on as part of community, adult, and continuing education programs.”.

20 USC 513.

(c) Section 604 of such Act (as so redesignated by subsection (b) of this section) is amended by striking out everything after “\$75,000,000” and inserting in lieu thereof the following: “for each fiscal year ending prior to October 1, 1977, to carry out the provisions of this title, except that no funds shall be made available in any fiscal year for carrying out programs under section 603 until at least \$15,000,000 has been made available in such fiscal year for carrying out the provisions of sections 601 and 602.”.

20 USC 512.

(d) Section 602 of such Act is amended by adding in the first sentence, after “directly or by”, the following: “grant or”.

EXTENSION OF THE INTERNATIONAL EDUCATION ACT OF 1966

20 USC 1176.

SEC. 303. Section 105(a) of the International Education Act of 1966 is amended to read as follows:

“SEC. 105. (a) There are authorized to be appropriated \$10,000,000 for fiscal year 1977, for the purpose of carrying out the provisions of this title.”.

PART B—OTHER EDUCATION PROGRAMS

EXTENSION AND REVISION OF THE EMERGENCY SCHOOL AID ACT

20 USC 1603.

SEC. 321. (a) Section 704(a) of the Emergency School Aid Act is amended by inserting after “1976” a comma and the following: “and \$1,000,000,000 for the period beginning July 1, 1976, and ending September 30, 1979, except that of the sums available under section 708 (a), the Assistant Secretary is limited in the use of such sums to an amount, not more than 5 percent, which may be used for providing compensatory services to students who had previously received such services funded in whole or in part under title I of the Elementary and Secondary Education Act of 1965, but who are no longer receiving such services as a result of attendance area changes under a desegregation order or plan issued after August 21, 1974”.

(b) Section 704 of the Emergency School Aid Act is amended by inserting “(b)” immediately before “From” and by inserting at the end thereof the following:

Appropriation
authorization.

“(c) There are authorized to be appropriated, in addition to the sums authorized under subsection (a) of this section, \$50,000,000 for fiscal year 1977, and \$100,000,000 for fiscal year 1978, for the purpose of carrying out section 708(a), relating to special programs and projects. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.”.

(c) (1) Section 704 of the Emergency School Aid Act is amended by adding at the end thereof (following the subsection added by subsection (b) of this section) the following new subsection:

“(d) There are authorized to be appropriated in addition to the sums authorized under subsection (a) of this section \$25,000,000 for fiscal year 1977 and \$50,000,000 for fiscal year 1978, for the purpose of carrying out activities specified in paragraphs (13) through (15) of section 707(a) of this Act. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.”

Appropriation
authorization.

(2) Section 707(a) of such Act is amended by adding after paragraph (12) of such section the following new paragraphs:

20 USC 1606.

“(13) Planning and design of, and conduct of programs in, magnet schools.

“(14) The pairing of schools and programs with specific colleges and universities and with leading businesses.

“(15) The development of plans for neutral site schools.”

(3) Section 720 of such Act is amended—

20 USC 1619.

(A) by inserting after paragraph (8) the following new paragraph:

“(9) The term ‘magnet school’ means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.”:

“Magnet school.”

(B) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively;

(C) by inserting after paragraph (11) (as redesignated by this paragraph) the following:

“(12) The term ‘neutral site school’ means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds.”; and

“Neutral site
school.”

(D) by redesignating paragraphs (11), (12), (13), (14), and (15) as paragraphs (13), (14), (15), (16), and (17), respectively.

(d) Section 716(b) of the Emergency School Aid Act is amended by striking out “September 30, 1976” and inserting in lieu thereof “September 30, 1979”.

20 USC 1615.

EXTENSION OF THE ALLEN J. ELLENDER FELLOWSHIP PROGRAM

SEC. 322. Section 5 of the joint resolution approved October 19, 1972 (Public Law 92-506; 86 Stat. 908), relating to the Allen J. Ellender fellowship program, is amended by striking out “two” and by inserting after “years” the following: “ending prior to October 1, 1976, \$750,000 for each of the fiscal years 1977 and 1978, and \$1,000,000 for fiscal year 1979 and for each of the fiscal years ending prior to October 1, 1982”.

MAINTENANCE OF EFFORT

SEC. 323. (a) (1) Section 143(c) (2) of the Elementary and Secondary Education Act of 1965 is amended by inserting “per student or the aggregate expenditures” immediately after “combined fiscal effort” each time that term occurs.

20 USC 241g.

(2) Section 307(e) of such Act is amended by inserting “per student or the aggregate expenditures” after “fiscal effort” each time that term occurs.

20 USC 845.

(3) Section 403(a) (11) of such Act is amended to read as follows:

20 USC 1803.

“(11) gives satisfactory assurance that the aggregate amount to be expended per student or the aggregate expenditure by the State, its local educational agencies, and private schools in such State from funds derived from non-Federal sources for programs described in section 421(a) and section 431(a) for the pre-

20 USC 1821,
1831.

ceding fiscal year were not less than the amount per student expended or the aggregate expenditure for the second preceding year.”.

20 USC 1206.

(4) Section 307(b) of the Adult Education Act is amended to read as follows:

“(b) No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.”.

20 USC 1609.

(5) Section 710(a)(13) of the Emergency School Aid Act is amended to read as follows:

“(13) provides that the applicant has not reduced its fiscal effort per student or the aggregate expenditure for the provision of free public education for children in attendance at the school of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;”.

(b) The General Education Provisions Act is amended by inserting after section 431 the following new section:

“MAINTENANCE OF EFFORT DETERMINATION

20 USC 1232-1.

“Sec. 431A. (a) (1) In prescribing regulations for carrying out the requirements of section 403(a) (11) of the Elementary and Secondary Education Act of 1965 and section 307(b) of the Adult Education Act, the Commissioner shall—

20 USC 1803,
1206.

“(A) determine the amount so expended on the basis of per pupil or aggregate expenditures;

“(B) prescribe that the requirement for each such section is met for any fiscal year for which notification is given under subparagraph (C) if, for such year, the fiscal effort per student or the amount expended is not less than the allowable percentage reduction for that agency from its fiscal effort per student or the amount expended by that agency in its base year; and

“(C) requires that each agency intending to use the provisions of this section shall notify the Commissioner.

“(2) For purposes of paragraph (1)(B) of this subsection—

“(A) an agency’s base year for the period in which such paragraph is effective shall be the fiscal year determined by that agency to be such base year in the first fiscal year for which such notification is given by that agency, except that such base year so determined shall be—

“(i) the fiscal year preceding such fiscal year for which notification is given; or

“(ii) the second fiscal year preceding such year of notification; and

“(B) an agency’s allowable percentage reduction for any fiscal year shall be a percentage reduction from the fiscal effort per student or the amount expended in its base year determined by that agency which, when added to the sum of any such percentage reductions previously determined by that agency for purposes of paragraph (1)(B), does not exceed 5 percent.

“(b) (1) (A) In any case in which exceptional circumstances exist, the Commissioner may, in accordance with the provisions of this subparagraph, waive, for any fiscal year, the requirement of section 403(a) (11) of the Elementary and Secondary Education Act of 1965, of section 307(b) of the Adult Education Act, and of this section, if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency, or the State, or both. In any case in which a waiver under this subparagraph is granted, the Commissioner shall reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the fiscal effort per student or the amount expended was less than 100 percent for the second preceding fiscal year as required by section 403(a) (11) of the Elementary and Secondary Education Act of 1965, and by section 307(b) of the Adult Education Act.

20 USC 1803,
1206.

“(B) In any case in which very exceptional circumstances exist, the Commissioner may waive, for any fiscal year, the requirement of section 403(a) (11) of the Elementary and Secondary Education Act of 1965, of section 307(b) of the Adult Education Act, and of this section, if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency, or the State, or both.

“(2) (A) In any case in which exceptional circumstances exist with respect to a local educational agency, the Commissioner may, in accordance with the provisions of this subparagraph, waive, for one fiscal year only with respect to such local educational agency, the requirement of section 143(c) (2) of the Elementary and Secondary Education Act of 1965 if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency or the State, or both. In any case in which a waiver under this subparagraph is granted, the Commissioner shall, for one fiscal year only, reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the fiscal effort per student of that agency or the amount expended by that agency was less than 100 percent for the second preceding fiscal year as required by section 143(c) (2) of the Elementary and Secondary Education Act of 1965.

20 USC 241g.

“(B) In any case in which very exceptional circumstances exist with respect to a local educational agency, the Commissioner may waive for one fiscal year only, with respect to such local educational agency the requirement of section 143(c) (2) of the Elementary and Secondary Education Act of 1965 if he determines such waiver to be equitable in order to reflect such circumstances, including those from decreasing enrollments or fiscal resources of such local educational agency.

“(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

“(c) This section shall be effective with respect to each requirement to which it applies, during the period which begins on the date of the enactment of the Education Amendments of 1976, and ends on the date of termination of the program to which the requirement applies. For purposes of the preceding sentence, a program shall be considered to terminate on September 30 of the fiscal year, if any, during which such program is automatically extended pursuant to section 414 of the General Education Provisions Act.”

Effective date.

20 USC 1226a.

PARTICIPATION OF NONPUBLIC SCHOOL CHILDREN

20 USC 1806.

SEC. 324. Section 406(e) of the Elementary and Secondary Education Act of 1965 is amended by inserting after "he" the following: "may waive such requirements and".

WOMEN'S EDUCATIONAL EQUITY

20 USC 1866.

SEC. 325. (a) The first sentence of section 408(f) (1) of the Education Amendments of 1974 (the Women's Educational Equity Act of 1974) is amended by striking out "an" and inserting in lieu thereof "a National".

(b) Section 408(f) (3) of the Education Amendments of 1974 is amended—

(1) by striking out "and" at the end of clause (C) of such section,

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon, and

(3) by inserting at the end thereof the following new clauses:

"(E) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

"(F) disseminate information concerning the activities of the Council under this section."

(c) Section 408(f) of the Education Amendments of 1974 is amended by striking out the subsection designation "(f)" the second time it appears in such section and inserting in lieu thereof "(g)".

STATE EQUALIZATION PLANS

20 USC 246.

SEC. 326. Section 842(a) (1) of the Education Amendments of 1974, relating to assistance to States for State equalization plans, is amended by striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978".

INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1976
AND SIMILAR PROGRAMS20 USC 1225
note.

20 USC 1226a.

Ante, p. 1225.20 USC 1211b
note.

SEC. 327. The provisions of section 414 of the General Education Provisions Act, relating to the contingent extension of applicable programs, shall not apply to the Indochina Refugee Children Assistance Act of 1976, or to any program of financial assistance for educational purposes for Indochinese refugee children.

HOLD HARMLESS RELATING TO TITLE IV OF ELEMENTARY AND SECONDARY
EDUCATION ACT OF 1965

20 USC 1801.

SEC. 328. Section 401 of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new subsection:

Appropriation
authorization.

"(d) There are authorized to be appropriated for obligation by the Commissioner during the fiscal year ending September 30, 1978, such sums as may be necessary for the purpose of increasing the allotment under section 402(a) (2) for that year to any State to a level of funding which equals the amounts of funds received by that State for the fiscal year ending June 30, 1974, for programs under title II, title III, title V, and sections 807 and 808 of this Act, and title III (except for section 305) of the National Defense Education Act of 1958."

20 USC 1802.

20 USC 821,
841, 861, 887,
887a.

20 USC 441.

AMENDMENT TO ADULT EDUCATION ACT

SEC. 329. Section 309 of the Adult Education Act is amended by striking out "15 per centum" and inserting in lieu thereof "10 per centum". 20 USC 1208.

AMENDMENTS RELATING TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 330. (a) Section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new subparagraph: 20 USC 240.

"(C) In the application of subparagraph (A) of this paragraph to any State having a program described in such subparagraph (A) in effect on the date of the enactment of the Education Amendments of 1976, no payment may be withheld from and no repayment may be required of any State or local educational agency for any period prior to promulgation of final regulations, or, if the State is not in conformance with such regulations, until July 1, 1977."

(b) (1) Section 5(c)(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended to read as follows:

"(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and he shall further allocate to each local educational agency which is entitled to a payment under section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 3(d) for such fiscal year."

(2) Section 5(c)(2) of such Act is amended (A) by striking out "; and" at the end of clause (F) and inserting in lieu thereof a period, and (B) by striking out clause (G).

(3) Section 5(c)(3) of such Act, as so amended, is amended by striking out "sections 2, 3, and 4" and inserting in lieu thereof "sections 3 and 4".

(4) The amendments made by this subsection shall take effect on July 1, 1975.

Effective date.
20 USC 240 note.

PART C—CAREER EDUCATION AND CAREER DEVELOPMENT

PURPOSE

SEC. 331. It is the purpose of this part to provide Federal assistance to States to enable them to plan for the development of career education and career development programs and activities for individuals of all ages, and to plan for the improvement of existing programs and activities, in the areas of awareness, exploration, planning, and decisionmaking of individuals served with regard to career opportunities and career development throughout the lifetimes of such individuals, through— 20 USC 2501.

(1) planning for the development of information on the needs for career education and career development for all individuals;

(2) planning for the promotion of a national dialogue on career education and career development designed to encourage each State and local educational agency to determine and adopt the approach best suited to the needs of the individuals served by each such agency;

(3) planning for the assessment of the status of career education and career development programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) planning for the demonstration of the best of the current career education and career development programs and practices by planning to develop and test exemplary programs and practices using various theories, concepts, and approaches with respect to career education and through planning for a nationwide system of regional career education centers;

(5) planning for the training and retraining of persons for conducting career education and career development programs; and

(6) developing State and local plans for implementing programs designed to ensure that every person has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT

20 USC 2502. SEC. 332. (a) There are authorized to be appropriated for the purpose of this part \$10,000,000 for fiscal year 1978. The provisions of section 414 of the General Education Provisions Act shall not apply to the authorization made by this subsection.

20 USC 1231c.

(b)(1) From the sums appropriated under this part, the Commissioner of Education shall reserve an amount not to exceed \$2,000,000, for the purpose of carrying out section 335 of this part.

(2) From the remainder of the sums appropriated under this part, the Commissioner shall reserve such amount, not to exceed 3 per centum thereof, as he may determine necessary and shall allot such amount among the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this part.

(3)(A) Of the remainder of the sums appropriated, the Commissioner shall allot to each State \$100,000, and of the remainder of the sums appropriated the Commissioner shall allot to each State an amount which bears the same ratio to such sums for such year as the population of the State bears to the population of all States, for purposes of carrying out section 331.

"State."

(B) For purposes of this paragraph, the term "State" means any of the several States and the District of Columbia.

(c) The Federal share of funds allotted to States under this part shall not exceed 80 per centum of the total cost of the planning undertaken pursuant to this part.

PROGRAM ADMINISTRATION

20 USC 2503. SEC. 333. The provisions of this part shall be carried out by the Commissioner through the Office of Career Education established pursuant to section 406(c) of the Education Amendments of 1974.

20 USC 1865.

USE OF FUNDS

Report to
Commissioner.
20 USC 2504. SEC. 334. Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this part shall agree to submit to the Commissioner by December 31, 1978, a report on any planning

undertaken pursuant to this part. Such report shall be in such form as the State may desire, and may include planning proposals for—

- (1) extending career education and career development programs and services to all individuals in the State;
- (2) extending the concept of the education process beyond the school into the area of employment and community affairs, and relating the subject matter curriculums of schools to the needs of individuals to function in society;
- (3) the implementation of new concepts in career education and career development and for the replication of concepts which have demonstrated success;
- (4) the development of training programs, including inservice training programs, for teachers, counselors, other educators, and administrators;
- (5) fostering cooperative arrangements with such community groups and agencies as the public employment services, vocational rehabilitation service, community mental health agencies, education opportunity centers, and other community resources concerned with vocational development guidance and counseling, in order to avoid unnecessary duplication in the provision of services in the community or area to be served; and
- (6) inventories of State, local, and private resources available for the development of career education and career development programs and services.

CAREER INFORMATION

SEC. 335. (a) The Commissioner shall provide, either directly or by grant or contract, for— 20 USC 2505.

(1) the gathering, cataloging, storing, analyzing, and disseminating information related to the availability of, and preparation for, careers in the United States, including information concerning current career options, future career trends, and career education;

(2) the ongoing analysis of career trends and options in the United States, using information from both the public and private sectors, including such sources as the Bureau of Labor Statistics, the Department of Commerce, the Tariff Commission, economic analysts, labor unions, and private industry;

(3) the publication of periodic reports and reference works using analysis prepared pursuant to this section and containing exemplary materials from the career education field, including research findings, results, and techniques from successful projects and programs, and highlights of ongoing analyses of career trends in the United States; and

(4) the conduct of seminars, workshops, and career information sessions for the purpose of disseminating to teachers, guidance counselors, other career educators, administrators, other education personnel, and the general public information compiled and analyzed under this section.

(b) In carrying out the provisions of this part, and to the extent practicable, the Commissioner shall (1) make use of existing offices, centers, clearinghouses, and research capabilities, (2) coordinate among the offices, centers, clearinghouses, and research capabilities in carrying out his career information responsibilities, and (3) use the career information capabilities of the Education Division.

NATIONAL ADVISORY COUNCIL

20 USC 2506.

SEC. 336. The National Advisory Council for Career Education established pursuant to section 406(g) of the Education Amendments of 1974 shall, in addition to its duties under that section, advise the Commissioner with respect to the implementation of this part.

20 USC 1865.

PART D—GUIDANCE AND COUNSELING

FINDINGS

20 USC 2531.

SEC. 341. The Congress finds that—

(1) guidance and counseling activities are an essential component to assure success in achieving the goals of many education programs;

(2) lack of coordination among guidance and counseling activities supported jointly or separately by Federal programs and by State and local programs has resulted in an underutilization of resources available for such activities; and

(3) increased and improved preparation of education professionals is needed in guidance and counseling, including administration of guidance and counseling programs at the State and local levels, with special emphasis on inservice training which takes educational professionals into the workplaces of business and industry, the professions, and other occupational pursuits, and that increased and improved use of individuals employed in such pursuits are needed for effective guidance and counseling programs, including (A) bringing persons employed in such pursuits into schools, and (B) bringing students into such workplaces for observation of, and participation in, such pursuits, in order to acquaint the students with the nature of the work.

APPROPRIATIONS AUTHORIZED

20 USC 2532.

SEC. 342. (a) There are authorized to be appropriated \$20,000,000 for each of the fiscal years 1978 and 1979, to carry out the provisions of this part.

(b) (1) There are authorized to be appropriated \$3,000,000 for fiscal year 1977, for purposes of grants to States made by the Commissioner for programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

20 USC 1801.

(2) No sums are authorized to be appropriated under section 401(a) of the Elementary and Secondary Education Act of 1965 for fiscal year 1977, for the purpose of making grants under part B (Libraries and Learning Resources) of title IV of such Act, for such fiscal year which represent the amount authorized to be appropriated under paragraph (1) of this subsection.

20 USC 1821.

(3) (A) The Commissioner shall allot the amounts appropriated under this subsection among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subsection. In addition, he shall allot from such amounts to (i) the Secretary of the Interior the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and (ii) the Secretary of Defense the amounts necessary for the programs, projects, and activities author-

ized by this subsection for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this subsection.

(B) From the amounts appropriated to carry out this subsection, the Commissioner shall allot to each State from such amounts an amount which bears the same ratio to such amounts as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subparagraph, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"State."

(C) The amount of any State's allotment under subparagraph (A) or subparagraph (B) to carry out this subsection which the Commissioner determines will not be required to carry out this subsection shall be available for allotment from time to time, on such dates as the Commissioner may fix, to other States in proportion to the original allotments to such States under subparagraph (A) or subparagraph (B) but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use. The total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amounts reallocated to a State under this subparagraph from funds appropriated under this subsection shall be deemed a part of its allotment under subparagraph (A) or subparagraph (B).

ADMINISTRATION

SEC. 343. (a) The Commissioner shall establish or designate an administrative unit within the Education Division for purposes of— 20 USC 2533.

(1) carrying out provisions of this section;

(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

(3) advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

(b) The Commissioner may reserve an amount not to exceed 5 percent of the sums appropriated under this part to carry out the provisions of this section.

PROGRAM AUTHORIZED

SEC. 344. (a) The Commissioner is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private non-profit organizations to assist them in conducting institutes, work shops, and seminars designed to improve the professional guidance 20 USC 2534.

qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems, including opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits, and including, for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work and to provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and to improve supervisory services in the field of guidance and counseling.

(b) The Commissioner is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States.

TITLE IV—GENERAL EDUCATION PROVISIONS

SURVEY OF AVAILABILITY OF QUALIFIED TEACHERS

20 USC
1221e-1.

SEC. 401. (a) Section 406(b) of the General Education Provisions Act is amended by striking out “and” at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof “; and”, and by adding at the end thereof the following new subparagraph:

“(5) conduct a continuing survey of institutions of higher education and local educational agencies to determine the demand for, and the availability of, qualified teachers and administrative personnel, especially in critical areas within education which are developing or are likely to develop, and assess the extent to which programs administered in the Education Division are helping to meet the needs identified as a result of such continuing survey.”.

(b) Section 406(d) (1) of the General Education Provisions Act is amended by striking out “and” at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “; and”, and by adding at the end thereof the following new subparagraph:

“(D) clearly sets forth areas of critical need for additional qualified education personnel in local education agencies and, after discussion and review by the Advisory Council on Education Statistics, identifies priorities within projected areas of need, and includes recommendations of the Council with respect to the most effective manner in which the Nation and the Federal Government may address such needs.”.

(c) Section 406(g) of the General Education Provisions Act is amended by striking out “for the fiscal year ending June 30, 1977” each time it appears and inserting in lieu thereof “for each of the fiscal years ending prior to October 1, 1978”.

EXTENSION OF FUND FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

20 USC 1221d.

SEC. 402. (a) Section 404 of the General Education Provisions Act is amended by striking out “SUPPORT FOR” in the heading of such section and inserting in lieu thereof “FUND FOR THE”.

(b) Section 404(e) of the General Education Provisions Act is amended by striking out “for the fiscal year ending June 30, 1975” and inserting in lieu thereof “for each succeeding fiscal year ending prior to October 1, 1979”. 20 USC 1221d.

NATIONAL INSTITUTE OF EDUCATION

SEC. 403. (a) Section 405(b)(2) of the General Education Provisions Act is amended to read as follows:

20 USC 1221e.

“(2) The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs—

“(A) improvement in student achievement in the basic educational skills, including reading and mathematics;

“(B) overcoming problems of finance, productivity, and management in educational institutions;

“(C) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

“(D) preparation of youths and adults for entering and progressing in careers; and

“(E) improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge.”.

(b) (1) Section 405(c)(1) of the General Education Provisions Act is amended by striking out “Eight members” and inserting in lieu thereof “A majority of the members”, and by adding at the end thereof the following new sentence: “The members of the Council shall be appointed so that the Council shall be broadly representative of the general public; of the education professions, including practitioners and researchers; and of the various fields of education, including preschool, elementary and secondary, postsecondary, continuing, vocational, special, and compensatory education.”.

(2) Section 405(c)(2) of the General Education Provisions Act is amended by striking out “and” immediately before “(B)” in the first sentence and by inserting immediately before the period at the end of such sentence the following: “, and (C) the term of office of each member shall expire on September 30 of the year in which such term would otherwise expire, unless a successor to such member has not been appointed and confirmed by the Senate by such date, in which case such member shall continue to serve until a successor has been appointed and confirmed”.

(3) Section 405(c)(3) of the General Education Provisions Act is amended by adding at the end thereof the following new sentence: “The Council may employ, without the approval of the Director, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, not to exceed seven technical and professional employees, as the Council deems necessary to carry out its functions.”.

5 USC 5101,
5331, 5332 note.

(c) Section 405(e) of the General Education Provisions Act is amended by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively, and by inserting immediately after paragraph (1) the following new paragraphs:

Research
fellowships.

20 USC 1221e.

“(2) Funds appropriated pursuant to subsection (b) for any fiscal year may be expended on projects and activities to disseminate (A) information on the results of educational research and development; and (B) other educational information. Projects and activities funded under this paragraph may include cooperative and jointly funded arrangements for such dissemination utilizing individuals who may be designated as ‘Education Extension Agents’. Employment opportunities at the local level which are generated and funded through projects and activities carried out under the preceding sentence of this paragraph shall be made available to residents of the area to be served, if any such residents are qualified for, and apply for, such employment.”

“(3) The Director may establish and maintain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses, as the Director may deem necessary to procure the assistance of highly qualified research fellows from the United States and abroad.”

(d) Section 405 of the General Education Provisions Act is amended by redesignating subsection (g) and subsection (h), and any reference thereto, as subsection (i) and subsection (j), respectively, and by inserting immediately after subsection (e) the following new subsections:

“(f) (1) In carrying out the functions of the Institute under this section, the Director shall, in accordance with the provisions of this subsection, make grants to, and enter into contracts with—

“(A) regional educational laboratories established by public agencies or private nonprofit organizations; and

“(B) research and development centers established by institutions of higher education or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development.

“(2) No grants shall be made and no contract entered into under this subsection unless—

“(A) proposals for assistance under this subsection are solicited from regional educational laboratories and research and development centers by the Director;

“(B) proposals for such assistance are developed by the regional educational laboratories and the research and development centers in consultation with the Director;

“(C) proposals are submitted in an application, containing or accompanied by such information as is essential to carry out the provisions of this section, including assurances that the laboratory or center involved will—

“(i) be responsible for the conduct of the research and development activities;

“(ii) prepare a long-range plan relating to the conduct of such research and development activities;

“(iii) ensure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, be disseminated;

“(iv) provide technical assistance to appropriate educational agencies and institutions; and

“(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities; and

"(D) the Director determines that the proposed activities will be consistent with the education research and development program and dissemination activities which are being conducted by the Institute.

"(3) (A) The Director shall establish a Panel for the Review of Laboratory and Center Operations composed of not less than 10 members nor more than 20 members who shall be appointed by the Director from written recommendations submitted by educational laboratories and research and development centers which have submitted applications under the provisions of this subsection, and by associations of professional, commercial, scholarly, and educational associations, particularly associations or organizations engaged in educational research.

Panel for the
Review of
Laboratory and
Center
Operations.
Establishment.

"(B) The Panel shall—

"(i) review, and prepare recommendations on, initial long-range plans submitted under paragraph (2) (C) (ii);

"(ii) review the operation of the laboratories and centers receiving assistance under this subsection and make recommendations for the improvement and continuation of individual laboratories and centers and for the support of new laboratories and centers; and

"(iii) not later than January 1, 1979, submit a final report to the Director and to the Congress containing such recommendations as the Panel considers appropriate and such interim reports as the Panel considers appropriate.

"(C) Each member of the Panel who is not an officer or employee of the United States shall, while engaged in the business of the Panel, be entitled to receive compensation at not to exceed the daily rate specified at the time of such service for Grade GS-18 under section 5332 of title 5, United States Code, including traveltime. While so serving on the business of the Panel away from his home or regular place of business, each such member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons intermittently employed in the Government service.

"(D) The Director, for the use of the Panel, and pursuant to the recommendations of the Panel, is authorized—

"(i) to appoint, without regard to the provisions of title 5, United States Code, governing appointments in competitive service, and fix the compensation for, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general pay rates, such professional, technical, and clerical personnel as may be necessary; and

"(ii) to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(4) No regional educational laboratory or research and development center receiving assistance under this subsection shall by reason of the receipt of such assistance be ineligible to receive any other assistance from the Institute authorized by law.

"(g) (1) There is established within the Institute a Federal Council on Educational Research and Development (hereinafter in this subsection referred to as the 'Federal Council').

"(2) The Federal Council shall be composed of representatives of Federal agencies engaged in research and development relating to education, and shall include, but not be limited to, a representative desig-

Federal Council
on Educational
Research and
Development.
Establishment.

nated by the Secretary of Defense, a representative designated by the Secretary of Labor, the Director of the National Institutes of Education, the Director of the National Institute of Health, the Director of the National Science Foundation, the Director of the Office of Child Development of the Department of Health, Education, and Welfare, and the Commissioner of Education.

“(3) The President shall designate the Director of the Institute to be the Chairman of the Federal Council,

“(4) The President shall appoint additional representatives of Federal agencies and may alter the membership of the Federal Council from time to time as he considers necessary to meet changes in Federal programs or in the organization of the executive branch of the Federal Government.

“(5) The Federal Council shall—

“(A) advise, and consult with, the Director of the Institute with respect to major problems arising in connection with carrying out the purposes of the Institute;

“(B) promote coordination between the programs and activities of the Institute and related programs and activities of other Federal agencies, including the joint support of activities to the extent such support is appropriate;

“(C) make an annual report to the Congress and the President on the status of educational research and development in the United States, including (i) a catalog of federally assisted programs in educational research and development; (ii) a report of the most significant findings of such research and development; and (iii) recommendations with respect to the manner in which such Federal research and development efforts may be improved; and

“(D) make recommendations to the Congress and the President with respect to effective means for the dissemination throughout the United States of information relating to educational research and development, and carry out an assessment of existing efforts used by Federal agencies for the dissemination of such information.

“(h) (1) In conducting educational research under subsection (e) which deals with specific education programs or the target populations of such programs, the Director shall consult with the appropriate administrators of such programs within appropriate Federal agencies.

“(2) The head of any Federal agency which conducts educational research or provides financial assistance for such research shall consult with the Director with respect to the design of programs of such research.”.

20 USC 1221e.

(e) Section 405(j) of the General Education Provisions Act, as so redesignated by subsection (d), is amended by adding at the end thereof the following new sentence: “There are also authorized to be appropriated for such purpose \$100,000,000 for fiscal year 1977 and \$200,000,000 for each of fiscal years 1978 and 1979.”.

TECHNICAL REVISION RELATING TO PROHIBITION AGAINST FEDERAL CONTROL

20 USC 1230.

Sec. 404. (a) Section 421 of the General Education Provisions Act is amended by inserting “(except as otherwise provided)” after “part”.

20 USC 1232a.

(b) Section 432 of the General Education Provisions Act is amended by striking out all the matter preceding “shall” and inserting in lieu thereof the following: “No provision of any applicable program”.

REGULATIONS

Sec. 405. (a) (1) Section 431 of the General Education Provisions Act is amended by striking out "Sec. 431. (a)" and inserting in lieu thereof "(2)" and by inserting immediately after the section heading the following: 20 USC 1232.

"Sec. 431. (a) (1) For the purpose of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Commissioner."

(2) (A) Section 431(a)(2) of such Act, as redesignated by this section, is amended by striking out "Rules, regulations, guidelines, or other published interpretations or orders" and inserting in lieu thereof "Regulations".

(B) Such section 431(a)(2) is further amended by striking out "rules, regulations, guidelines, interpretations, or orders" and inserting in lieu thereof "regulations".

(b) (1) Section 431(b)(1) of such Act is amended by striking out "standard, rule, regulation, or requirement of general applicability" and inserting in lieu thereof "proposed regulation".

(2) Section 431(b)(2)(A) of such Act is amended by striking out "standard, rule, regulation, or general requirement" and inserting in lieu thereof "regulation".

(c) Section 431(c) of such Act is amended by striking out "rules, regulations, guidelines, interpretations, or orders" and inserting in lieu thereof "regulations".

(d) (1) Section 431(d)(1) of such Act is amended by striking out "standard, rule, regulation, or requirement of general applicability" and inserting in lieu thereof "regulation".

(2) Section 431(d)(1) of such Act is further amended by striking out "standard, rule, regulation, or requirement" each time it appears and inserting in lieu thereof "regulation".

(3) Section 431(d)(2) of such Act is amended by striking out "standard, rule, regulation, or requirement" each time it appears and inserting in lieu thereof "regulation".

(e) (1) Section 431(e) of such Act is amended by striking out "standard, rule, regulation, or requirement" and inserting in lieu thereof "regulation".

(2) Section 431(e) of such Act is further amended by striking out "proposed standard, rule, regulation, or requirement of general applicability" and inserting in lieu thereof "final regulation".

(f) Section 431(g) of such Act is amended by striking out "rules, regulations, and guidelines" each time it appears and inserting in lieu thereof "final regulations".

(g) The heading of section 431 of such Act is amended to read as follows:

"REGULATIONS: REQUIREMENTS AND ENFORCEMENT".

CONTROL OF PAPERWORK

Sec. 406. Section 406 of the General Education Provisions Act is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 20 USC 1221e-1.

"(g) (1) (A). In order to eliminate excessive detail and unnecessary or redundant information requests, the Secretary and the Commissioner shall, in accordance with the provision of this subsection, coordinate the collection of information and data acquisition activities of the Education Division and the Office for Civil Rights.

Definitions.

“(B) For the purpose of this subsection, the term—

“(i) ‘information’ has the meaning given it by section 3502 of title 44, United States Code; and

“(ii) ‘educational agency or institution’ means any public or private agency or institution which is the recipient of funds under any applicable program, including any preschool program.

Information collection and data acquisition.

“(C) The Commissioner shall establish and provide staff personnel to operate information collection and data acquisition review and coordination procedures to be directed by the Administrator for the National Center for Education Statistics. The procedures shall be designed to review proposed collection of information and data acquisition activities in order to advise the Commissioner and the Secretary with respect to whether such activities are excessive in detail or unnecessary or redundant.

“(2) (A) The Administrator shall assist each bureau or agency directly responsible for an applicable program, and the Office for Civil Rights, in performing the coordination required by this subsection, and shall require of each such bureau, agency, and office—

“(i) a detailed justification of how information once collected will be used; and

“(ii) an estimate of the man-hours required by each educational agency or institution to complete the requests.

“(B) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during the 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator on the collection of information and data acquisition activity.

42 USC 2000a note.

“(C) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provisions of Federal law.

“(3) The Administrator shall, insofar as practicable, and in accordance with the provisions of this title, provide educational agencies and institutions with summaries of the information collected and the data acquired by the Education Division and the Office for Civil Rights.

“(4) The Administrator shall, insofar as practicable, develop a common set of definitions and terms after consultation with the head of each bureau or agency directly responsible for the administration of an applicable program.

Report to Congress.

“(5) The Commissioner shall prepare as part of the annual report to the Congress provisions relating to the progress made by the Secretary, the Commissioner, and the Administrator in meeting the objectives of this subsection and make to the Congress whatever legislative recommendations necessary for meeting the objectives.”.

ADMINISTRATIVE HEARINGS

20 USC 1232i.

SEC. 407. Section 440 of the General Education Provisions Act is amended by inserting “(a)” immediately after “Sec. 440” and by adding at the end thereof the following new subsection:

“(b) The extension of Federal financial assistance to a local educational agency may not be limited, deferred, or terminated by the Secretary on the ground of noncompliance with title VI of the Civil Rights Act of 1964 or any other nondiscrimination provision of Federal law unless such agency is accorded the right of due process of law, which shall include—

42 USC 2000d.

“(1) at least 30 days prior written notice of deferral to the agency, setting forth the particular program or programs which the Secretary finds to be operated in noncompliance with a specific provision of Federal law;

“(2) the opportunity for a hearing on the record before a duly appointed administrative law judge within a 60-day period (unless such period is extended by mutual consent of the Secretary and such agency) from the commencement of any deferral; Hearing.

“(3) the conclusion of such hearing and the rendering of a decision on the merits by the administrative law judge within a period not to exceed 90 days from the commencement of such hearing, unless the judge finds by a decision that such hearing cannot be concluded or such decision cannot be rendered within such period, in which case such judge may extend such period for not to exceed 60 additional days;

“(4) the limitation of any deferral of Federal financial assistance which may be imposed by the Secretary to a period not to exceed 15 days after the rendering of such decision unless there has been an express finding on such record that such agency has failed to comply with any such nondiscrimination provision of Federal law; and

“(5) procedures, which shall be established by the Secretary, to ensure the availability of sufficient funds, without regard to any fiscal year limitations, to comply with the decision of such judge.”.

STUDENT ADMISSION PRACTICES

SEC. 408. Section 440 of the General Education Provisions Act, as amended by section 407, is further amended by adding at the end thereof the following new subsection: 20 USC 1232i.

“(c) It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas (or any other numerical requirements which have the effect of imposing quotas) on the student admission practices of an institution of higher education or community college receiving Federal financial assistance.”.

EXTENSION OF REPORTING DATES FOR CERTAIN PROGRAMS

SEC. 409. (a) Section 403(c)(3) of the General Education Provisions Act is amended by striking out “November 1” and inserting in lieu thereof “February 1”. 20 USC 1221c.

(b) Section 422(b) of the General Education Provisions Act is amended by striking out “March 31” and inserting in lieu thereof “June 30”. 20 USC 1231a.

(c) Section 4(b)(1) of the Special Projects Act is amended by striking out “February 1” and inserting in lieu thereof “March 1”. 20 USC 1853.

(d)(1) Section 825(a) of the Education Amendments of 1974 is amended by striking out “June 30, 1976” and inserting in lieu thereof “August 31, 1977”. 20 USC 241a note.

(2) Section 825(c) of such Act is amended by striking out “December 1, 1976” and inserting in lieu thereof “August 31, 1977”.

TREATMENT OF INDIAN POSTSECONDARY SCHOOLS

SEC. 410. The Act of November 2, 1921 (25 U.S.C. 13) is amended by adding at the end thereof the following new undesignated paragraph:

20 USC 1141. “Notwithstanding any other provision of this Act or any other law, postsecondary schools administered by the Secretary of the Interior for Indians, and which meet the definition of an ‘institution of higher education’ under section 1201 of the Higher Education Act of 1965, shall be eligible to participate in and receive appropriated funds under any program authorized by the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.”

20 USC 1001 note.

PRESIDENTIAL ADVISORY COUNCILS

20 USC 1233b. SEC. 411. Section 443(b) of the General Education Provisions Act is amended to read as follows:

“(b) Members of Presidential advisory councils shall continue to serve, regardless of any other provision of law limiting their terms, until the President appoints other members to fill their positions.”

AMENDMENT RELATING TO SEX DISCRIMINATION

20 USC 1681. SEC. 412. (a) Section 901(a) of the Education Amendments of 1972 is amended—

(1) by striking out “and” at the end of paragraph (5):

(2) by striking out “This” in paragraph (6) and inserting in lieu thereof “this”;

(3) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

“(7) this section shall not apply to—

“(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

“(B) any program or activity of any secondary school or educational institution specifically for—

“(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

“(ii) the selection of students to attend any such conference;

“(8) this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

“(9) this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.”

(b) The amendment made by subsection (a) shall take effect upon the date of the enactment of this Act.

Effective date.
20 USC 1681
note.

TITLE V—TECHNICAL AND MISCELLANEOUS PROVISIONS

PART A—TECHNICAL AMENDMENTS

TECHNICAL AMENDMENTS

- SEC. 501. (a) The Education Amendments of 1974 is amended—
- (1) in section 101(a)(3) by inserting “, 122, and 123” immediately after “121” and by inserting “, 127, 128, respectively”, immediately after “126” and before the period; 20 USC 241d-1, 241d-2.
 - (2) in section 103(a)(2) by inserting “of section 301(b)” immediately after “The second sentence” and by striking out “and each of the five succeeding fiscal years.”; 20 USC 841.
 - (3) in section 305(a) by inserting “(b)(1)” immediately before “The amendments made by paragraphs (1) and (2)” which follows the matter in quotation marks in paragraph (3) of such subsection; 20 USC 238 note.
 - (4) in section 402(a)(2) by striking out “July 24, 1954” and inserting in lieu thereof “July 26, 1954”; 88 Stat. 544.
 - (5) in section 405 by striking out “(f)(1) The Commissioner shall establish or designate a clearing-” the second time it appears therein and by inserting in lieu thereof “(3) Appointments to the advisory council shall be completed”; 20 USC 1864.
 - (6) in section 406(e) by striking out “November 1, 1975” and inserting in lieu thereof “May 1, 1976”; 20 USC 1865.
 - (7) in section 406(g)(4) by striking out “November 1, 1975” and inserting in lieu thereof “May 1, 1976”;
 - (8) (A) in section 408(d)(2)(B) by striking out “(a)” and inserting in lieu thereof “(d)(1)”;
 - (B) in section 408(d) by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3);
 - (C) in the third sentence of section 408(f)(1) by inserting “from among the members indicated in clause (A)” after “Chairman”;
 - (D) in section 408(f)(4) by striking out “not later than a year” and inserting in lieu thereof “not later than twenty months”;
 - (9) in section 511(b) by striking out “July 1, 1974” and inserting in lieu thereof “July 1, 1975”; 20 USC 1232c note.
 - (10) in section 516(a) by striking out “433” and inserting in lieu thereof “443”; 20 USC 1233b.
 - (11) in section 612(b)(1) by striking out “to the Office” in the second sentence and inserting in lieu thereof “to the Bureau”; 20 USC 1402 note.
 - (12) in section 645 by striking out “Elementary” and inserting in lieu thereof “Emergency”; 20 USC 1607.
 - (13) in section 821(c) by amending the first sentence thereof to read as follows: “The Institute shall make interim reports to the President and to the Congress not later than December 31, 1976, and September 30, 1977, and shall make a final report there- to no later than September 30, 1978, on the result of its study conducted under this section.”; 20 USC 1221e note.
 - (14) (A) in section 822(a) by striking out “one year after the date of enactment of this Act” and inserting in lieu thereof “December 31, 1976”; 20 USC 241c note.

20 USC 241c
note.

(B) in section 822(b) by striking out “one year after the date of enactment of this Act” and inserting in lieu thereof “six months after the completion of the survey authorized by subsection (a)”;

20 USC 241a
note.

(15) in section 823(2) by striking out “than one year after the effective date of this Act” and by inserting in lieu thereof “than December 31, 1975”;

(16) in section 824(b) by striking out “one year after the date of enactment of this Act” and by inserting in lieu thereof “January 31, 1976”;

(17) by amending the first sentence of section 825(b) to read as follows: “The Secretary shall request each State educational agency to take the steps necessary to establish and maintain appropriate records to facilitate the compilation of information specified in subsection (a) and to submit such information to him no later than June 1, 1976.”;

(18) in section 826(a) by—

(A) inserting “of a representative sample of school” after “investigation and study”; and

(B) striking out in paragraph (1) “sixty days after the enactment of this Act” and inserting in lieu thereof “July 1, 1975”;

(19) in section 826(b) by striking out “Within fifty days after the enactment of this Act, the” and by inserting in lieu thereof “The”, by striking out “sixty days after the date of enactment of this Act” and by inserting in lieu thereof “July 1, 1975”, and by striking out in the second sentence “the date of enactment of this Act” and by inserting in lieu thereof “such date”;

20 USC 1135.

(20) in section 837 by inserting “of the Higher Education Act of 1965” after “section 1001(b)(1)”;

20 USC 880b-1
note.

(21) in section 845(c) by striking out “708(a)” and by inserting in lieu thereof “732(a)” and by striking out “continued” and inserting in lieu thereof “continue”; and

20 USC 1209.

(22) in section 845(f) by striking out “310(b)” and by inserting in lieu thereof “311(b)”.

(b)(1) Title I of the Elementary and Secondary Education Act of 1965 is amended—

20 USC 241c-5.

(A) in section 125 by striking out “Except as provided in section 843 of the Education Amendments of 1974, no” and inserting in lieu thereof “No”;

20 USC 241d.

(B) in section 126(b) by striking out “clauses (2), (5), (6), and (7) of section 103(a),” and inserting in lieu thereof “sections 103(a)(2), 121, 122, and 123.”;

20 USC 241e.

(C) in section 141(a)(13) by striking out “140” and inserting in lieu thereof “150”;

(D) in section 141(a)(14)(A) by inserting “eligible” after “children”; and

20 USC 241o.

(E) in section 151(g) by striking out “January 31, 1975” and inserting in lieu thereof “February 1, 1975”, and by striking out “January 31” the second time it appears and inserting in lieu thereof “February 1”;

20 USC 241c-5
note.

(2) The amendment made by paragraph (1)(A) shall take effect on July 1, 1975.

20 USC 824.

(c) Section 204(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out “1973” and inserting in lieu thereof “1978”.

(d) Title VII of the Elementary and Secondary Education Act of 1965 is amended—

- (1) in section 731(c) by striking out "November 1, 1975" and inserting in lieu thereof "November 1, 1976" and by striking out "of 1977" and by inserting in lieu thereof "February 1, 1978"; 20 USC 880b-10.
- (2) in section 732(c) by striking out "November 1" and inserting in lieu thereof "March 31"; and 20 USC 880b-11.
- (3) in section 742 by inserting "of the National Institute of Education" after "Director" each place it appears. 20 USC 880b-13.
- (e) (1) Section 403(b) of the Elementary and Secondary Education Act of 1965 is amended by inserting at the end thereof the following new paragraph: 20 USC 1803.
- "(5) During the fiscal year preceding the first fiscal year for which funds are appropriated pursuant to any part of this title, the State educational agency may use administrative funds available to the State under any program specified in section 401(c) for the purpose of carrying out the requirements of this subsection." 20 USC 1801.
- (2) Section 431(a)(2) of the Elementary and Secondary Education Act of 1965 is amended by striking out "or private educational organizations". 20 USC 1831.
- (f) The General Education Provisions Act is amended—
- (1) in section 434(b)(1)(A) by adding after the first sentence the following new sentence: "The provisions of the preceding sentence shall also apply in the case of a State or other jurisdiction in which there is only one local educational agency or in which the State educational agency is also the only local educational agency."; 20 USC 1232c.
- (2) in section 437(a) by striking out "within sixty days" and inserting in lieu thereof "within ninety days"; and 20 USC 1232f.
- (3) in section 437(b) by striking out "October 15" and inserting in lieu thereof "March 31".
- (g) Section 310A (b) (2) (A) of the Adult Education Act is amended by striking out "approval" and inserting in lieu thereof "approved". 20 USC 1208b.
- (h) Sections 652(b)(3), 652(b)(4) and 652(b)(5) of the Education of the Handicapped Act each are amended by striking out "grant and contract" and inserting in lieu thereof "grant or contract". 20 USC 1452.
- (i) Section 709(a) of the Emergency School Aid Act is amended by inserting "Assistant" before "Secretary". 20 USC 1608.
- (j) (1) Section 194(b) of the Vocational Education Act of 1963 is amended by striking out "Secretary" and inserting in lieu thereof "Commissioner". 20 USC 1393c.
- (2) Section 197(a)(2) of such Act is amended by striking out "to an agency" and inserting in lieu thereof "by an agency". 20 USC 1393f.
- (k) (1) Section 301 of the National Defense Education Act of 1958 is amended by striking out "1977" and inserting in lieu thereof "1978". 20 USC 441.
- (2) Section 651(a) of the Education Amendments of 1974 is amended by striking out "1977" and inserting in lieu thereof "1978". 20 USC 441 note.
- (3) The amendments made by paragraph (1) of this subsection shall be effective on and after July 1, 1974.
- (l) Section 801(j) of the Elementary and Secondary Education Act of 1965 is amended by inserting "IV," after "titles II, III,". 20 USC 881.
- (m) (1) Section 103(a) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico," after "such term does not include". 20 USC 403.
- (2) Section 402(a)(1) of such Act is amended by striking out "3 per centum" and inserting "1 per centum" in lieu thereof. 20 USC 462.
- (3) Section 1008(A) of such Act is amended by striking out "Puerto Rico,". 20 USC 588.
- (n) Section 403(17) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "(but not 20 USC 244.

including" and inserting in lieu thereof "; but at the option of a local educational agency, such term need not include", and by striking out "residing in nonproject areas)" and inserting in lieu thereof "residing in nonproject areas".

20 USC 241c-5. (o) Section 125 of the Elementary and Secondary Education Act of 1965 is amended by striking out "State agency" both places it appears and inserting in lieu thereof "State".

20 USC 241o. (p) Section 151(i) of the Elementary and Secondary Education Act is amended by adding at the end thereof the following new sentence: "In carrying out the provisions of this section, the Commissioner shall place priority on assisting States and local educational agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program."

20 USC 1221e-1. (q) Section 406(g) of the General Education Provisions Act is amended by striking out "for the fiscal year ending June 30, 1977" both times it appears and by inserting in lieu thereof "for each of the fiscal years ending prior to October 1, 1978".

20 USC 1806. (r) Section 406(e) of the Elementary and Secondary Education Act of 1965 is amended by inserting after "he" the following: "may waive such requirements and".

PART B—MISCELLANEOUS AMENDMENTS

REPORTS ON HIGH SCHOOL EQUIVALENCY PROGRAM AND COLLEGE ASSISTANCE MIGRANT PROGRAM

Reports to Congress.
20 USC 2561. SEC. 521. (a) (1) The Secretary of Health, Education, and Welfare, in consultation, where appropriate, with the Secretary of Labor, shall prepare and submit to the Congress not later than six months after the date of the enactment of this Act reports on programs and activities authorized by sections 417A and 417B of the Higher Education Act of 1965, and on programs operated by the Department of Labor known as the High School Equivalency Program and College Assistance Migrant Program authorized under section 303 of the Comprehensive Employment and Training Act of 1973. The reports required by this subsection may include material from existing studies as well as such material prepared by Federal agencies and by contractors, consultants, and experts, as the Secretary of Health, Education, and Welfare deems necessary.

20 USC 1070d, 1070d-1. (2) The reports required by this subsection shall examine the purposes, administration, and effectiveness of the programs described in paragraph (1) and shall determine if and to what extent each of such programs should be administered by the Office of Education, and if so, how the administration of such programs in the Office of Education should be structured to best achieve the purposes of such programs.

29 USC 873. (b) The Secretary of Labor shall administer and directly fund the existing programs known as the High School Equivalency Program and the College Assistance Migrant Program from the national account portion of funds appropriated for title III, section 303 of the Comprehensive Employment and Training Act of 1973 during fiscal year 1977, at the level at which they were funded during fiscal year 1976.

REPORT ON REORGANIZATION OF EDUCATION DIVISION

Study.
20 USC 2562. SEC. 522. (a) The Secretary of Health, Education, and Welfare shall conduct a study in order to determine the extent to which reorganization of the Education Division of the Department of Health, Education, and Welfare is necessary or appropriate.

(b) The Secretary of Health, Education, and Welfare shall transmit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives, no later than June 30, 1977, a report with respect to the study required by subsection (a), together with such recommendations as the Secretary deems appropriate.

Report to congressional committees.

STUDIES OF VOCATIONAL EDUCATION

SEC. 523. (a) The Commissioner of Education shall carry out a study of the extent to which sex discrimination and sex stereotyping exist in all vocational education programs assisted under the Vocational Education Act of 1963, and of the progress that has been made to reduce or eliminate such discrimination and stereotyping in such programs and in the occupations for which such programs prepare students. The Commissioner shall report the results of such study, together with any recommendations with respect thereto, to the Congress within two years after the date of the enactment of this Act.

Sex discrimination.
20 USC 2563.
Ante, p. 2169.

(b) (1) In addition to the other authorities, responsibilities, and duties conferred upon the National Institute of Education (hereinafter in this section referred to as the "Institute") by section 405 of the General Education Provisions Act, as amended by this Act, the Institute shall undertake a thorough evaluation and study of vocational education programs, including such programs conducted by the States, and such programs conducted under the Vocational Education Act of 1963, and other related programs conducted under the Comprehensive Employment and Training Act of 1973 and by the State Post-Secondary Commissions authorized by the Education Amendments of 1972. Such a study shall include—

Report to Congress.

Ante, p. 2227.

29 USC 801 note.

20 USC 1001 note.

(A) a study of the distribution of vocational education funds in terms of services, occupations, target populations, enrollments, and educational and governmental levels and what such distribution should be in order to meet the greatest human resource needs for the next 10 years;

(B) an examination of how to achieve compliance with, and enforcement of, the provisions of applicable laws of the United States;

(C) an analysis of the means of assessing program quality and effectiveness;

(D) depending on the level of funding available to the Institute, not more than three experimental studies to be administered by the Institute, in cases where the Institute determines that such experimental programs are necessary to carry out the purpose of clauses (A) through (C) and the Commissioner of Education and the Secretary of Labor are authorized, notwithstanding any provision of any other law, at the request of the Institute, to approve the use of grants which educational or other agencies are eligible to receive under such Acts (in cases where such agencies agree to the uses of such grants), in order to carry out such experimental programs;

(E) findings and recommendations, including recommendations for changes in such Acts or for new legislation, with respect to the matters studied under clauses (A) through (E); and

(F) a review and evaluation of the effectiveness of programs funded under subpart 5 of part A of the Vocational Education Act of 1963 (as such Act is in effect on October 1, 1977), and to make recommendations for the redirection and the improvement of programs at all levels funded under such subpart.

Ante, p. 2196.

Report to
President and
Congress.

(2) The Institute shall make an interim report to the President and to the Congress not later than September 30, 1979, and shall make a final report to the President and to the Congress no later than September 30, 1980, on the result of its study conducted under this section, except that the report required pursuant to paragraph (1) (F) shall be transmitted to the President and the Congress not later than January 15, 1979. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before their transmittal to the Congress, but the President and the Commissioner may make to the Congress such recommendations with respect to the content of the reports as each may deem appropriate.

20 USC 1242.

(3) Sumis made available pursuant to section 102 of the Vocational Education Act of 1963 (as such Act is in effect on the date of the enactment of this Act) and sections 102 and 103 of the Vocational Education Act of 1963 (as such Act is in effect on October 1, 1977) shall be available to carry out the administrative and direct cost requirements of the provisions of this section. These funds shall not exceed \$1,000,000 per year for each of the fiscal years ending prior to October 1, 1979. Ten per centum of the funds made available under this section shall be made available for purposes of carrying out the provisions of paragraph (1) (F).

20 USC 1243.

Plan, submittal to
Congress.

(4) (A) The Institute shall submit to the Congress, within 10 months after the date appropriations become available to carry out this section, a plan for the study to be conducted under this section. The Institute shall not commence such study until the first day after the close of the first period of 30 calendar days of continuous session of the Congress after the date of the delivery of such plan to the Congress.

(B) For purposes of subparagraph (A)—

(i) continuity of session is broken only by an adjournment of the Congress sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than 30 days to a day certain are excluded in the computation of the 30-day period.

DEPARTMENTAL DAY CARE CENTER

20 USC 2564.

SEC. 524. Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare is authorized by contract or otherwise to establish, equip, and operate day care center facilities for the purpose of serving children who are members of households of employees of the Department of Health, Education, and Welfare. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department employees or others who are beneficiaries of services provided by such facilities to pay for the cost of their operation and to accept money, equipment, or other property donated for use in connection with the facilities. No appropriated funds may be used for the equipping or operation of any centers provided under this authority. The prohibition made by the preceding sentence shall not preclude the provision of appropriate donated space nor the purchase of the initial equipment for the centers, except that the cost of such equipment shall be reimbursed over the expected life of such equipment, not to exceed 10 years.

WAYNE MORSE CHAIR OF LAW AND POLITICS

SEC. 525. (a) The Commissioner of Education (hereinafter in this section referred to as the "Commissioner") is authorized to provide financial assistance in accordance with the provisions of this section to assist in establishing the Wayne Morse Chair of Law and Politics at the University of Oregon, of Eugene, Oregon. 20 USC 2565.

(b)(1) For purposes of this section, the Federal share of the cost of establishing the Wayne Morse Chair of Law and Politics shall not exceed 50 per centum.

(2) No financial assistance under this section may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed \$500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended. Appropriation authorization.

PART C—TRANSITION PERIOD; EFFECTIVE DATES

TRANSITION PERIOD

SEC. 531. There are authorized to be appropriated such sums as may be necessary for the period July 1, 1976, through September 30, 1976, to carry out each program authorized by this Act and each program amended by this Act, except for any program which is to become effective in fiscal year 1977 or thereafter. Appropriation authorization. 20 USC 1001 note.

EFFECTIVE DATES

SEC. 532. The provisions of this Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act except— 20 USC 1001 note.

(1) as specifically otherwise provided; and

(2) that each amendment made by this Act (not subject to clause (1) of this section) providing for authorization of appropriations shall take effect July 1, 1976.

Approved October 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1085 accompanying H.R. 12835, No. 94-1086 accompanying H.R. 12851 and No. 94-1232 accompanying H.R. 14070 (all from Comm. on Education and Labor) and No. 94-1701 (Comm. of Conference).

SENATE REPORT No. 94-882 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 26, 27, considered and passed Senate.

Aug. 31, considered and passed House, amended, in lieu of H.R. 12835, H.R. 12851, and H.R. 14070.

Sept. 28, Senate agreed to conference report.

Sept. 29, House agreed to conference report.

Public Law 94-483
94th Congress

Joint Resolution

Oct. 12, 1976
[S.J. Res 181]

To authorize the erection of the American Legion's Freedom Bell on lands of the park system of the District of Columbia, and for other purposes.

American
Legion's
Freedom Bell.
Erection.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the American Legion is authorized to erect on lands of the park system of the District of Columbia and its environs on lands owned by the United States and to present to the Congress of the United States on behalf of the children of America, the American Legion's Freedom Bell, in honor of the Bicentennial celebration of the signing of the Declaration of Independence.

SEC. 2. All plans for the choice of the site and the placement of the freedom bell pursuant to the first section of this bill are subject to (1) the approval of the Secretary of the Interior, the Commission on Fine Arts, and the National Capital Planning Commission, and (2) the placement of the bell is begun within five years after the date of enactment of this Act.

Approved October 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1563 accompanying H.J. Res. 915 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1250 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 20, considered and passed Senate.

Sept. 29, considered and passed House.

Public Law 94-484
94th Congress

An Act

To amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes.

Oct. 12, 1976
[H.R. 5546]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE: REFERENCE TO ACT

Health
Professions
Educational
Assistance Act of
1976.
42 USC 201 note.

SECTION 1. (a) This Act may be cited as the "Health Professions Educational Assistance Act of 1976".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds and declares that—

42 USC 292 note.

(1) the availability of high quality health care to all Americans is a national goal;

(2) the availability of high quality health care is, to a substantial extent, dependent upon—

(A) the availability of qualified health professions personnel; and

(B) the availability of adequate numbers of physicians engaged in the delivery of primary care, including family practice, general internal medicine, and general pediatrics, and in the various specialties, but numbers which do not exceed the need for physicians in such specialties;

(3) there are many areas in the United States which are unable to attract adequate numbers of health professions personnel to meet their health care needs; and

(4) physician specialization has resulted in inadequate numbers of physicians engaged in the delivery of primary care.

(b) The Congress further finds and declares that—

(1) health professions personnel are a national health resource and the Federal Government shares the responsibility of assuring that such qualified personnel are available to meet the health care needs of the American people;

(2) it is therefore appropriate to provide support for the education and training of such personnel; and

(3) at the same time it is appropriate to provide such support in a manner which will assure the availability of health professions personnel to all of the American people.

(c) The Congress further finds and declares that there is no longer an insufficient number of physicians and surgeons in the United States such that there is no further need for affording preference to alien physicians and surgeons in admission to the United States under the Immigration and Nationality Act.

8 USC 1101 note.

TITLE I—EXTENSION OF CURRENT AUTHORITIES THROUGH FISCAL YEAR 1977

EXTENSION

- 42 USC 244-1. SEC. 101. (a) (1) Section 312(a) (relating to traineeships for professional public health personnel) is amended (A) by striking out “and” after “1973,” and (B) by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$9,900,000 for the fiscal year ending September 30, 1977”.
- 42 USC 245a. (2) Section 313(a) (relating to project grants for graduate training in public health) is amended (A) by striking out “and” after “1973,” and (B) by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$6,000,000 for the fiscal year ending September 1977”.
- (3) Section 313(c) is amended (A) by striking out “and” after “1973,” and (B) by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$6,400,000 for the fiscal year ending September 30, 1977”.
- 42 USC 254b. (b) Section 329(h) (relating to the National Health Service Corps) is amended (1) by striking out “and” after “1975,” and (2) by striking out “1976” and inserting in lieu thereof “1976; and \$34,000,000 for the fiscal year ending September 30, 1977”.
- 42 USC 293. (c) Section 720 (relating to grants for construction of teaching facilities) is amended (1) by striking out “and” after “1973,” and (2) by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$103,000,000 for the fiscal year ending September 30, 1977”.
- 42 USC 293i. (d) Section 729 (relating to loan guarantees and interest subsidies) is amended—
- (1) by striking “June 30, 1974” in subsections (a) and (b) and inserting in lieu thereof “September 30, 1977”; and
- (2) by inserting after “1974” in subsection (e) the following:
- “, or in any of the next three fiscal years”.
- 42 USC 294b, 294o. (e) Section 742 (relating to health professions student loans) is amended (1) by striking out “and” after “1975,” the first time it occurs, and (2) by inserting after “1976” the following: “, and \$39,100,000 for the fiscal year ending September 30, 1977”.
- 42 USC 294g. (f) Section 747(d) (relating to loans for students in foreign medical schools) is amended by striking out “two” and inserting in lieu thereof “four”.
- 42 USC 295e-1. (g) The section 767 entitled “GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN FAMILY MEDICINE” is amended (1) by striking out “and” after “1973,” and (2) by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$39,000,000 for the fiscal year ending September 30, 1977”.
- 42 USC 295e-2. (h) The section 768 entitled “GRANTS FOR SUPPORT OF POST-GRADUATE TRAINING PROGRAMS FOR PHYSICIANS AND DENTISTS” is amended—
- (1) by striking out “for the fiscal year ending June 30, 1974” in subsection (a) and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976”; and
- (2) by inserting “or in the next two fiscal years” after “1974,” in subsection (b) (3) (B).

(i) Section 769(a) (relating to grants for training for health professions teaching personnel) is amended by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976”.

42 USC 295e-3.

(j) Section 769A (relating to grants for computer technology) is amended by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977”.

42 USC 295e-4.

(k) (1) Paragraph (1) of section 770(j) (relating to capitation grants) is amended (A) by striking out “and” after “1973”, and (B) by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$133,700,000 for the fiscal year ending September 30, 1977”.

42 USC 295f.

(2) Paragraph (2) of such section is amended (A) by striking out “and” after “1973,”, and (B) by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$29,300,000 for the fiscal year ending September 30, 1977”.

(l) Section 771 (relating to start-up assistance) is amended (1) by striking out “two fiscal years” in subsection (a) (6) and inserting in lieu thereof “four fiscal years, and not to exceed \$5,100,000 for the fiscal year ending September 30, 1977”, (2) by striking out “July 1, 1974” in subsection (b) (2) and inserting in lieu thereof “October 1, 1977”, and (3) by striking out “June 30, 1975” in such subsection and inserting in lieu thereof “September 30, 1978”.

42 USC 295f-1.

(m) Section 772(d) (relating to special project grants and contracts) is amended (1) by striking out “and” after “1973,”, and (2) by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$40,852,000 for the fiscal year ending September 30, 1977”.

42 USC 295f-2.

(n) Section 773(a) (relating to financial distress grants) is amended (1) by striking out “and” after “1973,”, and (2) by striking out “for the fiscal year ending June 30, 1974” the first time it appears and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$5,400,000 for the fiscal year ending September 30, 1977”.

42 USC 295f-3.

(o) Section 774(e) (relating to education initiative awards) is amended (1) by striking out “and” after “1973,”, and (2) by striking out “for the fiscal year ending June 30, 1974” and inserting in lieu thereof “each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$41,170,000 for the fiscal year ending September 30, 1977”.

42 USC 295f-4.

(p) Section 780 (relating to scholarship grants) is amended (1) by striking out “the next fiscal year” in subsection (b) and inserting in lieu thereof “the next three fiscal years”, (2) by striking out “1974” in such subsection and subsection (c) (1) (B) and inserting in lieu thereof “1976”, (3) by striking out in subsections (b) and (c) (1) (B) “June 30, 1975” and inserting in lieu thereof “September 30, 1977” and (4) by striking out “two” in subsection (c) (1) (A) and inserting in lieu thereof “four”.

42 USC 295g.

(q) The section 785 entitled “SCHOLARSHIP GRANTS FOR STUDY ABROAD” is amended (1) by striking “two” in subsection (e) (1) and inserting in lieu thereof “four”, (2) by striking out “June 30, 1975” in subsection (e) (2) and inserting in lieu thereof “September 30, 1977”, and (3) by striking out in such subsection “1974” and inserting in lieu thereof “1976”.

42 USC
295g-11.

42 USC
295g-23.

(r) Section 786 (relating to physician shortage area scholarships) is amended (1) by striking out "June 30, 1975" in the second sentence and inserting in lieu thereof "September 30, 1977", and (2) by striking out "1974" in that sentence and inserting in lieu thereof "1976".

42 USC 295h-1.

(s) (1) Section 792(b) (relating to special improvement grants) is amended (A) by striking out "and" after "1973," and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$11,400,000 for the fiscal year ending September 30, 1977".

(2) Section 792(c) (1) (relating to special projects) is amended (A) by striking out "and" after "1973," and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$15,400,000 for the fiscal year ending September 30, 1977".

42 USC 295h-2.

(3) Section 793(a) (relating to traineeships for advanced training) is amended (A) by striking out "and" after "1973," and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$3,900,000 for the fiscal year ending September 30, 1977".

42 USC
295h-3a.

(4) Section 794A(b) (relating to assistance for recruitment) is amended (A) by striking out "and" after "1973," and (B) by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and \$109,000 for the fiscal year ending September 30, 1977".

42 USC 234.

(t) Section 225(i) (relating to Public Health and National Health Service Corps scholarships) is amended (1) by striking out "and" after "1974," and (2) by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "each for the fiscal years ending June 30, 1975, and June 30, 1976, and \$40,000,000 for the fiscal year ending September 30, 1977".

TITLE II—GENERAL PROVISIONS

NEW GENERAL PROVISIONS

Repeal.
42 USC
292-292j.

SEC. 201. (a) Sections 701 through 711 are repealed.

(b) The following section is inserted in part A of title VII:

"LIMITATION ON USE OF APPROPRIATIONS"

42 USC 292.

"SEC. 700. (a) Notwithstanding any other provisions of law, with respect to any fiscal year beginning after September 30, 1977, no funds appropriated for such fiscal year may be made available for obligation or expenditure for the purpose of carrying out any provision of this title if the sum of the amounts appropriated for such fiscal year for scholarships under subpart IV of part C (relating to National Health Service Corps scholarships) and for the purpose of making grants under section 758 (relating to scholarships for first-year students of exceptional financial need) is less than the lesser of—

"(1) the sum of the amounts authorized to be appropriated for such fiscal year under such subpart and section, or

"(2) 50 percent of the sum of the amounts appropriated for such fiscal year under this title.

Post, p. 2281.

Post, p. 2289.

“(b) Subsection (a) shall not apply with respect to a fiscal year if less than 75 percent of the sum of the amounts authorized to be appropriated for such fiscal year under paragraphs (1), (2), and (3) of section 770(e) (relating to capitation grants for medical, osteopathic, and dental schools) is appropriated for such fiscal year under such paragraphs.”.

(c) Sections 724, 725, 799, and 799A are transferred to part A, inserted after section 700 (added by subsection (b)), and redesignated as sections 701, 702, 703, and 704, respectively.

(d) (1) The heading for part A of title VII is amended to read as follows:

“PART A—GENERAL PROVISIONS”.

(2) The heading for part H of title VII is repealed.

(e) Section 701 (as so redesignated) is amended—

(1) by striking out “As used in this part and parts C, E, and F—” and inserting in lieu thereof “For purposes of this title:”;

(2) by inserting “or an equivalent degree” after “degree in public health” in paragraph (4); and

(3) by adding at the end the following new paragraphs:

“(7)(A) The term ‘program for the training of physician assistants’ means an educational program which (i) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to effectively provide health care under the supervision of a physician and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

“(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this paragraph) prescribe regulations for programs for the training of physician assistants. Such regulations shall, as a minimum, require that such a program—

“(i) extend for at least one academic year and consist of (I) supervised clinical practice, and (II) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care; and

“(ii) have an enrollment of not less than eight students.

“(8)(A) The term ‘program for the training of expanded function dental auxiliaries’ means an educational program which (i) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to assist in the provision of dental care under the supervision of a dentist and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

“(B) After consultation with appropriate professional organizations, the Secretary shall (within 180 days after the date of enactment of this paragraph) prescribe regulations for programs for the training of expanded function dental auxiliaries. Such regulations shall, as a minimum, require that such a program—

“(i) extend for at least one academic year and consist of

“(I) supervised clinical practice, and

“(II) at least four months (in the aggregate) of classroom instruction,

directed toward preparing students to deliver dental care; and

“(ii) have an enrollment of not less than eight students.

“(9) The term ‘State’ includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico.

42 USC 293d,
293e, 295h-8,
295h-9.
42 USC
292a-292d.

Repeal.
42 USC 292a.

Definitions.

Consultation;
regulations.

Consultation;
regulations.

the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

“(10) The term ‘Department’ means the Department of Health, Education, and Welfare.”

ADVISORY COUNCIL

42 USC 292b. SEC. 202. (a) (1) The second sentence of subsection (a) of section 702 (as so redesignated) is amended to read as follows: “Of the appointed members of the Council (1) twelve shall be representatives of the health professions schools assisted under programs authorized by this title, including at least six persons experienced in university administration and at least four representatives of schools of veterinary medicine, optometry, pharmacy, podiatry, and public health, and entities which may receive a grant under section 791, (2) two shall be full-time students enrolled in health professions schools, and (3) six shall be members of the general public.”

Post, p. 2303.

(2) Section 702 (as so redesignated) is amended by adding at the end thereof the following new subsection:

5 USC app. I.

“(d) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.”

42 USC 292b
note.

(3) The amendment made by paragraph (1) with respect to the composition of the National Advisory Council on Health Professions Education shall apply with respect to appointments made to the Council after October 1, 1976, and the Secretary of Health, Education, and Welfare shall make appointments to the Council after such date in a manner which will bring about, at the earliest feasible time, the Council composition prescribed by the amendment.

42 USC 292b.

(b) (1) Section 702 (as so redesignated) is amended by striking out “E, and F” in subsection (a) and inserting in lieu thereof “E, F, and G”.

(2) Section 702 (as so redesignated) is amended by striking out “parts A and G” in subsections (b) and (c) and inserting in lieu thereof “subpart II of part G”.

ADVANCE FUNDING AUTHORITY

42 USC 292c. SEC. 203. Section 703 (as so redesignated) is amended to read as follows:

“ADVANCE FUNDING

“SEC. 703. (a) An appropriation under an authorization of appropriations for grants or contracts under this title for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized.

Post, p. 2290.

“(b) Subsection (a) shall not apply with respect to grants under section 770 (relating to capitation).”

RECORDS AND AUDITS, CONTRACTS

SEC. 204. Part A of title VII is amended by adding after section 704 (as so redesignated) the following new sections:

“RECORDS AND AUDITS

“SEC. 705. (a) Each entity which receives a grant, loan, loan guarantee, or interest subsidy or which enters into a contract with the Secretary under this title, shall establish and maintain such records as the Secretary shall by regulation or order require. Such records shall include, among other things, records which completely disclose the amount and disposition of the total amount of funds received by such entity, the total cost of any project or undertaking for which funds were received, and the total amount of that portion of the total cost of any project or undertaking received by or allocated to such entity from other sources, and such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards. 42 USC 292e.

“(b) Each entity which received a grant or entered into a contract under this title shall have an annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of any funds received under such grant or contract and such other funds received by or allocated to any project or undertaking for which any funds received under this Act were used, and any other funds received under this Act. Each such entity shall be responsible for providing and paying for such audit. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted by and certified to be accurate by an independent certified public accountant utilizing generally accepted auditing standards. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.

“(c) The Secretary may specify, by regulation, the form and manner in which such records, required by subsection (a), shall be established and maintained. Regulation.

“(d) A student recipient of a scholarship, traineeship, loan, or loan guarantee under this title shall not be required to establish or maintain the records required under subsection (a) or provide for an audit required under subsection (b).

“(e) (1) Each entity which is required to establish and maintain records or to provide for an audit under this section shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor.

“(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to carry out the purposes of this subsection.

“CONTRACTS

“SEC. 706. Contracts authorized by this title may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).” 42 USC 292f.

DELEGATION OF AUTHORITY

SEC. 205. Part A of title VII is amended by adding after section 706 (added by section 204) the following new section:

"DELEGATION

42 USC 292g.

"SEC. 707. The Secretary may delegate the authority to administer any program authorized by this title to the administrator of a central or regional office or offices of the Department, except that the authority—

"(1) to review, and prepare comments on the merit of, any application for a grant or contract under any such program for purposes of presenting such application to the National Advisory Council on Health Professions Education, and

"(2) to make such a grant or enter into such a contract, shall not be delegated to any administrator of, or officer in, a regional office or offices of the Department."

HEALTH PROFESSIONS DATA

SEC. 206. Part A of title VII is amended by adding after section 707 (added by section 205) the following new section:

"HEALTH PROFESSIONS DATA

42 USC 292h.

"SEC. 708. (a) The Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health professions personnel which shall initially include data respecting all physicians and dentists in the United States and its territories and possessions. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socio-economic background of health professions personnel and such other demographic information regarding health professions personnel as the Secretary may require.

"(b) (1) In carrying out subsection (a), the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources.

Studies.

"(2) The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including evaluations and projections of the supply of, and requirements for, the health professions by specialty and geographic location.

Grants and contracts.

"(3) The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in any State) for the purpose of participating in the program established under subsection (a). The Secretary shall determine the amount and scope of any such grant or contract. To be eligible for a grant or contract under this paragraph a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurances, satisfactory to the Secretary, that—

Application.

"(A) such State (or nonprofit entity within a State) will establish a program of mandatory annual registration of the health professions personnel described in subsection (a) who reside or

practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

“(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe; and

“(C) such State or entity shall comply with the requirements of subsection (e).

“(c) For purposes of providing the Secretary with information under this section, each school which receives financial support under section 770 shall annually report to the Secretary information, determined to be appropriate by the Secretary, respecting the students who attend such school. The Secretary may collect such additional data respecting students of the health professions as he determines to be appropriate.

Report to
Secretary of
HEW.
42 USC 295f.

“(d) The Secretary shall assemble and submit to the President and Congress not later than September 1 of each year a report on the status of health professions personnel in the United States, which report shall include a description and analysis of the data collected pursuant to this section. Such report may be included as part of the report made under section 308(a)(2)(C).

Report to
President and
Congress.

“(e) (1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as ‘personal data’) for purposes of this section—

“(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity, as the case may be, of providing or not providing such data;

“(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

“(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

“(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

“(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

“(3) (A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"Program
entity."

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary under this section.

44 USC 3501.
Technical
assistance.

"(f) In carrying out his responsibilities under this section, the Secretary shall not be subject to the provisions of chapter 35 of title 44, United States Code.

"(g) The Secretary shall provide technical assistance to the States and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this section."

SHARED SCHEDULE RESIDENCIES

SEC. 207. Part A of title VII is amended by adding after section 708 (added by section 206) the following new section:

"SHARED SCHEDULE RESIDENCY TRAINING POSITIONS

42 USC 292i.

"SEC. 709. (a) Any entity which—

"(1) maintains a medical residency training program in family practice, general internal medicine, general pediatrics, or general obstetrics and gynecology, and

"(2) receives any Federal assistance, shall establish or restructure and maintain, to the maximum extent feasible, a reasonable number of physician training positions in such program as shared schedule positions.

Report to
Congress.

"(b) The Secretary shall report to Congress not later than January 1, 1979, on entities' compliance with subsection (a) and shall include in such report recommendations for legislation to ensure compliance with such subsection.

"Shared
scheduled
position."

"(c) For purposes of subsection (a), the term 'shared schedule position' means a physician training position in a medical residency training program which is shared by two individuals and in which each individual—

"(1) engages in at least two-thirds but not more than three-fourths of the total training prescribed for such position,

"(2) receives for each year in such position an amount of credit for certification in the medical specialty for which the position provides training which is equal to the amount of training engaged in in such year,

"(3) receives at least one-half of the salary for such position, and

"(4) receives all applicable employee benefits."

PAYMENT UNDER GRANTS

SEC. 208. Part A of title VII is amended by adding after section 709 (added by section 207) the following new section:

"PAYMENT UNDER GRANTS

42 USC 292j.
Post, p. 2290.

"SEC. 710. Grants made under this title may be paid (1) except for grants under section 770, in advance or by way of reimbursement,

(2) at such intervals and on such conditions as the Secretary may find necessary, and (3) with appropriate adjustments on account of overpayments or underpayments previously made.”.

PAYMENT FOR TUITION AND OTHER EDUCATIONAL EXPENSES

SEC. 209. Part A of title VII is amended by adding after section 710 (added by section 208) the following new section:

“PAYMENT FOR TUITION AND OTHER EDUCATIONAL COSTS

“SEC. 711. The Secretary shall by regulation establish criteria for determining allowable increases in tuition and other educational costs for which he shall be responsible for payment under any provision of this title after the date of enactment of the Health Professions Educational Assistance Act of 1976.”.

Regulation.
42 USC 292k.

Ante, p. 2243.

TITLE III—ASSISTANCE FOR CONSTRUCTION OF TEACHING FACILITIES

REGIONAL HEALTH PROFESSIONS PROGRAMS

SEC. 301. Section 721 is amended by adding after subsection (e) the following new subsection: 42 USC 293a.

“(f) (1) An application for a grant under subsection (a) for the fiscal year ending September 30, 1977, for an affiliated clinical facility for the establishment or expansion of a regional health professions program may be filed by any public or other nonprofit agency if the application is approved by the school of veterinary medicine, optometry, podiatry, or pharmacy with which the facility is affiliated. Only that portion of the project to construct such a facility which the Secretary determines to be reasonably attributable to the need of the regional health professions program for the facility for teaching purposes shall be regarded as the project with respect to which payments may be made under section 722.

Application.

Post, p. 2255.

“(2) In considering applications for grants under subsection (a) for the fiscal year ending September 30, 1977, the Secretary shall give special consideration to applications for facilities for the establishment or expansion of regional health professions programs.

“(3) For the purposes of this subsection, the term ‘regional health professions program’ refers to an interstate program (A) in which a State with an existing degree-granting school of veterinary medicine, optometry, podiatry, or pharmacy sets up a cooperative program with another State (or other States) which does not have such a school, and (B) which provides for (i) a shared curriculum between two or more schools, or (ii) a single campus which is cooperatively financed and controlled by two or more States.”.

“Regional health professions program.”

GRANT AUTHORITY; AUTHORIZATIONS

SEC. 302. Section 720 is amended to read as follows:

42 USC 293.

“GRANT AUTHORITY; AUTHORIZATIONS OF APPROPRIATIONS

“SEC. 720. (a) (1) The Secretary may make grants to assist in the construction of teaching facilities for the training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel.

"(2) (A) The Secretary may make grants to public and nonprofit private entities to assist in the construction of ambulatory, primary care teaching facilities for the training of physicians and dentists.

"(B) For purposes of this section, the term 'ambulatory, primary care teaching facilities' means areas dedicated for the training of students in the diagnosis and treatment of ambulatory patients and primarily in the specialties of family practice, general pediatrics, general internal medicine, general dentistry, and pedodontics. Such areas may include examination rooms, clinical laboratories, libraries, classrooms, offices, and other areas for clinical or research purposes necessary for, and appropriate to, the conduct of comprehensive ambulatory, primary care training of physicians and dentists in such specialties.

"Ambulatory, primary care teaching facilities."

Appropriation authorization.

"(b) For payments under grants under this part there is authorized to be appropriated \$40,000,000 for the fiscal year ending September 30, 1978, \$40,000,000 for the fiscal year ending September 30, 1979, and \$40,000,000 for the fiscal year ending September 30, 1980. Of the sums appropriated under this subsection for any fiscal year 50 percent of such sums shall be obligated for grants under subsection (a) (1) and 50 percent of such sums shall be obligated for grants under subsection (a) (2)."

APPLICATIONS

42 USC 293a.

Sec. 303. (a) (1) Section 721(b) (1) is amended by inserting "under section 720(a) (1)" after "for a grant".

(2) Section 721(b) (2) is amended by inserting "for a grant under section 720(a) (1)" after "an application" the first time it appears.

(3) Sections 721(b) (3) and 721(c) are each amended by striking out "grant under this part" and inserting in lieu thereof "grant under section 720(a) (1)".

(4) Section 721(d) is amended by inserting "under section 720(a) (1)" after "for grants".

(5) Section 721(e) is amended by inserting "for a grant under section 720(a) (1)" after "of applications".

(b) Section 721 is amended by adding after subsection (f) (added by section 301) the following new subsection:

Supra.

"(g) (1) A grant under section 720(a) (2) may be made only if the application therefor is approved by the Secretary upon his determination that—

"(A) the application contains or is supported by reasonable assurances that (i) the facility is intended to be used for purposes for which the application has been made, (ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility, and (iii) sufficient funds will be available, when construction is completed, for effective use of the facility for the training for which it is being constructed;

"(B) the plans and specifications are in accordance with regulations relating to minimum standards of construction and equipment; and

"(C) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards specified in subparagraph (C) the authority and functions set forth

in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(2) In making grants to entities under section 720(a)(2) the Secretary shall give special consideration to entities which have been awarded grants or received contracts under section 781, 784, or 786 (relating to area health education centers, general internal medicine and general pediatrics, and family medicine and the general practice of dentistry)."

Ante, p. 2253.

Post, pp. 2312, 2315, 2316.

(c) Subsection (e) of section 721 is amended by adding at the end the following new sentence: "In considering applications submitted for a grant under section 720(a)(1) for the cost of construction of teaching facilities for the training of physicians, the Secretary shall give special consideration to projects in States which have no such facilities."

42 USC 293a.

GRANT AMOUNTS

SEC. 304. (a) Subsection (a) of section 722 is amended to read as follows:

42 USC 293b.

"(a)(1) The amount of any grant under section 720(a)(1) for construction of a project shall be such amount as the Secretary determines to be appropriate after obtaining advice from the Council, except that no grant for any project may exceed 80 percent of the necessary costs of construction, as determined by the Secretary, of such project.

"(2) The amount of any grant under section 720(a)(2) for construction of a facility shall be such amount as the Secretary determines to be appropriate, except that no grant for any facility may exceed the lesser of—

"(A) 50 percent of the total cost of such facility, or

"(B) \$1,000,000."

(b)(1) Subsection (d) of section 722 is amended by striking out "under this part" and inserting in lieu thereof "under section 720(a)(1)".

(2) Subsection (d) of section 722 is amended by striking out "(within the meaning of part A of this title)".

RECAPTURE

SEC. 305. Section 723 is amended—

42 USC 293c.

(1) by striking out "paid under this part" and inserting in lieu thereof "under a grant under section 720(a)(1)",

(2) by inserting "(a)" before "If",

(3) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively, and

(4) by adding at the end the following:

"(b) If, within 20 years after completion of any construction for which funds have been paid under a grant under section 720(a)(2)—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit entity;

"(2) the facility shall cease to be used for the training purposes for which such funds were provided, unless the Secretary determines, in accordance with regulations which he shall promulgate, that there is a significant public purpose and good cause for releasing the applicant or other owner from the obligation to do so; or

Regulations.

"(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the applicant or

other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.”.

LOAN GUARANTEES AND INTEREST SUBSIDIES

42 USC 293i.

SEC. 306. (a) Subsections (a) and (b) of section 729 are each amended by striking out “September 30, 1977” and inserting in lieu thereof “September 30, 1980”.

(b) The second sentence of section 729(e) is amended by striking out “and” after “June 30, 1973,” and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: “\$2,000,000 in the fiscal year ending September 30, 1978, \$3,000,000 in the fiscal year ending September 30, 1979, and \$3,000,000 in the fiscal year ending September 30, 1980.”.

(c) The third sentence of section 729(a) is amended to read as follows: “No such loan guarantee may, except under special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 percent of the cost of the construction of the project.”.

(d) Subsections (a) and (b) of section 729 are each amended by inserting “or the Federal Financing Bank” after “non-Federal lender”.

EFFECTIVE DATE

42 USC 293 note.

SEC. 307. (a) The amendments made by sections 302 through 305 shall apply with respect to grants made under part B of title VII of the Public Health Service Act from appropriations under section 720 of such Act for fiscal years beginning after September 30, 1977.

Ante, p. 2253.

42 USC 293i
note.

(b) The amendment made by section 306(c) shall apply with respect to loans guaranteed under section 729(a) of the Public Health Service Act (redesignated section 726(a) by section 308(d) of this Act) after September 30, 1977.

TECHNICAL AND CONFORMING AMENDMENTS

42 USC 293a.

SEC. 308. (a) Section 721(c) is amended—

(1) by striking out “section 770(f) of this Act” in paragraph (2) and inserting in lieu thereof “section 771”;

(2) by striking out the sentence at the end of paragraph (2);

(3) by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(4) by striking out “and” at the end of paragraph (5) (as so redesignated), by striking out the period at the end of paragraph (6) (as so redesignated) and inserting in lieu thereof “; and”, and by inserting after paragraph (6) the following:

“(7) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act). The Secretary of Labor shall have, with respect to the labor standards

specified in paragraph (7), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)."; and

(5) by striking out "725" in the last sentence and inserting in lieu thereof "702".

(b) Section 726 is repealed.

(c) Section 727(a) is amended by striking out "institutions" each time it appears and inserting in lieu thereof "entities".

(d) Sections 727, 728, and 729 are redesignated as sections 724, 725, and 726, respectively.

Repeal.

42 USC 293f.

42 USC 293g.

42 USC

293g-293i.

TITLE IV—STUDENT ASSISTANCE; NATIONAL HEALTH SERVICE CORPS

INSURED LOANS TO STUDENTS

SEC. 401. (a) Effective October 1, 1976, subpart II of part C of title VII is repealed.

Repeal.

42 USC 294g,

294g note.

(b) Effective October 1, 1977, part C of title VII is amended by—

(1) amending the heading for part C to read as follows:

"PART C—STUDENT ASSISTANCE";

(2) redesignating subpart I of such part as subpart II, and by amending the heading for such subpart to read as follows:

"Subpart II—Student Loans"; and

(3) inserting immediately below the heading to such part the following new subpart:

"Subpart I—Federal Program of Insured Loans to Graduate Students in Health Professions Schools

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 727. (a) The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in eligible institutions.

42 USC 294.

"(b) For the purpose of carrying out this subpart there are authorized to be appropriated (1) for the fiscal year ending September 30, 1978, to the student loan insurance fund (established by section 734) the sum of \$1,500,000 and of such further sums, if any, as may become necessary for the adequacy of student loan insurance fund and for the purpose of administering this subpart; and (2) for fiscal years thereafter such sums as may be necessary for the purpose of administering this subpart. Sums appropriated under this subsection shall remain available until expended.

"SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

"SEC. 728. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 737) to students covered by Federal loan insurance under this subpart shall not exceed \$500,000,000 for the fiscal year ending September 30, 1978; \$510,000,000 for the fiscal year ending September 30, 1979; and \$520,000,000 for the fiscal year ending September 30, 1980. Thereafter, Federal loan insurance pursuant to this subpart may be granted only

42 USC 294a.

for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1982.

“(b) The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

20 USC 1071.

“(c) The Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965, is authorized to make advances on the security of, purchase, service, sell, or otherwise deal in, student loans which are insured by the Secretary under this subpart.

“LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

42 USC 294b.

“SEC. 729. (a) The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed \$10,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and \$7,500 in the case of a student enrolled in a school of pharmacy. The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed \$50,000 in the case of a student enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health, and \$37,500 in the case of a student enrolled in a school of pharmacy. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

“(b) The insurance liability on any loan insured by the Secretary under this subpart shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 733 or 738.

“SOURCES OF FUNDS

42 USC 294c.

“SEC. 730. Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

“ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

42 USC 294d.

“SEC. 731. (a) A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

“(1) made to a student who—

“(A) has been accepted for enrollment at an eligible institution;

“(B) is in good standing at an eligible institution as determined by the institution;

“(C) is pursuing a full-time course of study at an eligible institution;

“(D) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 739(b)(2) to receive a loan under this subpart;

“(E) has agreed that all funds received under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by such student;

“(F) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or nonprofit program provided or assisted under part B of title IV of the Higher Education Act of 1965; and

20 USC 1071.

“(G) in the case of a pharmacy student, has satisfactorily completed three years of training; and

“(2) evidenced by a note or other written agreement which—

“(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

“(B) provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 15 years beginning not earlier than 9 months after the date on which the student completes his internship or residency training, and not later than the earlier of 12 months after such date or of 3 years after the date he ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution, except (i) as provided in clause (C) below, (ii) that the period of the loan may not exceed 23 years from the date of execution of the note or written agreement evidencing it, and (iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

“(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a participant in an accredited internship or residency program, (iii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States, (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (v) not in excess of three years during which the borrower is a member of the National Health Service Corps, or (vi) not in excess of three years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973, and any such period shall not be included in determining the 15-year period or the 23-year period provided in clause (B) above;

22 USC 2501
note.

42 USC 4951.

“(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maxi-

Interest rate.

imum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be compounded semiannually and payable in installments over the period of the loan;

“(E) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan; and

“(F) contains such other terms and conditions consistent with the provisions of this subpart and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan.

“(b) No maximum rate of interest prescribed and defined by the Secretary for the purpose of paragraph (2) (D) of subsection (a) may exceed 10 percent per annum on the unpaid principal balance of the loan.

“(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart shall not be less than the annual interest on the outstanding principal.

“CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

42 USC 294e.

“SEC. 732. (a) (1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

“(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a) (1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a) (1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

Application.

“(3) An application submitted pursuant to subsection (a) (1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

“(b) (1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary

may, in accordance with regulations consistent with section 728, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this subpart, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

"(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 728, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

"(c) The Secretary shall, pursuant to regulations, charge for insurance on each loan under this subpart a premium in an amount not to exceed 2 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or become totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 733(a).

Regulations.

"(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

Assignment of rights.

"(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

Loan consolidation.

"DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

42 USC 294f.

"SEC. 733. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this subpart, and after a substantial collection effort (including, if appropriate, commencement of a suit) as determined under regulations of the Secretary, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined.

"(b) Upon payment by the Secretary of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured.

"(c) Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

"(d) Nothing in this section or in this subpart shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making of loans under the provisions of this subpart and from exercising a substantial effort in the collection of loans under the provisions of this subpart. If the Secretary, after reasonable notice and opportunity for hearing to an eligible lender, finds that the lender has failed to exercise such care and diligence, to exercise such substantial efforts, to make the reports and statements required under section 732(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender from obtaining further Federal insurance on loans granted pursuant to this subpart until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence, exercise substantial effort, or comply with such requirements, as the case may be.

Definitions.

"(e) As used in this section—

"(1) the term 'insurance beneficiary' means the insured or its authorized assignee in accordance with section 732(d);

"(2) the term 'amount of the loss' means, with respect to a loan, the unpaid balance of the principal amount and interest on such loan; and

"(3) the term 'default' includes only such defaults as have existed for (A) 120 days in the case of a loan which is repayable in monthly installments, or (B) 180 days in the case of a loan which is repayable in less frequent installments.

Notice and hearing.

"(f) The Secretary may, after notice and opportunity for a hearing, cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans insured under this subpart in amounts up to the remaining balance of such loans.

"(g) A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under title 11 of

the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date, as specified in section 731(a)(2)(B), when repayment of such loan is required.

11 USC 1 *et seq.*

“STUDENT LOAN INSURANCE FUND

“SEC. 734. (a) There is hereby established a student loan insurance fund (hereinafter in this section referred to as the ‘fund’) which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by him under this subpart. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this subpart, and any other moneys, property, or assets derived by the Secretary from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this subpart shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

Establishment.
42 USC 294g.

“(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this subpart, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriation Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

31 USC 774.

“POWERS AND RESPONSIBILITIES

“SEC. 735. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this subpart, the Secretary may—

42 USC 294h.

“(1) prescribe such regulations as may be necessary to carry out the purposes of this subpart;

Regulations.

“(2) sue and be sued in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this subpart without regard to the amount in con-

Civil actions.
Jurisdiction.

troversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office. No attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this subpart from the application of sections 517 and 547 of title 28 of the United States Code;

“(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this subpart will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this subpart may be modified by the Secretary if he determines that modification is necessary to protect the financial interest of the United States;

“(4) subject to the specific limitations in the subpart, consent to the modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this subpart; and

“(5) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or redemption.

“(b) The Secretary shall, with respect to the financial operations arising by reason of this subpart—

Budget program.

31 USC 841 note.

“(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

“(2) maintain with respect to insurance under this subpart an integral set of accounts.

Contract.

“(c) (1) The Secretary may enter into a written contract with a borrower under which the Secretary agrees to assume the obligation of paying an amount, not to exceed \$10,000 in any 12-month period, toward the principal and interest due on any loan made to the borrower and insured under this subpart and the borrower agrees to serve, either as a member of the National Health Service Corps or in private practice pursuant to section 753 (as determined by the Secretary), in a health manpower shortage area (designated under section 332) which is described in clauses (A) and (B) of section 753(a)(2) for a continuous period of (A) not less than 12 months for each 12-month period the Secretary assumes such obligation under the agreement, or (B) 24 months, whichever is greater.

Post, p. 2285.

Post, p. 2270.

“(2) Except as provided in paragraphs (3) and (4), if an individual, who has entered into a written contract under paragraph (1), for any reason breaches his contract obligations with respect to serving in a health manpower shortage area for the period specified in the agreement, the United States shall be entitled to recover damages from such individual in an amount equal to three times the amount paid by the Secretary under the agreement to or on behalf of such individual. Any amount of damages which the United States is entitled to recover under this paragraph shall be paid to the United States not later than one year after the date of the breach of such contract obligations.

“(3) The United States shall not be entitled to recover any damages from an individual under paragraph (2) upon the death of the individual. Recovery.

“(4) The Secretary shall by regulation provide for the waiver or suspension of payment of any or all of the damages to which the United States is entitled under paragraph (2) whenever the Secretary determines that compliance by an individual with the agreement which was breached is impossible or would involve extreme hardship to the individual and that recovery of such damages with respect to the individual would be unconscionable. Waiver.
Regulation.

“PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

“SEC. 736. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to eligible students in accordance with the provisions of this subpart relating to Federal insured loans. 42 USC 294i.
Regulations.

“DEFINITIONS

“SEC. 737. As used in this subpart:

“(1) The term ‘eligible institution’ means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health within the United States that is receiving, or the Secretary determines is eligible to receive, a grant under section 770 for such fiscal year. 42 USC 294j.

“(2) The term ‘school of medicine, osteopathy, or dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health’ means any school legally authorized within a State to train members of the professions indicated and accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, except that a new school which (by reason of no, or an insufficient, period of operation) is not, at the time of application for insurance for a loan under this subpart, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Commissioner of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school. Post, p. 2290.

“(3) The term ‘eligible lender’ means an eligible institution, an agency or instrumentality of a State, a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the Secretary for this purpose.

“(4) The term ‘line of credit’ means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

“REPAYMENT BY THE SECRETARY OF LOANS OF DECEASED OR DISABLED BORROWERS

“SEC. 738. If a student borrower who has received a loan dies or becomes permanently and totally disabled (as determined in accord- 42 USC 294k.

ance with regulations of the Secretary), the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan from the fund established under section 734.

"ELIGIBILITY OF INSTITUTIONS

Regulations.
42 USC 294l.

"SEC. 739. (a) Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(1) a fiscal audit of an eligible institution with regard to any funds obtained from a student who has received a loan insured under this subpart;

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart; and

"(3) the limitation, suspension, or termination of the eligibility under this subpart of any otherwise eligible institution, whenever the Secretary has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this subpart.

"(b) The Secretary shall by regulation—

"(1) require an eligible institution to record, and make available to a lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart; and

"(2) in the case of an eligible institution which is a school of medicine, osteopathy, or dentistry, require such institution to establish procedures to insure that no more than 50 percent of the students in each class in the institution are authorized to have loans insured under this subpart."

STUDENT LOAN AGREEMENTS

42 USC 294,
294m.

SEC. 402. Section 740 is amended—

(1) by striking out "of Health, Education, and Welfare" in subsection (a);

(2) by striking out ", except as provided in section 746," in paragraphs (2) and (3) of subsection (b);

(3) by striking out ", and that while the agreement remains in effect" and all that follows through "National Defense Education Act of 1958; and" in subsection (b) (4) and inserting in lieu thereof a semicolon; and

(4) by redesignating paragraph (5) of subsection (b) as paragraph (6), and inserting after paragraph (4) of such subsection the following new paragraph:

"(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan fund of the provisions of section 741 under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and".

20 USC 401 note.

LOAN PROVISIONS

42 USC 294a,
294n.

SEC. 403. (a) Subsection (a) of section 741 is amended to read as follows:

“(a) Loans from a student loan fund (established under an agreement with a school under section 740) may not exceed for any student for each school year (or its equivalent) the sum of— *Ante*, p. 2266.

“(1) the cost of tuition for such year at such school, and

“(2) \$2,500.”

(b) Subsection (e) of section 741 is amended by striking out “3 per centum” and inserting in lieu thereof “7 percent”. 42 USC 294a, 294n.

(c) The amendments made by subsections (a) and (b) shall apply with respect to loans made after September 30, 1977, from student loan funds established under section 740 of the Public Health Service Act. 42 USC 294n note.

(d) Subsection (f)(1)(B) of section 741 is amended to read as follows:

“(B) who obtained one or more loans from a loan fund established under this subpart; and”.

(e) In the case of any individual who, on or after November 18, 1971, and before the date of enactment of this Act, met the requirements of subparagraphs (A) and (B) of section 741(f)(1) of the Public Health Service Act and who practiced his profession in an area described in subparagraph (C) of such section (as in effect before the date of the enactment of this Act) as a member of the National Health Service Corps or as an officer of the Regular or Reserve Corps of the Public Health Service or as a civilian employee of the Public Health Service, the individual shall, for purposes of section 741(f) of such Act, be deemed to have entered into the agreement required by such subparagraph (C) with respect to that practice if such individual makes application to the Secretary, not later than January 1, 1977, for payment by the Secretary under section 741(f)(2) of such Act. 42 USC 294n note.

(f) A student in a school of medicine or osteopathy who will graduate from such school after June 30, 1979, shall be eligible to receive a loan under section 741 of the Public Health Service Act after October 1, 1977 only if such student is of exceptional financial need (as defined by regulations of the Secretary). 42 USC 294n note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. Effective October 1, 1977, subsection (a) of section 742 is amended to read as follows: 42 USC 294b, 294c.

“(a) For the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under section 740, there are authorized to be appropriated \$26,000,000 for the fiscal year ending September 30, 1978, \$27,000,000 for the fiscal year ending September 30, 1979, and \$28,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and each of the two succeeding fiscal years, there are authorized to be appropriated to the Secretary such sums as may be necessary to enable students who have received a loan under this part for any academic year ending before October 1, 1980, to continue or complete their education.”.

DISTRIBUTION OF ASSETS

SEC. 405. Section 743 is amended by striking out “June 30, 1977” and “September 30, 1977” each place they occur and inserting in lieu thereof “September 30, 1983” and “December 31, 1983”, respectively. 42 USC 294c, 294p.

LOANS TO SCHOOLS AND TECHNICAL AND CONFORMING AMENDMENTS

Repeal.
42 USC 294d,
294f.
42 USC 294d,
294g.
42 USC 294q
note.

SEC. 406. (a) (1) Sections 744 and 746 are repealed.

(2) Section 745 is redesignated as section 744.

(b) The health professions education fund created within the Treasury by section 744(d) (1) of the Public Health Service Act (as in effect before the date of enactment of this Act) shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilities respecting participations in obligations acquired under such section. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 744. If at any time the Secretary determines the moneys in the fund exceed the present and any reasonable prospective future requirements of such fund, such excess may be transferred to the general fund of the Treasury.

Appropriation
authorization.
42 USC 294q
note.

(c) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 744(b) of the Public Health Service Act before September 30, 1977.

42 USC 294b,
294o.

(d) Section 742(b) is amended (1) by striking out “, and for loans pursuant to section 744” in paragraph (1), and (2) by striking out “whether as Federal capital contributions or as loans to schools under section 744” in paragraph (3).

42 USC 294c,
294p.

(e) Section 743(b) is amended by striking out “(other than so much of such fund as relates to payments from the revolving fund established by section 744(d))”.

REVISION OF NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 407. (a) Part C of title III is amended by inserting immediately below the heading for such part the following:

“Subpart I—General Provisions”.

(b) Title III is amended—

42 USC 254b.

(1) by striking out section 329;

42 USC 255,
256.

(2) by redesignating sections 331 and 332 as sections 339 and 340, respectively; and

(3) by inserting immediately after section 330 the following new subpart:

“Subpart II—National Health Service Corps Program

“NATIONAL HEALTH SERVICE CORPS

Establishment.
42 USC 254d.

“SEC. 331. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this subpart referred to as the ‘Corps’) which (1) shall consist of such officers of the Regular and Reserve Corps of the Service and such civilian personnel as the Secretary may designate (such officers and personnel hereinafter in this subpart referred to as ‘Corps members’) and (2) shall be utilized by the Secretary to improve the delivery of health services in health manpower shortage areas as defined in section 332(a).

“(b) The Secretary shall conduct at schools of medicine, osteopathy, dentistry, and, as appropriate, nursing and other schools of the health professions and at entities which train allied health personnel, recruiting programs for the Corps and the Scholarship Program.

“(c) The Secretary may reimburse applicants for positions in the Corps for actual and reasonable expenses incurred in traveling to and from their places of residence to a health manpower shortage area (designated under section 332) in which they may be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.

“(d) (1) The Secretary may, under regulations promulgated by the Secretary, adjust the monthly pay of each member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area as follows:

“(A) During the first 36 months in which such a member is so engaged in the delivery of health services, his monthly pay shall be increased by an amount (not to exceed \$1,000) which when added to the member's monthly pay and allowances will provide a monthly income competitive with the average monthly income from a practice of an individual who is a member of the profession of the Corps member, who has equivalent training, and who has been in practice for a period equivalent to the period during which the Corps member has been in practice.

“(B) During the period beginning upon the expiration of the 36 months referred to in subparagraph (A) and ending with the month in which the member's monthly pay and allowances are equal to or exceed the monthly income he received for the last of such 36 months, the member shall receive in addition to his monthly pay and allowances an amount which when added to such monthly pay and allowances equals the monthly income he received for such last month.

“(C) For each month in which a member is directly engaged in the delivery of health services in a health manpower shortage area in accordance with an agreement with the Secretary entered into under section 741(f)(1)(C), under which the Secretary is obligated to make payments in accordance with section 741(f)(2), the amount of any monthly increase under subparagraph (A) or (B) with respect to such member shall be decreased by an amount equal to one-twelfth of the amount which the Secretary is obligated to pay upon the completion of the year of practice in which such month occurs.

42 USC 294a.

For purposes of subparagraphs (A) and (B), the term ‘monthly pay’ includes special pay received under chapter 5 of title 37 of the United States Code.

“Monthly pay.”

37 USC 301 *et seq.*

“(2) In the case of a member of the Corps who is directly engaged in the delivery of health services in a health manpower shortage area in accordance with a service obligation incurred under the Scholarship Program, the adjustment in pay authorized by paragraph (1) may be made for such a member only upon satisfactory completion of such service obligation, and the first 36 months of such member's being so engaged in the delivery of health services shall, for purposes of paragraph (1)(A), be deemed to begin upon such satisfactory completion.

“(e) Corps members assigned under section 333 to provide health services in health manpower shortage areas shall not be counted against any employment ceiling affecting the Department.

“(f) Sections 214 and 216 shall not apply to members of the National Health Service Corps during their period of obligated service under the Scholarship Program.

42 USC 215, 217.

“(g) The administrative unit which administers section 770—

Post, p. 2290.

“(1) shall participate in the development of regulations, guidelines, funding priorities, and application forms, and

“(2) shall be consulted by, and may make recommendations to, the Secretary in the review of applications and proposals for, and the awarding of, grants and contracts, with respect to the Corps.

Definitions.

“(h) For the purposes of this subpart:

“(1) The term ‘Department’ means the Department of Health, Education, and Welfare.

“(2) The term ‘Scholarship Program’ means the National Health Service Corps Scholarship Program established under section 751.

“(3) The term ‘State’ includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

“DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

“Health manpower shortage area.”
42 USC 254e.

“SEC. 332. (a) (1) For purposes of this subpart the term ‘health manpower shortage area’ means (A) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the Secretary determines has a health manpower shortage, (B) a population group which the Secretary determines has such a shortage, or (C) a public or nonprofit private medical facility or other public facility which the Secretary determines has such a shortage.

“Medical facility.”

“(2) For purposes of this subsection, the term ‘medical facility’ means a facility for the delivery of health services and includes—

“(A) a hospital, State mental hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, community mental health center, migrant health center, and community health center;

“(B) such a facility of a State correctional institution or of the Indian Health Service;

42 USC 248, 249.
42 USC 250.
42 USC 251.
42 USC 252.
42 USC 253.
42 USC 255.

“(C) such a facility used in connection with the delivery of health services under sections 321 (relating to hospitals), 322 (relating to care and treatment of seamen and others), 323 (relating to care and treatment of Federal prisoners), 324 (relating to examination and treatment of certain Federal employees), 325 (relating to examination of aliens), or 326 (relating to services to certain Federal employees), or part D of title III (relating to services for persons with Hansen’s disease); and

“(D) a Federal medical facility.

Regulation.

“(b) The Secretary shall establish by regulation, promulgated not later than May 1, 1977, criteria for the designation of areas, population groups, medical facilities, and other public facilities, in the States, as health manpower shortage areas. In establishing such criteria, the Secretary shall take into consideration the following:

“(1) The ratio of available health manpower to the number of individuals in an area or population group, or served by a medical facility or other public facility under consideration for designation.

“(2) Indicators of a need, notwithstanding the supply of health manpower, for health services for the individuals in an area or population group or served by a medical facility or other

public facility under consideration for designation, with special consideration to indicators of—

- “(A) infant mortality,
- “(B) access to health services, and
- “(C) health status.

“(3) The percentage of physicians serving an area, population group, medical facility, or other public facility under consideration for designation who are employed by hospitals and who are graduates of foreign medical schools.

“(c) In determining whether to make a designation, the Secretary shall take into consideration the following:

Recommendations.

“(1) (A) The recommendations of each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility under consideration for designation.

42 USC 300l-4.

“(B) The recommendations of the State health planning and development agency (designated under section 1521) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated.

42 USC 300m.

“(2) The recommendations of the Governor of each State in which the area, population group, medical facility, or other public facility under consideration for designation is in whole or part located.

“(d) In accordance with the criteria established under subsection (b) and the considerations listed in subsection (c), the Secretary shall designate, not later than November 1, 1977, health manpower shortage areas in the States, publish a descriptive list of the areas, population groups, medical facilities, and other public facilities so designated, and at least annually review and, as necessary, revise such designations.

List, publication.

“(e) Prior to the designation of a public facility, including a Federal medical facility, as a health manpower shortage area, the Secretary shall give written notice of such proposed designation to the chief administrative officer of such facility and request comments within 30 days with respect to such designation.

Notice.

“(f) The Secretary shall give written notice of the designation of a health manpower shortage area, not later than 60 days from the date of such designation, to—

Notice.

“(1) the Governor of each State in which the area, population group, medical facility, or other public facility so designated is in whole or part located;

“(2) (A) each health systems agency (designated under section 1515) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility so designated; or

“(B) the State health planning and development agency of the State (designated under section 1521) if there is a part of such area, population group, medical facility, or other public facility within a health service area for which no health systems agency has been designated; and

“(3) appropriate public or nonprofit private entities which are located or which have a demonstrated interest in the area so designated.

“(g) Any person may recommend to the Secretary the designation of an area, population group, medical facility, or other public facility as a health manpower shortage area.

“(h) The Secretary shall conduct such information programs in areas, among population groups, and in medical facilities and other public facilities designated under this section as health manpower shortage areas as may be necessary to inform public and nonprofit private entities which are located or have a demonstrated interest in such areas of the assistance available under this title by virtue of the designation of such areas.

“ASSIGNMENT OF CORPS PERSONNEL

Regulations.
42 USC 254f.

“SEC. 333. (a) (1) The Secretary may assign members of the Corps to provide, under regulations promulgated by the Secretary, health services in or to a health manpower shortage area during the assignment period (specified in the agreement described in section 334) only if—

Application.

“(A) a public or nonprofit private entity, which is located or has a demonstrated interest in such area makes application to the Secretary for such assignment;

“(B) such application has been approved by the Secretary;

“(C) an agreement has been entered into between the entity which has applied and the Secretary, in accordance with section 334; and

“(D) in the case of an application made by an entity which has previously been assigned a Corps member for a health manpower shortage area under an agreement (entered into under section 334) or under section 329 as in effect before October 1, 1977) which has expired, the Secretary has (i) conducted an evaluation of the continued need for health manpower for the area, the use of Corps members previously assigned to the area, community support for the assignment of Corps members to the area, the area's efforts to secure health manpower for the area, and fiscal management by the entity with respect to Corps members previously assigned and (ii) on the basis of such evaluation has determined that—

“(I) there is a continued need for health manpower for the area;

“(II) there has been appropriate and efficient use of Corps members previously assigned to the entity for the area;

“(III) there is general community support for the assignment of Corps members to the entity;

“(IV) the area has made continued efforts to secure health manpower for the area; and

“(V) there has been sound fiscal management, including efficient collection of fee-for-service, third-party, and other appropriate funds, by the entity with respect to Corps members previously assigned to such entity.

“(2) Corps members may be assigned to a Federal health care facility, but only upon the request of the head of the department or agency of which such facility is a part.

“(b) The Secretary may not approve an application under this section for assignment of a Corps member to a health manpower shortage area unless the Secretary has afforded—

42 USC 300f-4.

“(1) each health systems agency (designated under section 1515) for a health service area which includes all or part of the area in which the area, population group, medical facility, or other public facility so designated is located, or

“(2) if there is a part of such area, population group, medical facility, or other public facility located within a health service

area for which no health systems agency has been designated, the State health planning and development agency (designated under section 1521) of the State in which such part is located, an opportunity to review the application and submit to the Secretary its comments respecting the need for, and proposed use of, the Corps member requested in the application.

42 USC 300m.

“(c) In considering, and giving approval to, applications made under this section for the assignment of Corps members, the Secretary shall—

“(1) give priority to an application which provides for the assignment of Corps members to an area, population group, medical facility, or other public facility with the greatest health manpower shortage, as determined under criteria established under section 332(b);

“(2) give special consideration to an application which provides for the use of physician assistants, nurse practitioners, or expanded function dental auxiliaries;

“(3) take into consideration the willingness of individuals in the area or population group, or at the medical facility or other public facility, and of the appropriate governmental agencies or health entities, to assist and cooperate with the Corps in providing effective health services; and

“(4) take into consideration comments of medical, osteopathic, dental, or other health professional societies serving the area, population group, medical facility, or other public facility, or if no such societies exist, comments of physicians, dentists, or other health professionals serving the area, population group, medical facility, or other public facility.

“(d) The Secretary shall assign Corps members to entities in health manpower shortage areas without regard to the ability of the individuals in such areas, population groups, medical facilities, or other public facilities to pay for such services.

“(e) In making the assignment of a Corps member to an entity in a health manpower shortage area which has had an application approved under this section, the Secretary shall seek to assign to an area a Corps member who has (and whose spouse, if any, has) those characteristics which are characteristics which increase the probability of the member's remaining to serve the area upon completion of his assignment period.

“(f) (1) The Secretary shall provide technical assistance to a public or nonprofit private entity which is located or has a demonstrated interest in a health manpower shortage area and which desires to make an application under this section for assignment of a Corps member to such area.

“(2) The Secretary shall provide, to public and nonprofit private entities which are located or have a demonstrated interest in a health manpower shortage area to which area a Corps member has been assigned, technical assistance to assist in the retention of such member in such area after the completion of such member's assignment to the area.

“(3) The Secretary shall provide, to health manpower shortage areas to which no Corps member has been assigned, (A) technical assistance to assist in the recruitment of health manpower for such areas, and (B) current information on public and private programs which provide assistance in the securing of health manpower.

“(g) The Secretary shall conduct, or enter into contracts for the conduct of, studies of the methods of assignments of Corps members

Contracts;
studies.

to health manpower shortage areas. Such studies shall include studies of—

“(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas;

“(2) the characteristics, including utilization and reimbursement patterns, of areas which have been able to retain health manpower personnel; and

“(3) the appropriate conditions for the assignment and use of nurse practitioners, physician assistants, and expanded function dental auxiliaries in health manpower shortage areas.

“(h) Notwithstanding any other law, any member of the Corps licensed to practice medicine, osteopathy, or dentistry in any State shall, while serving in the Corps, be allowed to practice such profession in any State.

“COST SHARING

42 USC 254g.

“SEC. 334. (a) The Secretary shall require, as a condition to the approval of an application under section 333, that the entity which submitted the application enter into an agreement for a specific assignment period (not to exceed 4 years) with the Secretary under which—

“(1) the entity shall be responsible for charging, in accordance with subsection (d), for health services provided by Corps members assigned to the entity;

“(2) the entity shall take such action as may be reasonable for the collection of payments for such health services, including, if a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of such health services if it had not been provided by Corps members under this subpart, the collection, on a fee-for-service or other basis, from such agency or third party, the portion of such cost for which it would be so responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by Corps members shall be considered as being provided by private practitioners);

“(3) the entity shall pay to the United States, as prescribed by the Secretary in each calendar quarter (or other period as may be specified in the agreement) during which any Corps member is assigned to such entity, the sum of—

“(A) the portion of the salary (including amounts paid in accordance with section 331(d)) and allowances of any Corps member received by such member during such calendar quarter (or other period) while such member was assigned to such entity;

“(B) for any Corps member assigned to such entity, an amount which bears the same ratio to the amount paid under the Scholarship Program to or on the behalf of such Corps member as the number of days of obligated service provided by such member during such quarter (or other period) bears to the number of days in his period of obligated service under such Program; and

“(C) if such entity received a loan under section 335(c), an amount which bears the same ratio to the amount of such loan as the number of days in such quarter (or other period) during which any Corps members were assigned to the entity bears to the number of days in the assignment period after such entity received such loan; and

"(4) the entity shall prepare and submit to the Secretary an annual report, in such form and manner, as the Secretary may require.

"(b)(1) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for an entity if he determines that the entity is financially unable to meet such requirement or if he determines that compliance with such requirement would unreasonably limit the ability of the entity to provide for the adequate support of the provision of health services by Corps members. Waiver.

"(2) The Secretary may waive in whole or in part the application of the requirement of subsection (a)(3) for any entity which is located in a health manpower shortage area in which a significant percentage of the individuals are elderly, living in poverty, or have other characteristics which indicate an inability to repay, in whole or in part, the amounts required in subsection (a)(3). Waiver.

"(3) In the event that the Secretary grants a waiver under paragraph (1) or (2), the entity shall be required to use the total amount of funds collected by such entity in accordance with subsection (a)(2) for the improvement of the capability of such entity to deliver health services to the individuals in, or served by, the health manpower shortage area.

"(c) The excess (if any) of the amount of funds collected by an entity in accordance with subsection (a)(2) over the amount paid to the United States in accordance with subsection (a)(3) shall be used by the entity to expand and improve the provision of health services to the individuals in the health manpower shortage area for which the entity submitted an application or to recruit and retain health manpower to provide health services for such individuals.

"(d) Any person who receives health services provided by a Corps member under this subpart shall be charged for such services on a fee-for-service or other basis, at a rate approved by the Secretary, pursuant to regulations. Such rate shall be computed in such a way as to permit the recovery of the value of such services, except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such services at a reduced rate or without charge.

"(e) Funds received by the Secretary under an agreement entered into under this section shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining the amounts of appropriations to be requested and the amounts to be made available from appropriations made under section 338 to carry out this subpart.

"PROVISION OF HEALTH SERVICES BY CORPS MEMBERS

"SEC. 335. (a) In providing health services in a health manpower shortage area, Corps members shall utilize the techniques, facilities, and organizational forms most appropriate for the area, population group, medical facility, or other public facility, and shall, to the maximum extent feasible, provide such services (1) to all individuals in, or served by, such health manpower shortage area regardless of their ability to pay for the services, and (2) in connection with (A) direct health services programs carried out by the Service, (B) any other direct health services program carried out in whole or in part with Federal financial assistance, or (C) any other health services activity which is in furtherance of the purposes of this subpart. 42 USC 254h.

“(b) (1) Notwithstanding any other provision of law, the Secretary may (A) to the maximum extent feasible make such arrangements as he determines necessary to enable Corps members to utilize the health facilities in or serving the health manpower shortage area in providing health services; (B) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies; and (C) secure the permanent or temporary services of physicians, dentists, nurses, administrators, and other health personnel. If there are no health facilities in or serving such area, the Secretary may arrange to have Corps members provide health services in the nearest health facilities of the Service or may lease or otherwise provide facilities in or serving such area for the provision of health services.

“(2) If the individuals in or served by a health manpower shortage area are being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary may, in addition to such other arrangements as he may make under paragraph (1), arrange for the utilization of such hospital or facility by Corps members in providing health services, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to individuals who are entitled to health services and treatment through such hospital or facility.

Loan.

“(c) The Secretary may make one loan to any entity with an approved application under section 333 to assist such entity in meeting the costs of (1) establishing medical, dental, or other health profession practices, including the development of medical practice management systems; (2) acquiring equipment for use in providing health services; (3) renovating buildings to establish health facilities; and (4) establishing appropriate continuing education programs. No loan may be made under this subsection unless an application therefor is submitted to, and approved by, the Secretary. The amount of any such loan shall be determined by the Secretary, except that no such loan may exceed \$50,000.

Equipment sales.

“(d) Upon the expiration of the assignment of all Corps members to a health manpower shortage area, the Secretary may (notwithstanding any other provision of law) sell, to any appropriate local entity, equipment and other property of the United States utilized by such members in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property; except that the Secretary may make such sales for a lesser value to an appropriate local entity, if he determines that the entity is financially unable to pay the full market value.

Fair market value.

“(e) (1) (A) It shall be unlawful for any hospital to deny an authorized physician or dentist member of the Corps admitting privileges when such Corps member otherwise meets the professional qualifications established by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

Notice and hearing.

“(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease, for a period to be determined by the Secretary, to receive and to be eligible to receive any Federal funds under this Act or under titles XVIII or XIX of the Social Security Act.

42 USC 1395, 1396.

“Hospital.”

“(2) For purposes of this subsection, the term ‘hospital’ includes a State or local public hospital, a private profit hospital, a private non-

profit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

“ANNUAL REPORTS

“SEC. 336. The Secretary shall submit an annual report to Congress on May 1 of each year, and shall include in such report with respect to the previous calendar year—

Report to
Congress.
42 USC 254i.

“(1) the number, identity, and priority of all health manpower shortage areas designated in such year and the number of health manpower shortage areas which the Secretary estimates will be designated in the subsequent year;

“(2) the number of applications filed under section 333 in such year for assignment of Corps members and the action taken on each such application;

“(3) the number and types of Corps members assigned in such year to health manpower shortage areas, the number and types of additional Corps members which the Secretary estimates will be assigned to such areas in the subsequent year, and the need for additional members for the Corps;

“(4) the recruitment efforts engaged in for the Corps in such year and the number of qualified individuals who applied for service in the Corps in such year;

“(5) the number of patients seen and the number of patient visits recorded during such year with respect to each health manpower shortage area to which a Corps member was assigned during such year;

“(6) the number of Corps members who elected, and the number of Corps members who did not elect, to continue to provide health services in health manpower shortage areas after termination of their service in the Corps and the reasons (as reported to the Secretary) of members who did not elect for not making such election;

“(7) the results of evaluations and determinations made under section 333(a)(1)(D) during such year; and

“(8) the amount charged during such year for health services provided by Corps members, the amount which was collected in such year by entities in accordance with agreements under section 334, and the amount which was paid to the Secretary in such year under such agreements.

“NATIONAL ADVISORY COUNCIL

“SEC. 337. (a) There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the ‘Council’). The Council shall be composed of fifteen members appointed by the Secretary as follows:

National
Advisory Council
on the National
Health Service
Corps.
Establishment,
members.
42 USC 254j.

“(1) Four members shall be appointed from the general public to represent the consumers of health care, at least two of whom shall be individuals who are residents of, members of, or served by Corps members assigned to, a health manpower shortage area.

“(2) Three members shall be appointed from medical, dental, and other health professions.

“(3) One member shall be appointed from a State health planning and development agency (designated under section 1521),

42 USC 300m.

- one member shall be appointed from a Statewide Health Coordinating Council (designated under section 1524), and one member shall be appointed from a health systems agency (designated under section 1515).
- 42 USC 300m-3. “(4) Three members shall be appointed from the Service, at least two of whom shall be members of the Corps directly engaged in the provision of health services in a health manpower shortage area.
- 42 USC 300l-4. “(5) Two members shall be appointed from the National Council on Health Planning and Development (established under section 1503).
- 42 USC 300k-3. No individual who is a provider of health care (as defined in section 1531(3)) may be appointed as a member of the Council under paragraph (1), (3), or (5). The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart, and shall review and comment upon regulations promulgated by the Secretary under this subpart.
- 42 USC 300n. “(b) (1) Members of the Council shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member’s predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may be reappointed to the Council.
- Term. “(2) Members of the Council (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule; and while so serving away from their homes or regular places of business all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government Service employed intermittently.
- Travel expenses. “(c) Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.
- 5 USC app. I.

“AUTHORIZATION OF APPROPRIATION

- 42 USC 254k. “SEC. 338. (a) To carry out the purposes of this subpart, there are authorized to be appropriated \$47,000,000 for the fiscal year ending September 30, 1978; \$57,000,000 for the fiscal year ending September 30, 1979; and \$70,000,000 for the fiscal year ending September 30, 1980.
- “ (b) An appropriation under an authorization under subsection (a) for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under this subpart before the fiscal year for which such appropriation is authorized.”
- 42 USC 254d note. “ (c) (1) The amendment made by subsections (a) and (b) shall apply only with respect to fiscal years beginning after September 30, 1977, except that the Secretary of Health, Education, and Welfare shall carry out the activities described in section 332 of the Public Health Service Act (as added by such amendment) after the date of enactment of this Act.

(2) (A) Any area for which a designation under section 329(b) of the Public Health Service Act (as in effect on September 30, 1977) was in effect on such date and in which National Health Service Corps personnel were, on such date, providing, under an assignment made under such section (as so in effect), health care and services for persons residing in such area shall, effective October 1, 1977, be considered under subpart II of part C of title III of such Act (as added by subsection (b) of this section) to (i) be designated a health manpower shortage area (as defined by section 332 of such Act (as so added)), and (ii) have had an application approved under section 333 of such Act (as so added) for the assignment of Corps personnel unless, as determined under subparagraph (B) of this paragraph, the assignment period applicable to such area (within the meaning of section 334 (as so added)) has expired.

(B) The assignment period (within the meaning of such section 334) applicable to an area described in subparagraph (A) of this paragraph shall be considered to have begun on the date Corps personnel were first assigned to such area under section 329 of such Act (as in effect on September 30, 1977).

(C) In the case of any physician or dentist member of the Corps who was providing health care and services on September 30, 1977, under an assignment made under section 329(b) of such Act (as in effect on September 30, 1977), the number of the months during which such member provided such care and services before October 1, 1977, shall be counted in determining the application of the additional pay provisions of section 331(d) of such Act (as added by subsection (b) of this section) to such number.

(3) The amendment made by subsection (b) which established an Advisory Council previously established under section 329 of the Public Health Service Act shall not be construed as requiring the establishment of a new Advisory Council under such section 337; and the amendment made by such subsection with respect to the composition of such Advisory Council shall apply with respect to appointments made to the Advisory Council after October 1, 1977, and the Secretary of Health, Education, and Welfare shall make appointments to the Advisory Council after such date in a manner which will bring about, at the earliest feasible time, the Advisory Council composition prescribed by the amendment.

(d) (1) Section 741(f)(1)(C) is amended by striking out all that follows after "in a State" and inserting in lieu thereof "in a health manpower shortage area designated under section 332:".

42 USC 294a,
294n.

(2) The amendment made by paragraph (1) shall apply with respect to agreements entered into under section 741(f) of the Public Health Service Act after September 30, 1977.

42 USC 294n
note.

SCHOLARSHIPS AND PUBLIC HEALTH TRAINEESHIPS

SEC. 408. (a) Effective October 1, 1977, part C of title VII is amended by adding at the end thereof the following new subpart:

Effective date.

"Subpart III—Traineeships for Students in Schools of Public Health and Other Graduate Programs

"TRAINEESHIPS FOR STUDENTS IN SCHOOLS OF PUBLIC HEALTH

"SEC. 748. (a) The Secretary may make grants to accredited schools of public health for traineeships to train students enrolled in such schools.

Grants.
42 USC 294r.

Application.

“(b) (1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

“(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

“(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least the percent specified in paragraph (4) of the funds received under this section shall go to individuals who—

“(A) (i) have previously received a postbaccalaureate degree, or

“(ii) have three years of work experience in health services; and

“(B) are pursuing a course of study in—

“(i) biostatistics or epidemiology,

“(ii) health administration, health planning, or health policy analysis and planning,

“(iii) environmental or occupational health, or

“(iv) dietetics or nutrition.

“(4) The percent referred to in paragraph (3) is—

“(A) 45 percent for grants made for the fiscal year ending September 30, 1978,

“(B) 55 percent for grants made for the fiscal year ending September 30, 1979, and

“(C) 65 percent for grants made for the fiscal year ending September 30, 1980, and in succeeding fiscal years.

Appropriation authorization.

“(c) For payments under grants under subsection (a), there are authorized to be appropriated \$7,500,000 for the fiscal year ending September 30, 1978; \$8,000,000 for the fiscal year ending September 30, 1979; and \$9,000,000 for the fiscal year ending September 30, 1980.

“TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS

Grants.

42 USC 294s.

“SEC. 749. (a) The Secretary may make grants to public or nonprofit private educational entities, including graduate schools of social work but excluding accredited schools of public health, which offer a program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Commissioner of Education and which meets such other quality standards as the Secretary by regulation may prescribe, for traineeships to train students enrolled in such a program.

Application.

“(b) (1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

Regulation.

"(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this section shall go to individuals who (A) have previously received a postbaccalaureate degree, or (B) have three years of work experience in health services.

"(c) For payments under grants under subsection (a), there are authorized to be appropriated \$2,500,000 for the fiscal year ending September 30, 1978; \$2,500,000 for the fiscal year ending September 30, 1979; and \$2,500,000 for the fiscal year ending September 30, 1980."

(b) (1) Effective October 1, 1977, section 225 is repealed and part C of title VII (as amended by subsection (a)) is amended by adding after subpart III the following new subpart:

"Subpart IV—National Health Service Corps Scholarships

"NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

"SEC. 751. (a) The Secretary shall establish the National Health Service Corps Scholarship Program (hereinafter in this subpart referred to as the 'Scholarship Program') to assure an adequate supply of trained physicians, dentists, and nurses for the National Health Service Corps (hereinafter in this subpart referred to as the 'Corps') and, if needed by the Corps, podiatrists, optometrists, pharmacists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 822), and other health professionals.

"(b) To be eligible to participate in the Scholarship Program, an individual must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Secretary) educational institution in a State and (B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathy, dentistry, or other health profession;

"(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

"(3) submit an application to participate in the Scholarship Program; and

"(4) sign and submit to the Secretary, at the time of submittal of such application, a written contract (described in subsection (f)) to accept payment of a scholarship and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.

"(c) In disseminating application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Secretary shall include with such forms—

"(1) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled

Appropriation
authorization.

Repeal.
42 USC 234.

Establishment.
42 USC 294t.

Eligibility.

under section 754 in the case of the individual's breach of the contract; and

"(2) such other information as may be necessary for the individual to understand the individual's prospective participation in the Scholarship Program and service in the Corps.

Review and
evaluation.

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Scholarship Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to insure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d) In determining which applications under the Scholarship Program to approve (and which contracts to accept), the Secretary shall give priority—

"(1) first, to applications made (and contracts submitted) by individuals who have previously received scholarships under the Scholarship Program or under section 758; and

"(2) second, to applications made (and contracts submitted)—

"(A) in the school year ending in the fiscal year beginning October 1, 1977, by individuals who are entering their first or second year of study in a course of study or program described in subsection (b)(1)(B) in such school year; and

"(B) in each school year thereafter, by individuals who are entering their first year of study in a course of study or program described in subsection (b)(1)(B) in such school year.

"(e)(1) An individual becomes a participant in the Scholarship Program only upon the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

Notice.

"(2) The Secretary shall provide written notice to an individual promptly upon the Secretary's approving, under paragraph (1), of the individual's participation in the Scholarship Program.

Written contract.

"(f) The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

"(1) an agreement that—

"(A) subject to paragraph (2), the Secretary agrees (i) to provide the individual with a scholarship (described in subsection (g)) in each such school year or years for a period of years (not to exceed four school years) determined by the individual, during which period the individual is pursuing a course of study described in subsection (b)(1)(B), and (ii) to accept (subject to the availability of appropriated funds for carrying out subpart II of part C of title III) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

"(B) subject to paragraph (2), the individual agrees—

"(i) to accept provision of such a scholarship to the individual;

"(ii) to maintain enrollment in a course of study described in subsection (b)(1)(B) until the individual completes the course of study;

"(iii) while enrolled in such course of study, to maintain an acceptable level of academic standing (as deter-

Ante, p. 2268.

mined under regulations of the Secretary by the educational institution offering such course of study); and

“(iv) to serve for a time period (hereinafter in the subpart referred to as the ‘period of obligated service’) equal to—

“(I) one year for each school year for which the individual was provided a scholarship under the Scholarship Program, or

“(II) two years,

whichever is greater, in a health manpower shortage area (designated under section 332) to which he is assigned by the Secretary as a member of the Corps, or as otherwise provided in this subpart;

Ante, p. 2270.

“(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subpart and to carry out the purposes of subpart II of part C of title III;

Ante, p. 2268.

“(3) a statement of the damages to which the United States is entitled, under section 754, for the individual’s breach of the contract; and

“(4) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

“(g)(1) A scholarship provided to a student for a school year under a written contract under the Scholarship Program or under section 758 (relating to scholarships for first-year students of exceptional financial need), shall consist of—

“(A) payment to, or (in accordance with paragraph (2)) on behalf of, the student of the amount (except as provided in section 711) of—

“(i) the tuition of the student in such school year; and

“(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

“(B) payment to the student of a stipend of \$400 per month (adjusted in accordance with paragraph (3)) for each of the 12 consecutive months beginning with the first month of such school year.

“(2) The Secretary may contract with an educational institution, in which a participant in the Scholarship Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1) (A). Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

Contract.

“(3) The amount of the monthly stipend, specified in paragraph (1) (B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary for each school year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded to the next highest multiple of \$1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5303 of title 5, United States Code) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

Report to
Congress.

“(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

“(i) The Secretary shall report to Congress on December 1 of each year—

“(1) the number, and type of health profession training, of students receiving scholarships under the Scholarship Program;

“(2) the educational institutions at which such students are receiving their training;

“(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

“(4) the amount of tuition paid in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

“(j) The administrative unit which administers section 770 shall—

“(1) participate in the development of regulations, funding priorities, and application forms, and

“(2) be consulted by, and may make recommendations to, the Secretary in the review of applications for scholarships and grants,

with respect to the Scholarship Program.

“OBLIGATED SERVICE

42 USC 294u.

“SEC. 752. (a) Except as provided in section 753, each individual who has entered into a written contract with the Secretary under section 751 shall provide service in the full-time clinical practice of such individual's profession as a member of the Corps for the period of obligated service provided in such contract.

Notification.

“(b) (1) The Secretary shall notify each individual required to provide service under the Scholarship Program, not later than 60 days before the date described in paragraph (5), of the opportunity of such individual to serve in the full-time clinical practice of his profession either as a commissioned officer in the Regular or Reserve Corps of the Service or as a civilian member of the Corps. The Secretary shall include in such notice sufficient information regarding the advantages and disadvantages to each alternative to enable an individual to make a decision on an informed basis.

“(2) To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than 30 days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer.

“(3) If an individual who has notified the Secretary under paragraph (2) qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps and of the Service and shall designate the individual as a member of the Corps. If an individual who has notified the Secretary under paragraph (2) does not so qualify, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual in accordance with paragraph (4).

“(4) Except as provided in paragraph (3) and in section 753, the Secretary shall appoint each individual, as soon as possible after the date described in paragraph (5), to serve in the full-time clinical practice of his profession as a civilian member of the Corps.

"(5) (A) With respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that the Secretary shall, at the request of such individual, defer such date until the end of the period of time (not to exceed three years) required for the individual to complete an internship, residency, or other advanced clinical training. No such period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

"(B) With respect to an individual receiving a degree from an institution other than a school of medicine, osteopathy, or dentistry, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes his academic training leading to such degree.

"(c) An individual shall be considered to have begun serving a period of obligated service—

"(1) on the date such individual is appointed as an officer in a Regular or Reserve Corps of the Service or as a member of the Corps, or

"(2) in the case of an individual who has entered into an agreement with the Secretary under section 753, on the date specified in such agreement, *Infra.*

whichever is earlier.

"(d) The Secretary shall assign individuals performing obligated service in accordance with a written contract under the Scholarship Program to health manpower shortage areas in accordance with subpart II of part C of title III. If the Secretary determines that there is no need in a health manpower shortage area (designated under section 332) for a member of the profession in which an individual is obligated to provide service under a written contract, the Secretary may detail such individual to serve his period of obligated service as a full-time member of such profession in such unit of the Department as the Secretary may determine.

Ante, p. 2268.

Ante, p. 2270.

"(e) Notwithstanding any other provision of this title, if the Secretary determines that an individual who is or has been a participant in the Scholarship Program demonstrates exceptional promise for medical research, the Secretary may permit such individual to perform his service obligation under the National Research Service Award program established under section 472.

42 USC 289l-1.

"PRIVATE PRACTICE

"SEC. 753. (a) The Secretary shall release an individual from all or part of his service obligation under section 752 (a) if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of his service obligation in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his health profession—

Written agreement.
42 USC 294v.

"(1) in the case of an individual who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of his application for such a release, in the health manpower shortage area in which such individual is serving on such date; or

Ante, p. 2270.

Ante, p. 2272.

“(2) in the case of any other individual, in a health manpower shortage area (designated under section 332) which (A) has a priority for the assignment of Corps members under section 333(c), and (B) has a sufficient financial base to sustain such private practice and to provide the individual with income of not less than the income of members of the Corps.

In the case of an individual described in paragraph (1), the Secretary shall release the individual from his service obligation under this subsection only if the Secretary determines that the area in which the individual is serving meets the requirement of clause (B) of paragraph (2).

“(b) The written agreement described in subsection (a) shall—

“(1) provide that during the period of private practice by an individual pursuant to the agreement—

“(A) any person who receives health services provided by the individual in connection with such practice will be charged for such services at the usual and customary rate prevailing in the area in which such services are provided, except that if such person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee; and

“(B) the individual in providing health services in connection with such practice shall not discriminate against any person on the basis of such person’s ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under part A or B of title XVIII of the Social Security Act or under a State plan for medical assistance approved under title XIX of such Act; and

“(2) contain such additional provisions as the Secretary may require to carry out the purposes of this section.

42 USC 1395c,

1395j.

42 USC 1396.

Regulation.

For purposes of paragraph (1) (A), the Secretary shall by regulation prescribe the method for determining a person’s ability to pay a charge for health services and the method of determining the amount (if any) to be charged such person based on such ability.

“BREACH OF SCHOLARSHIP CONTRACT

42 USC 294w.

“SEC. 754. (a) An individual (other than an individual described in subsection (b)) who has entered into a written contract with the Secretary under section 751 and who fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, shall, in addition to any service or other obligation or liability under the contract, be liable to the United States for the amount of \$1,500 as liquidated damages.

“(b) An individual who has entered into a written contract with the Secretary under section 751 and who—

“(1) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

“(2) is dismissed from such educational institution for disciplinary reasons, or

“(3) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract, before the completion of such training, in lieu of any service obligation arising under such contract, shall be

liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

“(c) If an individual breaches his written contract by failing (for any reason) either to begin such individual’s service obligation in accordance with section 752 or 753 or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A=3\phi\left(\frac{t-s}{t}\right)$$

in which ‘A’ is the amount the United States is entitled to recover, ‘ ϕ ’ is the sum of the amount paid under this subpart to or on behalf of the individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; ‘t’ is the total number of months in the individual’s period of obligated service; and ‘s’ is the number of months of such period served by him in accordance with section 752 or a written agreement under section 753. Any amount of damages which the United States is entitled to recover under this subsection shall, within the one year period beginning on the date of the breach of the written contract, be paid to the United States.

“(d) (1) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for service or payment of damages shall be canceled upon the death of the individual.

“(2) The Secretary shall by regulation provide for the waiver or suspension of any obligation of service or payment by an individual under the Scholarship Program (or a contract thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

“(3) Any obligation of an individual under the Scholarship Program (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment of such damages is required.

11 USC 1 *et seq.*

“SPECIAL GRANTS FOR FORMER CORPS MEMBERS TO ENTER PRIVATE PRACTICE

“SEC. 755. (a) The Secretary may make one grant to an individual (other than an individual who has entered into an agreement under section 753)—

42 USC 294x.

“(1) who has completed his period of obligated service in the Corps, and

“(2) who has agreed in writing—

Agreement.

“(A) to engage in the private full-time clinical practice of his profession in a health manpower shortage area (designated under section 332 and described in paragraphs (1) and (2) of section 753(a)) for a period (beginning not later than one year after the date he completed his period of obligated service in the Corps) of not less than one year;

Ante, p. 2270.

“(B) to conduct such practice in accordance with the provisions of section 753(b)(1); and

“(C) to such additional conditions as the Secretary may require to carry out the purposes of this section;

to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such grant may not be used for the purchase or construction of any building.

"(b) The amount of the grant under subsection (a) to an individual shall be—

"(1) \$12,500, if the individual agrees to practice his profession in accordance with the agreement for a period of at least one year, but less than two years; or

"(2) \$25,000 if the individual agrees to practice his profession in accordance with the agreement for a period of at least two years.

"(c) The Secretary may not make a grant under this section unless an application therefor has been submitted to, and approved by, the Secretary.

Breach of
agreement,
notification.

"(d) If the Secretary determines that an individual has breached a written agreement entered into under subsection (a), he shall, as soon as practicable after making such determination, notify the individual of such determination. If within 120 days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual an amount determined under section 754(c), except that in applying the formula contained in such section, 'ø' shall be the sum of the amount of the grant made under subsection (a) to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, 't' shall be the number of months that such individual agreed to practice his profession under such agreement, and 's' shall be the number of months that such individual practices his profession in accordance with such agreement.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 294y.

"SEC. 756. (a) There are authorized to be appropriated for scholarships under this subpart \$75,000,000 for the fiscal year ending September 30, 1978, \$140,000,000 for the fiscal year ending September 30, 1979, and \$200,000,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981, and for each of the two succeeding fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make scholarship awards to students who have entered into written contracts under the Scholarship Program before October 1, 1980.

"(b) Of the sums appropriated under this section (1) 90 percent shall be obligated for scholarships for medical, osteopathic, and dental students, and (2) 10 percent of such 90 percent shall be obligated for scholarships for dental students."

42 USC 294t
note.

(2) (A) Except as provided in subparagraph (B), the amendment made by paragraph (1) of this subsection shall apply with respect to scholarships awarded under the National Health Service Corps Scholarship Program from appropriations for such Program for fiscal years beginning after September 30, 1977.

Ante, p. 415.

(B) The provisions of section 225(f)(1) of the Public Health Service Act (as in effect on September 30, 1977) prescribing the

financial obligation of a participant in the Public Health and National Health Service Corps Scholarship Program who fails to complete an active duty service obligation incurred under that Program shall apply to any individual who received a scholarship under such Program for any school year ending before September 30, 1977, irrespective of whether such individual received such a scholarship after that date.

(C) Periods of internship or residency served before September 30, 1976, in a facility of the National Health Service Corps or other facility of the Public Health Service in accordance with an agreement entered into under section 225(b) of the Public Health Service Act (as in effect before that date) shall be creditable in satisfying a service obligation incurred under the Public Health and National Health Service Corps Scholarship Program as revised by this subsection.

42 USC 234.

(c) Effective October 1, 1977, part C of title VII (as amended by subsections (a) and (b)) is amended by adding after subpart IV the following new subpart:

42 USC 294z note.

"Subpart V—Other Scholarships

"SCHOLARSHIPS FOR FIRST-YEAR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

"SEC. 758. (a) The Secretary shall make grants to a public or non-profit school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, or veterinary medicine which is accredited as provided in section 721(b)(1)(B), for scholarships to be awarded by the school to full-time students thereof who are of exceptional financial need and who are in their first year of study at such school in the school year ending in the fiscal year in which such grant is made.

Grants.
42 USC 294z.

"(b)(1) Scholarships may be awarded by a school from a grant under subsection (a) only to individuals who have been accepted by it for enrollment as full-time students in their first year of study at such school.

"(2) A scholarship awarded to a student for a school year under a grant made under subsection (a) shall be the scholarship described in section 751(g).

"(3) For purposes of this section, the term 'first year of study' means, with respect to a student of a school other than a school of pharmacy, the student's first year of postbaccalaureate study at such school.

"First year of study."

"(c) The Secretary shall distribute grants under this section among all schools of the health professions, but shall give priority in distributing such grants to schools of medicine, osteopathy, and dentistry.

"(d) For the purpose of making grants under this section, there is authorized to be appropriated \$16,000,000 for the fiscal year ending September 30, 1978, \$17,000,000 for the fiscal year ending September 30, 1979, and \$18,000,000 for the fiscal year ending September 30, 1980.

Appropriation authorization.

"LISTER HILL SCHOLARSHIP PROGRAM

"SEC. 759. (a) The Secretary annually shall make grants to at least 10 individuals (to be known as Lister Hill scholars) for scholarships of up to \$8,000 per year for up to four years of medical school if such individuals agree to enter into the family practice of medicine in a health manpower shortage area in accordance with this section. Grants made under this section shall be made only from funds appropriated under subsection (b).

Grants.
42 USC 294aa.

Appropriation
authorization.

“(b) There are authorized to be appropriated to carry out the purposes of this section \$80,000 for the fiscal year ending September 30, 1977, \$160,000 for the fiscal year ending September 30, 1978, \$240,000 for the fiscal year ending September 30, 1979, and \$320,000 for the fiscal year ending September 30, 1980. For the fiscal year ending September 30, 1981 and for each succeeding fiscal year, there are authorized to be appropriated such sums as may be necessary to continue to make such grants to students who (prior to October 1, 1980) have received such a grant under this section during such succeeding fiscal year.”

SCHOLARSHIPS

Repeal.
42 USC 295g,
295g-1,
295g-11,
295g-21-
295g-23.
Grants.
42 USC 295g
note.
42 USC 295g.

SEC. 409. (a) Effective October 1, 1976, subparts I, II, and III of part F of title VII are repealed.

(b) The Secretary of Health, Education, and Welfare during the period beginning October 1, 1976, and ending September 30, 1979, may (1) make grants under section 780 of the Public Health Service Act (as in effect before October 1, 1976) to public and nonprofit private schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, and pharmacy to enable such schools to continue making payments under scholarship awards to individuals enrolled and in good standing as full-time students who initially received such awards out of grants made to the schools under such section 780 for fiscal years ending before October 1, 1976, and (2) make scholarship grants under section 784 of such Act (as in effect before October 1, 1976) to individuals enrolled and in good standing as medical students who initially received such grants before October 1, 1976.

42 USC
295g-21.

TITLE V—GRANTS FOR HEALTH PROFESSIONS
SCHOOLS

GRANT AMOUNTS; AUTHORIZATIONS

42 USC 295f.

SEC. 501. (a) Section 770(a) is amended to read as follows:

“(a) GRANT COMPUTATION.—The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed for each fiscal year as follows:

“(1) Each school of medicine, osteopathy, and dentistry shall receive—

“(A) for the fiscal year ending September 30, 1978, \$2,000 for each full-time student enrolled in such school in the school year beginning in such fiscal year,

“(B) for the fiscal year ending September 30, 1979, \$2,050 for each full-time student enrolled in such school in the school year beginning in such fiscal year, and

“(C) for the fiscal year ending September 30, 1980, \$2,100 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

“(2) (A) Each school of public health shall receive for the fiscal year ending September 30, 1978, and for each of the next two fiscal years an amount equal to the product of—

“(i) \$1,400, and

“(ii) the sum of (I) the number of full-time students enrolled in such school in the school year beginning in such

fiscal year, and (II) the number of full-time equivalents of part-time students, determined pursuant to subparagraph (B), for such school for such school year.

“(B) For purposes of subparagraph (A) the number of full-time equivalents of part-time students for a school of public health for any school year is a number equal to—

“(i) the total number of credit hours of instruction in such year for which part-time students of such school, who are pursuing a course of study leading to a graduate degree in public health or an equivalent degree, have enrolled, divided by

“(ii) the greater of (I) the number of credit hours of instruction which a full-time student of such school was required to take in such year, or (II) 9, rounded to the next highest whole number.

“(3) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of veterinary medicine shall receive \$1,450 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

“(4) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of optometry shall receive \$765 for each full-time student enrolled in such school in the school year beginning in such fiscal year.

“(5) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of pharmacy (other than a school of pharmacy with a course of study of more than four years) shall receive \$695 for each full-time student enrolled in such school in the school year beginning in such fiscal year. Each school of pharmacy with a course of study of more than four years shall receive \$695 for each full-time student enrolled in the last four years of such school. For purposes of section 771, a student enrolled in the first year of the last four years of such school shall be considered a first-year student.

Post, p. 2293.

“(6) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, each school of podiatry shall receive \$965 for each full-time student enrolled in such school in the school year beginning in such fiscal year.”

(b) Subsection (b) of section 770 is amended to read as follows:

42 USC 295f.

“(b) APPORTIONMENT OF APPROPRIATIONS.—Notwithstanding subsection (a), if the aggregate of the amounts of the grants to be made in accordance with such subsection for any fiscal year to schools of either medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry with approved applications exceeds the total of the amounts appropriated for such category of schools under the appropriate paragraph of subsection (e) for such grants, the amount of a school's grant with respect to which such excess exists shall for such fiscal year be an amount which bears the same ratio to the amount determined for the school under subsection (a) as the total of the amounts appropriated for that year under the appropriate paragraph of subsection (e) for grants to schools of the same category as such school bears to the amount required to make grants in accordance with subsection (a) to each of the schools of that category with approved applications.”

(c)(1) Subsections (c), (d), (e), (f), and (g) of section 770 are repealed. Repeal.

(2) Subsection (h) of section 770 is (A) redesignated as subsection (c), and (B) is amended to read as follows:

“(c) ENROLLMENT DETERMINATIONS.—

“(1) For purposes of this section, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

“Full time students.”

“(2) For purposes of this section, the term ‘full-time students’ (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor or master of science in pharmacy or an equivalent degree, doctor of optometry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or doctor of podiatry or an equivalent degree or to a graduate degree in public health or equivalent degree. In the case of a training program of a school designed to permit the students enrolled in such program to complete, within six years after completing secondary school, the requirements for degree of doctor of medicine, doctor of dentistry or an equivalent degree, or doctor of osteopathy, the term ‘full-time students’ shall only include students enrolled on a full-time basis in the last four years of such program and for purposes of section 771, students enrolled in the first of the last four years of such program shall be considered as first-year students.”

42 USC 295f.

(3) Subsection (i) of section 770 is amended (A) by inserting “, public health” after “dentistry”, (B) by striking out “and (b)”, and (C) by redesignating it as subsection (d).

(4) Subsection (j) of section 770 is redesignated as subsection (e) and is amended to read as follows:

“(e) AUTHORIZATIONS OF APPROPRIATIONS.—

“(1) There are authorized to be appropriated \$124,182,000 for the fiscal year ending September 30, 1978, \$131,683,800 for the fiscal year ending September 30, 1979, and \$139,400,100 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of medicine.

“(2) There are authorized to be appropriated \$8,680,000 for the fiscal year ending September 30, 1978, \$9,337,750 for the fiscal year ending September 30, 1979, and \$10,159,800 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of osteopathy.

“(3) There are authorized to be appropriated \$43,798,000 for the fiscal year ending September 30, 1978, \$45,409,550 for the fiscal year ending September 30, 1979, and \$46,909,800 for the fiscal year ending September 30, 1980, for payments under grants under this section for schools of dentistry.

“(4) There are authorized to be appropriated \$9,739,800 for the fiscal year ending September 30, 1978, \$10,462,200 for the fiscal year ending September 30, 1979, and \$11,060,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of public health.

“(5) There are authorized to be appropriated \$10,219,600 for the fiscal year ending September 30, 1978, \$10,548,750 for the fiscal year ending September 30, 1979, and \$10,705,350 for the fiscal

year ending September 30, 1980, for payments under grants under this section to schools of veterinary medicine.

“(6) There are authorized to be appropriated \$3,204,585 for the fiscal year ending September 30, 1978, \$3,272,670 for the fiscal year ending September 30, 1979, and \$3,366,000 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of optometry.

“(7) There are authorized to be appropriated \$16,989,970 for the fiscal year ending September 30, 1978, \$17,110,205 for the fiscal year ending September 30, 1979, and \$17,368,050 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of pharmacy.

“(8) There are authorized to be appropriated \$2,267,750 for the fiscal year ending September 30, 1978, \$2,270,645 for the fiscal year ending September 30, 1979, and \$2,285,120 for the fiscal year ending September 30, 1980, for payments under grants under this section to schools of podiatry.”.

(d) For the fiscal year ending September 30, 1978, and for each of the next two fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make annual grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry under section 770(a) of the Public Health Service Act (as in effect on September 30, 1977) based on the number of enrollment bonus students (determined in accordance with subsections (d) and (e) of section 770 of such Act (as so in effect)) enrolled in such schools who were first-year students in such schools for school years ending before September 30, 1977, except that the amount of any grant made to such a school from sums appropriated under this subsection may not exceed the amount of the grant the school received in the fiscal year ending September 30, 1977, based on the number of such students enrolled in it.

42 USC 295f
note.

42 USC 295f.

(e) Effective October 1, 1977, the heading for part E of title VII is amended to read as follows:

“PART E—GRANTS TO IMPROVE THE QUALITY OF SCHOOLS OF MEDICINE, OSTEOPATHY, DENTISTRY, PUBLIC HEALTH, VETERINARY MEDICINE, OPTOMETRY, PHARMACY, AND PODIATRY”.

(f) The amendments made by subsections (a), (b), and (c) shall apply with respect to appropriations under section 770 of the Public Health Service Act, and grants under that section, for fiscal years beginning after September 30, 1977.

Effective date.
42 USC 295f
note.

GRANT REQUIREMENTS

SEC. 502. Effective with respect to fiscal years beginning after September 30, 1977, part E of title VII is amended (1) by striking out sections 771, 772, 773, and 774, and (2) by adding after section 770 the following new section:

42 USC
295f-1-
295f-4.

“ELIGIBILITY FOR CAPITATION GRANTS

“SEC. 771. (a) IN GENERAL.—The Secretary shall not make a grant under section 770 to any school in a fiscal year beginning after September 30, 1977, unless the application for the grant contains, or is supported by, assurances satisfactory to the Secretary that—

42 USC 295f-1.

“(1) the first-year enrollment of full-time students in the school in the school year beginning in the fiscal year in which the

grant applied for is to be made will not be less than the first-year enrollment of such students in the school in the preceding school year or in the school year beginning in the fiscal year ending September 30, 1976, whichever is greater; and

“(2) the applicant will expend in carrying out its functions as a school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

Ante, p. 2290.

“(b) (1) **MEDICAL SCHOOLS.**—To be eligible for a grant under section 770 each school of medicine shall, in addition to the requirements of subsection (a), meet the applicable requirements of paragraphs (2) and (3).

“(2) (A) (i) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1977, in direct or affiliated medical residency training programs in primary care is at least 35 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending September 30, 1978, a school of medicine shall have on July 15, 1978, at least 35 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

“(ii) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15, 1978, in direct or affiliated medical residency training programs in primary care is at least 40 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending September 30, 1979, a school of medicine shall have on July 15, 1979, at least 40 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

“(iii) Unless, as determined under subparagraph (B), the number of filled first year positions on July 15 of any year (beginning with 1979) in direct or affiliated medical residency training programs in primary care is at least 50 percent of the number of filled first year positions on that date in all direct or affiliated medical residency training programs, to be eligible for a grant under section 770 for the fiscal year ending on September 30 of the following year, a school of medicine shall have on July 15 of such following year at least 50 percent of its filled first year positions, as determined under subparagraphs (C) and (D), in its direct or affiliated medical residency training programs in first year positions in such programs in primary care.

“(B) The Secretary shall determine what percent of all the positions filled, as of July 15, 1977, and July 15 of each subsequent year, in all direct or affiliated medical residency training programs are filled positions in such programs in primary care. In determining the number of such positions in primary care on July 15, 1977, or on July 15 of a subsequent year, the Secretary shall deduct from such number a number equal to the number of individuals who were in a first year

position in any direct or affiliated medical residency training program in primary care as of July 15 of the previous year and who on the date for which the determination is to be made were not in any direct or affiliated medical residency training program in primary care. Each determination under this subparagraph shall, not later than 45 days after the date for which the determination is made, be published in the Federal Register and reported in writing to each school of medicine in the States and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate.

Publication in Federal Register; report to medical schools and congressional committees.

“(C) In determining if a school of medicine meets an applicable requirement of clause (i), (ii), or (iii) of subparagraph (A) for a fiscal year, the number of filled first year positions in direct or affiliated medical residency training programs of such school in primary care on July 15 in such fiscal year shall be reduced by the number of individuals who were in a first year position in a direct or affiliated medical residency training program of such school in primary care on July 15 in the previous fiscal year and who on July 15 in the fiscal year to which the requirement applies were not in a direct or affiliated medical residency training program of such school in primary care. Each determination, with respect to a school, under this subparagraph shall, not later than 45 days after the date on which the determination is made, be reported in writing to such school and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate.

Determination; report to medical school and congressional committees.

“(D) The requirement under subparagraph (A) that a school of medicine have a particular percent of its filled first-year positions in its direct or affiliated medical residency training programs in primary care on a date in order to be eligible for a grant under section 770 shall be waived by the Secretary if he determines that (i) such school has made a good faith effort to comply with such requirement, and (ii) such school has at least 98 percent of such percent of such positions in primary care on such date.

Ante, p. 2290.

“(E) The Secretary shall not make any grant under section 770 to a school of medicine for any fiscal year if the Secretary, after providing notice and opportunity for a hearing, determines that in the fiscal year such school—

Notice and hearing.

“(i) terminated or failed to renew an affiliation with a medical residency training program for the purpose of meeting the requirements of this paragraph, and

“(ii) after such a termination or failure to renew, provided support for such medical residency training program (including any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program).

“(F) For purposes of this paragraph:

Definitions.

“(i) The term ‘direct or affiliated medical residency training program’ means a medical residency training program with which a school of medicine is affiliated or has a similar arrangement (including any arrangement which provides for any interchange of medical residents, students, or faculty between the school and such program, the offering of any faculty position at such school to any individual on the staff of such entity who has any responsibility for such program, or the provision or receipt by such school of any funds for such program), as determined under regulations of the Secretary, or which is primarily conducted in facilities owned by a school of medicine.

“(ii) The term ‘primary care’ means general internal medicine, family medicine, or general pediatrics.

“(iii) The term ‘medical residency training program’ means a program which trains graduates of schools of medicine and schools of osteopathy in a medical specialty and which provides the graduate education required by the appropriate specialty board for certification in such specialty. Such term does not include a residency training program in an osteopathic hospital.

Ante, p. 2290.

“(3)(A) To be eligible for a grant under section 770 a school of medicine shall, in its application for such grant, give assurances satisfactory to the Secretary that, except as provided in subparagraphs (C) and (D), the school will reserve positions, in the school year beginning immediately before the fiscal year for which such grant is applied for, for students described in subparagraph (B).

Ante, p. 2243.

“(B) No later than August 15, 1977, and August 15 of each of the next two years, the Secretary shall identify the citizens of the United States who, before the date of enactment of the Health Professions Educational Assistance Act of 1976, were students in a school of medicine not in a State and who by the date of the identification made under this subparagraph—

“(i) successfully completed at least two years in such school of medicine, and

“(ii) successfully completed part I of the National Board of Medical Examiners’ examination (or any successor to such examination).

The Secretary shall equitably apportion a number of positions adequate to fill the needs of students described in subparagraph (B) among the schools of medicine in the States.

“(C) A school of medicine shall not be required to enroll a student described in subparagraph (B) if—

“(i) the individual does not meet, as determined under guidelines established by the Secretary by regulation, the entrance requirements of the school (other than requirements related to academic qualifications or to place of residence), or

“(ii) enrollment of such individual will, as determined by the Secretary after consultation with the appropriate accreditation body, result in the school’s not meeting the accreditation standards of such body.

Waiver.

“(D) The Secretary may waive the requirements of this paragraph upon a finding that, because of the inadequate size of the population served by the hospital or clinical facility in which such school conducts its clinical training, compliance by such school with such assurances will prevent such school from providing high quality clinical training for the students added by the application of this paragraph to such school.

“(c) SCHOOLS OF OSTEOPATHY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of osteopathy shall, in addition to the requirements of subsection (a), submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings, in the school year beginning in the fiscal year for which the grant is made and in each school year thereafter beginning in a fiscal year for which such a grant is made, either in areas geographically remote from the main site of the teaching facilities of the applicant (or any other school of osteopathy which has joined with the applicant in the submission of the plan) or in areas in which medically underserved populations reside.

"(2) More than one applicant may join in the submission of a plan described in paragraph (1). No plan may be approved by the Secretary unless—

"(A) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received at least 6 weeks (at least 3 of which shall be consecutive) of clinical training in an area which is geographically remote from the main site of the training facilities of such school or in which medically underserved populations reside; *Ante*, p. 2290.

"(B) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in osteopathic education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

"(C) the plan contains a specific program for the appointing, as members of the faculty of the school or schools submitting the plan, of practicing physicians to serve as instructors in the training program in such areas; and

"(D) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

"(d) SCHOOLS OF DENTISTRY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of dentistry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and of paragraph (3) or (4).

"(2) In the school year beginning in the fiscal year ending September 30, 1978, and in each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, at least 70 percent of a school of dentistry's filled positions in dental specialty programs which are in excess of the number of filled positions in its programs in the school year beginning in the fiscal year ending September 30, 1977, shall be positions in dental specialty programs in general dentistry or pedodontics.

"(3) A school of dentistry shall maintain an enrollment of full-time first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

"(A) by 10 percent of such number if such number was not more than 100, or

"(B) by 5 percent of such number, or 10 students, whichever is greater, if such number was more than 100.

"(4) (A) A school of dentistry shall submit to the Secretary and have approved by him before the grant applied for is made, a plan to train full-time students in ambulatory care settings, in the school year beginning in the fiscal year for which the grant is made and in each school year thereafter beginning in a fiscal year for which such a grant is made, either in areas geographically remote from the main site of the teaching facilities of the applicant (or any other school of

dentistry which has joined with the applicant in the submission of the plan) or in areas in which medically underserved populations reside.

“(B) More than one applicant may join in the submission of a plan described in subparagraph (A). No plan may be approved by the Secretary unless—

Ante, p. 2290.

“(i) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by assurances satisfactory to the Secretary that all of the full-time students who will graduate from such school will upon graduation have received at least 6 weeks (in the aggregate) of clinical training in an area which is geographically remote from the main site of the training facilities of such school or in which medically underserved populations reside;

“(ii) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in dental education of the desirability of providing training in such areas and of the quality of training rendered in such areas;

“(iii) the plan contains a specific program for the appointing, as members of the faculty of the school or schools submitting the plan, of practicing dentists to serve as instructors in the training program in such areas; and

“(iv) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in such areas.

“(e) **SCHOOLS OF PUBLIC HEALTH.**—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of public health shall, in addition to the requirements of subsection (a), maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

“(A) by 5 percent of such number if such number was not more than 100, or

“(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

“(2) The Secretary may waive (in whole or in part) application to a school of public health of the requirement of paragraph (1) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation.

“(f) **SCHOOLS OF VETERINARY MEDICINE.**—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of veterinary medicine shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) and paragraph (3) or (4).

“(2) An application of a school of veterinary medicine for a grant under section 770 shall contain or be supported by assurances satisfactory to the Secretary that the clinical training of the school shall emphasize predominantly care to food-producing animals or to fibre-producing animals, or to both types of animals.

“(3) A school of veterinary medicine shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

Ante, p. 2290.

“(A) by 5 percent of such number if such number was not more than 100, or

“(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

“(4) An application of a school of veterinary medicine shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 770 at least 30 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of veterinary medicine.

“(g) SCHOOLS OF OPTOMETRY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of optometry shall, in addition to the requirements of subsection (a), meet the requirement of paragraph (2) or (3).

“(2) A school of optometry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

“(A) by 5 percent of such number if such number was not more than 100, or

“(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

“(3) An application of a school of optometry shall contain or be supported by assurances satisfactory to the Secretary that for the school year beginning in the fiscal year for which a grant is made under section 770 at least 25 percent (or 50 percent if the applicant is a nonprofit private school of optometry) of the first-year enrollment of full-time students in such school will be comprised of students who are residents of States in which there are no accredited schools of optometry.

“(h) SCHOOLS OF PODIATRY.—(1) To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of podiatry shall, in addition to the requirements of subsection (a), meet the requirements of paragraph (2) or (3).

“(2) A school of podiatry shall maintain an enrollment of full-time, first-year students, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under section 770 is applied for, which exceeds the number of full-time, first-year students enrolled in such school in the school year beginning in the fiscal year ending September 30, 1976—

“(A) by 5 percent of such number if such number was not more than 100, or

“(B) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100.

Ante, p. 2290.

“(3) An application of a school of podiatry shall contain or be supported by assurances satisfactory to the Secretary that, for the school year beginning in the fiscal year for which a grant is made under section 770, at least 40 percent of the enrollment of full-time, first-year students in such school will be comprised of students who are residents of States in which there are no accredited schools of podiatry.

“(i) **SCHOOLS OF PHARMACY.**—To be eligible for a grant under section 770 for a fiscal year beginning after September 30, 1977, a school of pharmacy’s application for such a grant shall, in addition to the assurances required by subsection (a), contain or be supported by assurances that each student who is enrolled in the school will before graduation undergo a training program in clinical pharmacy, which shall include (1) an inpatient and outpatient clerkship experience in a hospital, extended care facility, or other clinical setting; (2) interaction with physicians and other health professionals; (3) training in the counseling of patients with regard to the appropriate use of and reactions to drugs; and (4) training in drug information retrieval and analysis in the context of actual patient problems.”.

TECHNICAL AND CONFORMING AMENDMENTS

42 USC 295f-5,
295f-2.

SEC. 503. (a) Section 775 is redesignated section 772 and is amended—

(1) by striking out “section 770, 771, 772, or 773” each place it occurs and inserting in lieu thereof “section 770” in subsections (a) and (d) and “section 770 or subsection (a) or (b) of section 778” in subsection (b),

(2) by inserting “, public health” after “dentistry” in subsection (b),

(3) by striking out “this part” in subsection (c) and inserting in lieu thereof “section 770”,

(4) by striking out “section 770, 771, or 773” in subsection (d)

(1) and inserting in lieu thereof “section 771”, and

(5) by amending subsection (d) (3) to read as follows:

“(3) provides for such fiscal control and accounting procedures and reports, including the use of such standard procedures for the recording and reporting of financial information, as the Secretary may prescribe, and access to the records of the applicant, as the Secretary may require to enable him to determine the costs to the applicant of its program for the education or training of students.”.

Repeal.

42 USC 244-1,
245a.

Effective date.
42 USC 295f-2
note.

(b) Sections 312 and 313 are repealed.
(c) The amendments made by this section shall take effect October 1, 1977.

TITLE VI—FOREIGN MEDICAL GRADUATES

LIMITATION ON IMMIGRATION OF FOREIGN MEDICAL GRADUATES

SEC. 601. (a) Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by (1) striking out the period at the end thereof and inserting a semicolon in lieu thereof, and (2) by adding at the end thereof the following new paragraph:

“(32) Aliens who are graduates of a medical school and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and

II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to special immigrants defined in section 101(a)(27)(A) (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted for permanent residence), to nonpreference immigrant aliens described in section 203(a)(8), and to preference immigrant aliens described in section 203(a)(3) and (6).”

8 USC 1101.

8 USC 1153.

(b) Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended as follows:

(1) Subparagraph (H) (i) is amended by inserting before the semicolon “, and who, in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency”.

(2) Subparagraph (H) (ii) is amended by inserting before the semicolon “, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession”.

(3) Subparagraph (H) (iii) is amended by inserting before the semicolon “, other than to receive graduate medical education or training”.

(4) Subparagraph (J) is amended by inserting “and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 212(j)” before “, and the alien spouse”.

(c) Section 212(e) of such Act (8 U.S.C. 1182(e)) is amended—

(1) by striking out “whose (i)” and inserting in lieu thereof “(i) whose”;

(2) by striking out “or” immediately before “(ii)”;

(3) by inserting immediately before “shall be eligible” in the first sentence the following: “or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training”; and

(4) by inserting “, except in the case of an alien described in clause (iii).” immediately after “*Provided further, That*”.

(d) Section 212 of such Act (8 U.S.C. 1182) is amended by inserting at the end thereof the following new subsection:

“(j) (1) The additional requirements referred to in section 101(a)(15) (J) for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are:

Supra.

“(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Commissioner of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement;

“(B) Before making such agreement, the accredited school has been satisfied that the alien has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health, Education, and Welfare), has competency in oral and written English, will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States;

“(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of the education or training for which he is coming to the United States (including any extension of the duration thereof under subparagraph (D)), and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that upon such completion and return, he will be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country; and

“(D) The duration of the alien’s participation in the program for which he is coming to the United States is limited to not more than 2 years, except that such duration may be extended for one year at the request of the government of his nationality or last residence, if (i) such government provides a written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that the alien will, at the end of such extension, be appointed to a position in which he will fully utilize the skills acquired in such education or training in the government of that country or in an educational or other appropriate institution or agency in that country, (ii) the accredited school providing or arranging for the provision of his education or training agrees in writing to such extension, and (iii) such extension is for the purpose of continuing the alien’s education or training under the program for which he came to the United States.

“(2) (A) Except as provided in subparagraph (B), the requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply between the effective date of this subsection and December 31, 1980, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of his failure to meet such requirements, to enter the United States to participate in such program.

“(B) In the administration of this subsection, the Attorney General shall take such action as may be necessary to ensure that the total number of aliens participating (at any time) in programs described in subparagraph (A) does not, because of the exemption provided by such subparagraph, exceed the total number of aliens participating in such programs on the effective date of this subsection.”.

(e) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding the following at the end thereof:

“(41) The term ‘graduates of medical school’ means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state.”.

“Graduates of
medical school.”

(f) The amendments made by this section shall take effect ninety days after the date of enactment of this section.

Effective date.
8 USC 1182 note.

TITLE VII—PUBLIC AND ALLIED HEALTH PERSONNEL

PUBLIC AND ALLIED HEALTH PERSONNEL

SEC. 701. (a) Effective October 1, 1977, part G of title VII is amended to read as follows:

“PART G—PROGRAMS FOR PERSONNEL IN HEALTH ADMINISTRATION AND IN ALLIED HEALTH

“SUBPART I—PUBLIC HEALTH PERSONNEL

“GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

“SEC. 791. (a) From funds appropriated under subsection (d), the Secretary shall make annual grants to public or nonprofit private educational entities (including schools of social work and excluding accredited schools of public health) to support the graduate educational programs of such entities in health administration, hospital administration, and health planning. 42 USC 295h.

“(b) The amount of the grant for any fiscal year under subsection (a) to an educational entity with an application approved under subsection (c) shall be equal to the amount appropriated under subsection (d) for such fiscal year divided by the number of educational entities which have applications for grants for such fiscal year approved under subsection (c).

“(c)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to the Secretary before such time as he shall by regulation prescribe and has been approved by the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation, prescribe. Application.

“(2) The Secretary may not approve an application submitted under paragraph (1) unless—

“(A) such application—

“(i) contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under subsection (a) that—

“(I) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted; and

“(II) such entity shall expend or obligate at least \$100,000 in funds from non-Federal sources to conduct such programs;

“(ii) contains assurances satisfactory to the Secretary that such entity shall maintain a first-year enrollment of full-time students in the programs, for the school year beginning in the fiscal year ending September 30, 1978, and for each school year thereafter beginning in a fiscal year for which a grant under this section is applied for, which exceeds the number of full-time, first-year students enrolled in such programs in the school year beginning in the fiscal year ending September 30, 1976—

“(I) by 5 percent of such number if such number was not more than 100, or

“(II) by 2.5 percent of such number, or 5 students, whichever is greater, if such number was more than 100; and

“(iii) contains such other information as the Secretary may by regulation prescribe; and

“(B) the program for which such application was submitted has been accredited for the training of individuals for health administration, hospital administration, or health planning by a recognized body or bodies approved for such purpose by the Commissioner of Education and meets such other quality standards as the Secretary shall by regulation prescribe.

Waiver.

“(3) The Secretary may waive (in whole or in part) the requirements of clause (ii) of paragraph (2) (A) with respect to any school upon written notification by the appropriate accreditation body or bodies that compliance with the assurances required by such paragraph will prevent such school from meeting the accreditation standards of such body or bodies.

“(4) The Secretary may not approve or disapprove an application submitted under paragraph (1) except after consultation with the National Advisory Council on Health Professions Education.

Appropriation authorization.

“(d) There are authorized to be appropriated for payments under grants under this section \$3,250,000 for the fiscal year ending September 30, 1978, \$3,500,000 for the fiscal year ending September 30, 1979, and \$3,750,000 for the fiscal year ending September 30, 1980.

“SPECIAL PROJECTS FOR ACCREDITED SCHOOLS OF PUBLIC HEALTH AND GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

Grants.

42 USC 295h-1.

“SEC. 792. (a) The Secretary may make grants to assist accredited schools of public health in meeting the costs of special projects to develop new programs or to expand existing programs in—

“(1) biostatistics or epidemiology,

“(2) health administration, health planning, or health policy analysis and planning,

“(3) environmental or occupational health, or

“(4) dietetics and nutrition.

“(b) (1) The Secretary may make grants to assist those public or non-profit educational entities (including graduate schools of social work) which have accredited programs described in paragraph (2) in meeting the costs of special projects to develop new programs or to expand existing programs in—

“(A) biostatistics or epidemiology,

“(B) health administration, health planning or health policy analysis and planning,

“(C) environmental or occupational health, or

“(D) dietetics and nutrition.

Accredited program.

“(2) For purposes of this subsection, an accredited program is a graduate program which is accredited for the training of individuals in health administration, health planning, or health policy analysis and planning by a recognized body or bodies approved by the Commissioner of Education and which meets such other quality standards as the Secretary may by regulation prescribe.

Appropriation authorization.

“(c) There are authorized for the purpose of making payments under grants under this section \$5,000,000 for the fiscal year ending September 30, 1978; \$5,500,000 for the fiscal year ending September 30, 1979; and \$6,000,000 for the fiscal year ending September 30, 1980.

"STATISTICS AND ANNUAL REPORT

"SEC. 793. (a) The Secretary shall, in coordination with the National Center for Health Statistics (established under section 306), continuously develop, publish, and disseminate on a nationwide basis statistics and other information respecting public and community health personnel, including— 42 USC 295h-2.

"(1) detailed descriptions of the various types of activities in which public and community health personnel are engaged,

"(2) the current and anticipated needs for the various types of public and community health personnel, and

"(3) the number, employment, geographic locations, salaries, and surpluses and shortages of public and community health personnel, the educational and licensure requirements for the various types of such personnel, and the cost of training such personnel.

"(b) (1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section— Personal data.

"(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the activities conducted under this section.

"(2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity to use such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer. Consent for transfer of data.

"(3) (A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data. Disclosure.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) For purposes of this subsection, the term 'program entity' "Program entity."

Report to
congressional
committees.

means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

“(c) The Secretary shall submit annually to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a report on—

“(1) the statistics and other information developed pursuant to subsection (a), and

“(2) the activities conducted under this subpart, including an evaluation of such activities.

Legislative
recommendations.

Such report shall contain such recommendations for legislation as the Secretary determines are needed to improve the programs authorized under this subpart. The Office of Management and Budget may review such report before its submission to such Committees, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to such Committees its comments respecting such report. The first report under this subsection shall be submitted not later than December 1, 1978.

“Public and
community
health
personnel.”

“(d) For purposes of this section, the term ‘public and community health personnel’ means individuals who are engaged in—

“(1) the planning, development, monitoring, or management of health care or health care institutions, organizations, or systems,

“(2) research on health care development and the collection and analysis of health statistics, data on the health of population groups, and any other health data,

“(3) the development and improvement of individual and community knowledge of health (including environmental health and preventive medicine) and the health care system, or

“(4) the planning and development of a healthful environment and control of environmental health hazards.

“SUBPART II—ALLIED HEALTH PERSONNEL

“DEFINITIONS

42 USC 295h-4.

“SEC. 795. For purposes of this subpart:

“(1) The term ‘allied health personnel’ means individuals with training and responsibilities for (A) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (B) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

“(2) The term ‘training center for allied health professions’ means a junior college, college, or university—

“(A) which provides, or can provide, programs of education leading to a baccalaureate or associate degree (or to the equivalent of either) or to a higher degree in medical technology, optometric technology, dental hygiene, or in any of such other of the allied health professions curricula as are specified by regulation, or which, if in a junior college, provides a program (i) leading to an associate or an equivalent degree, (ii) of education in optometric technology, dental hygiene, or such other curricula as are specified by regulation, and (iii) acceptable for full credit toward a baccalaureate or equivalent degree in the allied health professions or designed

to prepare the student to work as a technician in a health occupation specified by regulations of the Secretary,

“(B) which provides training for not less than a total of twenty persons in such curricula,

“(C) which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital, and

“(D) which is (or is in a college or university which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Secretary that reasonable progress is being made toward accreditation by such junior college,

except that an applicant for a grant under this subpart which does not at the time of application meet the requirement of subparagraph (B) shall be deemed to meet such requirement if the Secretary finds there is reasonable assurance that the unit will meet the requirement of subparagraph (B) prior to the beginning of the academic year following the normal graduation date of the first entering class in such unit.

“(3) The term ‘nonprofit’ as applied to any training center for allied health professions means such a training center which is an entity, or is owned and operated by an entity, no part of the net earnings of which inures or may lawfully inure, to the benefit of any private shareholder or individual; and as applied to any entity means an entity no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

“PROJECT GRANTS AND CONTRACTS

“SEC. 796. (a) The Secretary shall make grants to and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, demonstrating, operating, and evaluating projects relating to: 42 USC 295h-5.

“(1) Establishment of regional or State systems for the coordination and management of education and training at various levels for allied health personnel and nurses within and among educational institutions and their clinical affiliates for the purpose of assuring that the needs of such region or State for allied health personnel and nurses are substantially met.

“(2) Establishment of new roles and functions for allied health personnel and methods for increasing the efficiency of health manpower through more effective utilization of allied health personnel in various practice settings.

“(3) Establishment of new or improved methods of credentialing allied health personnel, including techniques for appropriate recognition (through equivalency and proficiency testing or otherwise) of previously acquired training or experience, developed in coordination with the Secretary’s program under section 1123 of the Social Security Act.

“(4) Establishment of methods of recruitment, training, and retraining of allied health personnel.

42 USC
1320a-2.

"(5) Establishment of meaningful career ladders and programs of advancement for practicing allied health personnel.

"(6) Establishment of continuing education programs for practicing allied health personnel.

Application.

"(b) (1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

"Eligible entities."

"(c) For purposes of subsection (a), the term 'eligible entities' means entities which are—

"(1) schools, universities, or other educational entities which provide for allied health personnel education and training and which meet such standards as the Secretary may by regulation prescribe;

"(2) States, political subdivisions of States, or regional and other public bodies representing States or political subdivisions of States or both; or

"(3) entities which have a working arrangement (meeting such requirements as the Secretary may by regulation prescribe) with an entity described in paragraph (1).

Appropriation authorization.

"(d) (1) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated \$22,000,000 for the fiscal year ending September 30, 1978; \$24,000,000 for the fiscal year ending September 30, 1979; and \$26,000,000 for the fiscal year ending September 30, 1980.

"(2) In each fiscal year for which funds are authorized to be appropriated under this subsection, not less than 50 percent of the funds appropriated shall be reserved for award to training centers for allied health professions.

"TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL"

Grants.

42 USC 295h-6.

"SEC. 797. (a) The Secretary may make grants to public and non-profit private entities for traineeships provided by such entities for the advanced training of allied health personnel to teach in training programs for such personnel or to serve in administrative or supervisory positions.

Application.

"(b) (1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(2) Payments under such grants shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees.

Appropriation authorization.

"(c) For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated \$4,500,000 for the fiscal year ending September 30, 1978; \$5,000,000 for the fiscal year ending September 30, 1979; and \$5,500,000 for the fiscal year ending September 30, 1980.

“EDUCATIONAL ASSISTANCE TO DISADVANTAGED INDIVIDUALS IN ALLIED
HEALTH TRAINING

“SEC. 798. (a) (1) For the purpose of assisting individuals who, due to socioeconomic factors, are financially or otherwise disadvantaged (including individuals who are veterans of the Armed Forces with military training or experience in the health field) to undertake education to enter the allied health professions, the Secretary may make grants to and enter into contracts with schools of allied health, State and local educational agencies, and other public or private nonprofit entities to assist in meeting the costs described in paragraph (2).

Grants.
42 USC 295h-7.

“(2) A grant or contract under paragraph (1) may be used by the school, agency, or entity to meet the costs of—

“(A) identifying, recruiting, and selecting such disadvantaged individuals who have a potential for education or training in the allied health professions;

“(B) facilitating the entry of such individuals into such a school, agency, or entity;

“(C) providing counseling or other services designed to assist such individuals to complete successfully their education at such school, agency, or entity;

“(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, agency, or entity, preliminary education designed to assist them to complete successfully such regular course of education at such a school, agency, or entity, or referring such individuals to institutions providing such preliminary education; and

“(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such a school, agency, or entity or who are undertaking training necessary to qualify them to enroll in such a program.

“(b) (1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

Application.

“(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

“(c) For payments under grants and contracts under subsection (a) there are authorized to be appropriated \$1,000,000 for fiscal year ending September 30, 1978, \$1,000,000 for fiscal year ending September 30, 1979, and \$1,000,000 for fiscal year ending September 30, 1980.”

Appropriation
authorization.

STUDIES AND STATISTICAL REPORT ON ALLIED HEALTH PERSONNEL

SEC. 702. (a) The Secretary of Health, Education, and Welfare shall conduct and complete, not later than two years after the date of enactment of this Act, studies—

42 USC 295h-4
note.

(1) to identify the various types of allied health personnel and the activities in which such personnel are engaged and the various training programs currently offered for allied health personnel;

(2) to establish classifications of allied health personnel on the basis of their activities, responsibilities, and training;

(3) using appropriate methodologies, to determine the cost of educating and training allied health personnel in each such classification; and

- (4) to identify the classifications in which there are a critical shortage of such personnel and the training programs which should be assisted to meet that shortage.
- Report. (b) In addition, the Secretary shall, in coordination with the National Center for Health Statistics (established under section 306 of the Public Health Service Act), develop, publish, and disseminate on a nationwide basis a report containing statistics and other information respecting allied health personnel, including—
- 42 USC 242k. (1) detailed descriptions of the various types of such personnel and the activities in which such personnel are engaged,
- (2) the current and anticipated needs for the various types of such health personnel, and
- (3) the number, employment, geographic locations, salaries, and surpluses and shortages of such personnel.
- Personal data. (c) (1) The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—
- (A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences known to the Secretary or program entity, as the case may be, of providing or not providing such data;
- (B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;
- (C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and
- (D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the studies made or information collected under this section.
- Consent for transfer of data. (2) Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.
- Disclosure. (3) (A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.
- (B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.
- (4) For purposes of this subsection, the term "program entity" means any public or private entity which collects, compiles, or analyzes health
- "Program entity."

professions data under an arrangement with the Secretary for purposes of this section.

(d) The Secretary shall submit, not later than two years after the date of enactment of this Act, to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate—

Reports to congressional committees.

(1) a report on the results of the studies conducted under subsection (a);

(2) the report developed under subsection (b); and

(3) a report on, including an evaluation of, activities conducted under subpart II of part G of title VII of the Public Health Service Act (relating to allied health personnel).

Ante, p. 2306.

Legislative recommendations.

The report described in paragraph (3) shall contain such recommendations for legislation as the Secretary determines are needed to improve the programs authorized under such subpart. The Office of Management and Budget may review such report before its submission to such Committees, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to such Committees its comments respecting such report.

(e) For the purposes of this section, the term “allied health personnel” means individuals with training and responsibilities for (1) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (2) assisting environmental engineers and other personnel in environmental health control and preventive medicine activities.

“Allied health personnel.”

TITLE VIII—SPECIAL PROJECTS

GRANTS AND CONTRACTS

SEC. 801. (a) Effective October 1, 1976, part F of title VII is amended to read as follows:

“PART F—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

“PROJECT GRANTS FOR ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE

“SEC. 780. (a) The Secretary may make grants to schools of medicine and osteopathy to meet the costs of projects to establish and maintain academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine.

42 USC 295g.

“(b) The Secretary may not approve an application for a grant under subsection (a) unless such application contains—

Application.

“(1) assurance satisfactory to the Secretary that the academic administrative unit with respect to which the application is made will (A) be comparable to academic administrative units for other major clinical specialties offered by the applicant, (B) be responsible for directing an amount of the curriculum for each member of the student body engaged in an education program leading to the awarding of the degree of doctor of medicine or doctor of osteopathy which amount is determined by the Secretary to be comparable to the amount of curriculum required for other major clinical specialties in the school, (C) have a number

of full-time faculty which is determined by the Secretary to be sufficient to conduct the instruction required by clause (B) and to be comparable to the number of faculty assigned to other major clinical specialties in the school, and (D) have control over a three-year approved or provisionally approved residency training program in family practice or its equivalent as determined by the Secretary which shall have the capacity to enroll a total of no less than twelve interns or residents per year; and

“(2) such other information as the Secretary shall by regulation prescribe.

Appropriation
authorization.

“(c) There are authorized to be appropriated \$10,000,000 for the fiscal year ending September 30, 1978, \$15,000,000 for the fiscal year ending September 30, 1979, and \$20,000,000 for the fiscal year ending September 30, 1980, for payments under grants under subsection (a).

“AREA HEALTH EDUCATION CENTERS

Contracts.

42 USC 295g-1.

“SEC. 781. (a) For the purpose of improving the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and for the purpose of encouraging the regionalization of educational responsibilities of health professions schools, the Secretary may enter into contracts for projects to assist in the planning, development, and operation of area health education center programs.

“(b) An area health education center program shall be a cooperative program of one or more medical or osteopathic schools and one or more nonprofit private or public area health education centers.

“(c) Each medical or osteopathic school participating in an area health education center program shall—

“(1) provide for the active participation in such program by individuals who are associated with the administration of the school and each of the departments (or specialties if the school has no such departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry, and family medicine;

“(2) provide that no less than 10 percent of all undergraduate medical or osteopathic clinical education of the school will be conducted in an area health education center and at locations under the sponsorship of such center;

Ante, p. 2247.
42 USC 296m.

“(3) be responsible for, or conduct, a program for the training of physician assistants (as defined in section 701(7)) or nurse practitioners (as defined in section 822) which gives special consideration to the enrollment of individuals from, or intending to practice in, the area served by the area health education center of the program; and

“(4) provide for the active participation of at least 2 schools or programs of other health professions (including a school of dentistry if there is one affiliated with the university with which the school of medicine or osteopathy is affiliated) in the educational program conducted in the area served by the area health education center.

“(d) (1) Each area health education center shall specifically designate a geographic area in which it will serve, or shall specifically designate a medically underserved population it will serve (such area or population with respect to such center in this section referred to as ‘the area served by the center’), which area or population is in a location remote from the main site of the teaching facilities of the school or schools which participate in the program with such center.

“(2) Each area health education center shall—

“(A) provide for or conduct training in health education services, including education in nutrition evaluation and counseling, in the area served by the center;

“(B) assess the health manpower needs of the area served by the center and assist in the planning and development of training programs to meet such needs;

“(C) provide for or conduct a medical residency training program in family medicine or general internal medicine in which no fewer than six individuals are enrolled in first-year positions in such program;

“(D) provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals (including allied health personnel) practicing within the area served by the center;

“(E) provide continuing medical education and other support services to the National Health Service Corps members serving within the area served by the center;

“(F) encourage the utilization of nurse practitioners and physician assistants within the area served by the center and the recruitment of individuals for training in such professions at the participating medical or osteopathic schools;

“(G) arrange and support educational opportunities for medical and other students at health facilities, ambulatory care centers, and health agencies throughout the area served by the center; and

“(H) have an advisory board of which at least 75 percent of the members shall be individuals, including both health service providers and consumers, from the area served by the center.

Any area health education center which is participating in an area health education center program in which another center has a medical residency training program described in subparagraph (C) need not provide for or conduct such a medical residency training program.

“(e) The Secretary is authorized to enter into contracts with medical and osteopathic schools, which have cooperative arrangements with area health education centers, for the planning, development, and operation of area health education center programs. In entering into contracts under this section the Secretary shall assure that—

Contracts.

“(1) at least 75 percent of the total funds provided to any school shall be expended by an area health education center program in the area health education centers;

“(2) not more than 75 percent of the total operating funds of a program in any year shall be provided by the Secretary; and

“(3) no contract shall provide funds solely for the planning or development of such a program for a period of longer than two years.

“(f) For the purpose of this section the term ‘area health education center program’ means a program which is organized and operated in a manner described in subsection (b) and which is capable, as determined by the Secretary, of performing each of the functions described in subsection (d)(2). The Secretary shall, by regulation, establish standards and criteria for the requirements of this section.

“Area health education center program.”

“(g) There are authorized to be appropriated to carry out the provisions of this section \$20,000,000 for the fiscal year ending September 30, 1978, \$30,000,000 for the fiscal year ending September 30, 1979, and \$40,000,000 for the fiscal year ending September 30, 1980.

Appropriation authorization.

“EDUCATION OF RETURNING UNITED STATES STUDENTS FROM FOREIGN
MEDICAL SCHOOLS

Grants.
42 USC 295g-2.

“SEC. 782. (a) The Secretary may make grants to schools of medicine and osteopathy in the States to plan, develop, and operate programs—

Ante, p. 2243.

“(1) to train United States citizens who were students in medical schools in foreign countries before the date of enactment of the Health Professions Educational Assistance Act of 1976 to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the States as full-time students with advanced standing; or

“(2) to train United States citizens who have transferred from medical schools in foreign countries in which they were enrolled before the date of enactment of the Health Professions Educational Assistance Act of 1976, and who have enrolled in schools of medicine or osteopathy in the States as full-time students with advanced standing.

The costs for which a grant under this subsection may be made may include the costs of identifying deficiencies in the medical school education of the United States citizens who were students in foreign medical schools, the development of materials and methodology for correcting such deficiencies, and specialized training designed to prepare such United States citizens for enrollment in schools of medicine or osteopathy in the States as full-time students with advanced standing.

“(b) More than one school of medicine or osteopathy may join in the submission of an application for a grant under subsection (a).

Report.

“(c) Any school of medicine or osteopathy which receives a grant under this subsection in the fiscal year ending September 30, 1978, shall submit to the Secretary before June 30, 1979, a report on the deficiencies (if any) identified by the school in the foreign medical education of the students trained by such school under the program for which such grant was made. The Secretary shall compile the reports submitted under the preceding sentence, and before September 30, 1979 submit to the Congress his analysis and evaluation of the information contained in such reports.

Appropriation
authorization.

“(d) There are authorized to be appropriated for the purposes of this section \$2,000,000 for the fiscal year ending September 30, 1977, \$2,000,000 for the fiscal year ending September 30, 1978, \$3,000,000 for the fiscal year ending September 30, 1979, and \$4,000,000 for the fiscal year ending September 30, 1980.

“PROGRAMS FOR PHYSICIAN ASSISTANTS, EXPANDED FUNCTION DENTAL
AUXILIARIES AND DENTAL TEAM PRACTICE

Grants.
42 USC 295g-3.

“SEC. 783. (a) The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine, osteopathy, and dentistry and other public or nonprofit private entities to meet the costs of projects to—

Ante, p. 2247.

“(1) plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(7));

“(2) plan, develop, and operate or maintain programs for the training of expanded function dental auxiliaries (as defined in section 701(8)); and

“(3) plan, develop, and operate or maintain a program to train dental students in the organization and management of multiple

auxiliary dental team practice in accordance with regulations of the Secretary.

“(b) No grant or contract may be made under subsection (a) unless the application therefor contains or is supported by assurances satisfactory to the Secretary that the school or entity receiving the grant or contract has appropriate mechanisms for placing graduates of the training program with respect to which the application is submitted, in positions for which they have been trained. Application.

“(c) The Secretary shall ensure that the making of grants and entering into contracts under this section shall be integrated with the making of grants and entering into contracts under section 830. 42 USC 297.

“(d) The costs for which a grant or contract under this section may be made include costs of preparing faculty members to teach in programs for the training of physician assistants and expanded function dental auxiliaries.

“(e) For payments under grants and contracts under this section, there is authorized to be appropriated \$25,000,000 for the fiscal year ending September 30, 1978, \$30,000,000 for the fiscal year ending September 30, 1979, and \$35,000,000 for the fiscal year ending September 30, 1980. Appropriation authorization.

“GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL
INTERNAL MEDICINE AND GENERAL PEDIATRICS

“SEC. 784. (a) The Secretary may make grants to and enter into contracts with schools of medicine and osteopathy to meet the costs of projects— 42 USC 295g-4.

“(1) to plan, develop, and operate approved residency training programs in internal medicine or pediatrics, which emphasize the training of residents for the practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations); and

“(2) which provide financial assistance (in the form of traineeships and fellowships) to residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

“(b) There are authorized to be appropriated to carry out the provisions of this section \$10,000,000 for the fiscal year ending September 30, 1977, \$15,000,000 for the fiscal year ending September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1979, and \$25,000,000 for the fiscal year ending September 30, 1980. Appropriation authorization.

“OCCUPATIONAL HEALTH TRAINING AND EDUCATION CENTERS

“SEC. 785. (a) (1) The Secretary shall, by grants, assist public or private nonprofit colleges or universities to establish, operate, and administer occupational health training and education centers through cooperative arrangements between schools of medicine and schools of public health (or other qualified departments or schools within such colleges or universities which are qualified to participate in carrying out activities set forth in this section). Grants. 42 USC 295g-5.

“(2) To be eligible for a grant under this section, the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the field of occupational health and support from other faculty members

trained in the occupational health sciences and other relevant disciplines and medical and public health specialties and that it will substantially carry out occupational health training and education activities including, but not limited to—

“(A) the establishment and operation of a new graduate training program or, where appropriate, the substantial expansion of an existing graduate training program in the field of occupational health;

“(B) the development of curricula and operation of continuing education for physicians, nurses, industrial hygienists, and other professionals who practice full- or part-time in the field of occupational health in order to upgrade their proficiency in delivering such services;

“(C) the establishment and operation of projects designed to increase admissions to and enrollment in occupational health programs of individuals who by virtue of their background and interests are likely to engage in the delivery of occupational health services;

“(D) the establishment of traineeships for industrial hygiene students;

“(E) the establishment and operation of medical residencies in the field of occupational health at a level of financial support comparable to that provided to individuals undergoing training in medical residencies in other medical specialties;

“(F) the establishment and operation of traineeships in the field of occupational health for medical students, residents, nursing students, nurses, physicians, sanitarians, and students and professionals in related fields;

“(G) the establishment and operation of short-term traineeships for continuing education in the field of occupational health for health professionals dealing with problems of occupational health; and

“(H) the appointment of full-time staff for the center, who have training, experience and demonstrated capacity for leadership in the field of occupational health.

“(b) To the extent feasible, the Secretary shall approve, at least 10 such centers and at least one of which shall be located in each region of the Department.

Appropriation
authorization.

“(c) For the purpose of making grants to carry out this section, there are authorized to be appropriated \$5,000,000 for the fiscal year ending September 30, 1977, \$5,000,000 for the fiscal year ending September 30, 1978, \$8,000,000 for the fiscal year ending September 30, 1979, and \$10,000,000 for the fiscal year ending September 30, 1980.

“FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY

Grants.

42 USC 295g-6.

“SEC. 786. (a) The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school of medicine or osteopathy, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

“(1) to plan, develop, and operate, or participate in, an approved professional training program (including a continuing education program or an approved residency or internship program) in the field of family medicine for medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians;

“(2) to provide financial assistance (in the form of traineeships and fellowships) to medical and osteopathic students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine;

“(3) to plan, develop, and operate a program for the training of physicians who plan to teach in family medicine training programs; and

“(4) to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a family medicine training program.

“(b) The Secretary may make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution—

Grants.

“(1) to plan, develop, and operate an approved residency program in the general practice of dentistry; and

“(2) to provide financial assistance (in the form of traineeships and fellowships) to residents in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

“(c) Not less than 10 percent of the amount appropriated in each fiscal year to make grants under this section shall be made available for grants under subsection (b).

“(d) There are authorized to be appropriated to make grants under this section \$45,000,000 for the fiscal year ending September 30, 1978, \$45,000,000 for the fiscal year ending September 30, 1979, and \$50,000,000 for the fiscal year ending September 30, 1980.

Appropriation authorization.

“EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

“SEC. 787. (a) (1) For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, and podiatry and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

Grants and contracts.
42 USC 295g-7.

“(2) A grant or contract under paragraph (1) may be used by the health or educational entity to meet the cost of—

“(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession,

“(B) facilitating the entry of such individuals into such a school,

“(C) providing counseling or other services designed to assist such individuals to complete successfully their education at such a school,

“(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education, and

Appropriation
authorization.

“(E) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program.

“(b) There are authorized to be appropriated \$20,000,000 for the fiscal year ending September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1979, and \$20,000,000 for the fiscal year ending September 30, 1980, for payments under grants and contracts under subsection (a).

“PROJECT GRANT AUTHORITY FOR START-UP ASSISTANCE, FINANCIAL DISTRESS INTERDISCIPLINARY TRAINING, AND CURRICULUM DEVELOPMENT

42 USC 295g-8.

“SEC. 788. (a) (1) In the case of any new school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry which begins instruction after July 1, 1974, the Secretary may, after taking into account—

“(A) the ability of such school to use a grant under this subsection to (i) accelerate the date it will begin instruction, or (ii) increase the number of students in its entering class, and

“(B) the other resources available to such school, make a grant to such school for each year such school is a new school (as determined under paragraph (5)). No school may receive a grant under this subsection unless the Secretary estimates that the number of full-time students enrolled in its first school year of operation will exceed twenty-three.

“(2) The Secretary shall determine the amount of any grant under this subsection; but no such grant to any school may exceed—

“(A) in the case of the year preceding the first year in which such school has students enrolled, an amount equal to the product of \$10,000 and the number of full-time students which the Secretary estimates will enroll in such school in such first year;

“(B) in the case of the first year in which such school has students enrolled, an amount equal to the product of \$7,500 and the number of full-time students enrolled in such school in such year;

“(C) in the case of the second year in which such school has students enrolled, an amount equal to the product of \$5,000 and the number of full-time students enrolled in such school in such year; and

“(D) in the case of the third year in which such school has students enrolled, an amount equal to the product of \$2,500 and the number of full-time students enrolled in such school in such year.

Estimates by the Secretary under this subsection of the number of full-time students enrolled in a school may be made on the basis of assurances provided by the school.

Application.

“(3) A grant may not be made under this subsection unless an application for such grant is submitted to, and approved by, the Secretary. The Secretary shall give priority to applications which provide for projects which—

“(A) assist in the planning, development, or initial operation of a new school of medicine, osteopathy, or dentistry (i) which will conduct exceptionally innovative programs for training students in ambulatory primary care in cooperation with accredited psychiatric practitioners or programs, as appropriate, or (ii) which will have as a major objective the provision of training opportunities for individuals from disadvantaged backgrounds;

“(B) assist in the planning, development, expansion, or initial operation of a regional health profession school granting a degree in one or more of the following professions: medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or public health; or

“(C) the Secretary determines will meet a national or regional need for members of the profession to be trained in the new school for which the application is submitted.

“(4) The Secretary shall give special consideration to each application of a school for a grant under this subsection—

“(A) which application contains or is reasonably supported by assurances that, because of the use that the school will make of existing facilities (including Federal medical or dental facilities), such school will be able to accelerate the date on which it will begin its teaching program;

“(B) which school will be located in a health manpower shortage area (designated under section 332); or

“(C) which school is a school of medicine or osteopathy which will be located in a State which has no other such school.

Ante, p. 2270.

“(5) For purposes of this subsection, any school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry shall be considered a new school for any year if such year is the year preceding the first year in which such school has students enrolled, such first year, and the next two years.

“(b) (1) The Secretary may make grants to, and enter into contracts with, schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health for the purposes of assisting in—

Grants and contracts.

“(A) (i) meeting the costs of operation of any school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health if they are in serious financial distress, or

“(ii) meeting accreditation requirements, if they have a special need to be assisted in meeting such requirements, and

“(B) carrying out appropriate operational, managerial, and financial reforms on the basis of information obtained in a comprehensive cost analysis study or on the basis of other relevant information.

“(2) Any grant under this subsection may be made upon such terms and conditions as the Secretary determines to be reasonable and necessary, including requirements that the school agree—

“(A) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress,

“(B) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and

“(C) to carry out appropriate operational, managerial, and financial reforms (as the Secretary may require), including the securing of increased financial support from State or local governmental units or the increasing of tuition on the basis of information obtained in the course of a comprehensive cost analysis study or on the basis of other relevant information.

“(3) An application for a grant under this subsection must contain or be supported by assurances satisfactory to the Secretary that the applicant will expend in carrying out its function as a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or public health, as the case may be, during the fiscal year for

Application.

which such grant is sought an amount of funds (other than funds for construction, as determined by the Secretary) from non-Federal sources which is at least as great as the average amount of funds expended by such applicant for such training in the preceding two years.

"(4) In the case of a school which has received a grant under this subsection in the immediately preceding fiscal year, the amount granted to that school under this subsection in any fiscal year may not exceed 75 percent of the amount granted to that school under this subsection in that immediately preceding fiscal year.

"(5) The Secretary may provide to any school eligible for a grant under this subsection technical assistance to enable the school to conduct a comprehensive cost analysis study of its operations, to identify operational inefficiencies, and to develop or carry out appropriate operational, managerial, and financial reforms.

Report.

"(6) The Secretary shall prepare and submit on or before September 30, 1978, a report on the administration of this subsection. Such report shall give special emphasis to a description of the results of any comprehensive cost analysis study carried out under paragraph (2) (B) and any operational, managerial, and financial reforms instituted under paragraph (2) (C).

Grants.

"(c) The Secretary may make grants to any health profession, allied health profession, or nurse training institution, or to any other public or nonprofit private entity for the development of programs for cooperative interdisciplinary training among schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, nursing, public health, and allied health, which emphasize—

"(1) the use of the team approach to the delivery of health services,

"(2) the training of physician assistants and nurse practitioners with physicians and expanded function dental auxiliaries with dentists, and

"(3) the training of physicians, dentists, nurses, and other health professionals in the organization, management, and effective utilization of such assistants, practitioners, and auxiliaries.

Grants and contracts.

"(d) The Secretary may make grants to and enter into contracts with any health profession, allied health profession, or nurse training institution, or any other public or nonprofit private entity for health manpower projects and programs such as—

"(1) speech pathology, audiology, bioanalysis, and medical technology;

"(2) establishing humanism in health care centers;

"(3) biomedical combined educational programs;

"(4) cooperative human behavior and psychiatry in medical and dental education and practice;

"(5) bilingual health clinical training centers;

"(6) curriculum development in schools of optometry, pharmacy and podiatry;

"(7) social work in health care;

"(8) health manpower development;

"(9) environmental health education and preventive medicine;

"(10) the special medical problems related to women;

"(11) the development or expansion of regional health professions schools;

"(12) training of citizens of the United States from foreign health professions schools to enable them to enroll in residency programs in the States;

- “(13) psychology training programs;
- “(14) ethical implications of biomedical research;
- “(15) establishment of dietetic residencies;
- “(16) regional systems of continuing education;
- “(17) computer technology;
- “(18) training of professional standards review organization staff;
- “(19) training of health professionals in human nutrition and its application to health;
- “(20) health manpower development for the Trust Territories and incorporated Trust Territories of the United States; and
- “(21) training in the diagnosis, treatment, and prevention of the diseases and related medical and behavioral problems of the aged.

“(e) (1) There are authorized to be appropriated to carry out the provisions of this section (other than the provisions of subsections (f) and (g)) \$25,000,000 for the fiscal year ending September 30, 1978, \$25,000,000 for the fiscal year ending September 30, 1979, and \$25,000,000 for the fiscal year ending September 30, 1980.

Appropriation
authorization.

“(2) From the sums authorized to be appropriated under paragraph (1) not more than—

“(A) \$5,000,000 may be obligated or expended for the purposes of subsection (a), and

“(B) \$5,000,000 may be obligated or expended for the purposes of subsection (b).

“(f) (1) The Secretary may make grants to any school of medicine to meet the planning costs for projects for the training of students, enrolled in the last two years of such school, in facilities—

Grants.

“(A) which are other than the principal teaching facilities of such school and which are existing Federal health care facilities or are other public or private health care facilities; and

“(B) which are located in a health manpower shortage area (designated under section 332).

Ante, p. 2270.

No grant may be made under this paragraph with respect to any project unless before the fiscal year for which the grant is to be made the project has received at least \$100,000 from non-Federal sources and has been approved by the legislature of the State in which it is located.

“(2) For payments under grants under paragraph (1), there are authorized to be appropriated \$400,000 for the fiscal year ending September 30, 1977.

“(g) (1) The Secretary may make grants to public and nonprofit private institutions of higher education and hospitals and other health care delivery facilities which are engaged in the development of new schools of medicine to assist such institutions and facilities in meeting the costs of employing faculty, acquiring equipment, and taking such other action related to the initial operation of a school of medicine as may be necessary for the proposed schools to meet the eligibility requirements for a grant under subsection (a) of this section.

Grants.

“(2) No application for a grant under paragraph (1) may be approved by the Secretary unless the application contains or is supported by assurances satisfactory to the Secretary that—

Application.

“(A) with the assistance provided under the grant applied for the applicant will be able to accelerate the date on which the school of medicine being developed by the applicant will be able to begin its teaching program,

“(B) there is a reasonable indication of non-Federal financial resources for development and operation of such school, and

“(C) the school of medicine will emphasize training programs in family medicine and will improve access to health care for residents of the geographical regions in which such training programs are located.

The Secretary may not approve or disapprove an application submitted under this subsection unless he has consulted with the body recognized by the Commissioner of Education as the accrediting body for schools of medicine respecting approval of the application.

Appropriation
authorization.

“(3) No institution or facility may receive more than one grant under this subsection. For payment under grants under this subsection, there is authorized to be appropriated \$1,500,000 for the fiscal year ending September 30, 1977 and \$1,500,000 for the fiscal year ending September 30, 1978.

“(4) Upon graduation of the second class from each school of medicine for which a grant was made under this subsection, the Secretary shall report to the Congress on the ability of the school of medicine to improve access to health care for residents of the geographical regions in which the clinical training programs of the school are located.”

42 USC 295f-6,
295g-9.

(b) Effective November 1, 1976, section 776 of the Public Health Service Act is redesignated as section 789 of such Act, and all references to such section in title XII of such Act are redesignated accordingly.

(c) Effective October 1, 1976, part F of title VII is amended by adding after section 789 (redesignated by subsection (b)) the following new section :

“GENERAL PROVISIONS

42 USC
295g-10.

“SEC. 790. Except as otherwise provided in this part :

“(1) No grant may be made or contract entered into under this part unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve or disapprove any application for a grant or contract under this part except after consultation with the National Advisory Council on Health Professions Education.

“(2) Payments by recipients of grants or contracts under this part for (A) traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees; and (B) fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

“(3) The amount of any grant or contract under this part shall be determined by the Secretary. Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).”.

TRANSITIONAL PROVISIONS AND REPORT ON AREA HEALTH EDUCATION CENTERS

42 USC 295g-1
note.

SEC. 802. (a) For the fiscal year ending September 30, 1978, and for the next fiscal year there are authorized to be appropriated such sums as may be necessary to continue payments to entities under contracts entered into under section 774 of the Public Health Service

Act (as in effect on September 30, 1977) for projects for area health education centers, except that no payment shall be made to an entity under such a contract in the fiscal year ending September 30, 1979, unless the entity provides assurances satisfactory to the Secretary that not later than September 30, 1979, the project for which the payment is to be made will be a project described in subsection (a) of section 781 of such Act (as added by this Act) and the entity and its application will meet the requirements of subsections (b), (c), and (d) of such section. Such payments may only be made from such sums for the periods and amounts specified in such contracts.

42 USC 295f-4.

Ante, p. 2312.

(b) After October 1, 1978, the Secretary of Health, Education, and Welfare shall assess the program of contracts under section 781 of the Public Health Service Act (as so added) to determine the effect of the projects funded under such contracts on the distribution of health manpower and on the access to and the quality of health care in the areas in which such projects are located. Not later than September 30, 1979, the Secretary shall submit to the Congress a report on the assessment conducted under this subsection.

Report to Congress.

TITLE IX—MISCELLANEOUS

NURSE TRAINEESHIPS

Sec. 901. Section 830 is amended—

42 USC 297.

(1) by striking out in subsection (a) "There are authorized" and all that follows through "1978," and inserting in lieu thereof "(1) The Secretary may make grants to public or private non-profit institutions";

(2) by redesignating paragraphs (1), (2), (3), and (4) of subsection (a) as subparagraphs (A), (B), (C), and (D);

(3) by striking out subsection (b) and inserting in lieu thereof the following:

"(2) In making grants for traineeships under this subsection, the Secretary shall give special consideration to applications for traineeship programs (A) for the training of nurse practitioners who will practice in health manpower shortage areas (designated under section 332), and (B) for traineeship programs which conform to guidelines established by the Secretary under section 822(a)(2)(B).";

Ante, p. 2270.

42 USC 296m.

(4) by striking out "section" in subsection (c) and inserting in lieu thereof "subsection";

(5) by redesignating subsection (c) as paragraph (3); and

(6) by adding at the end thereof the following:

"(b) (1) The Secretary may make grants to and enter into contracts with schools of nursing, medicine, and public health, public or non-profit private hospitals, and other nonprofit entities to establish and operate traineeship programs to train nurse practitioners who are residents of a health manpower shortage area (designated under section 332).

Grants and contracts.

"(2) Traineeships funded under this subsection shall include 100 percent of the costs of tuition, reasonable living and moving expenses (including stipends), books, fees, and necessary transportation.

"(3) A traineeship funded under this subsection shall not be awarded unless the recipient enters into a commitment with the Secretary to practice as a nurse practitioner in a health manpower shortage area (designated under section 332).

"(c) There are authorized to be appropriated for the purposes of this section \$15,000,000 for the fiscal year ending June 30, 1976, \$20,000,000 for the fiscal year ending September 30, 1977, and \$25,000,000 for the fiscal year ending September 30, 1978."

Appropriation authorization.

HEALTH PLANNING

- 42 USC 300f-1. SEC. 902. (a) Section 1512(b)(3)(c)(ii)(I) is amended by inserting "optometrists," after "nurses,".
- 42 USC 300n. (b) Section 1531(3)(A) is amended by inserting "optometrist," after "podiatrist,".
- Effective date. (c) The amendments made by subsections (a) and (b) shall take effect on the date of enactment of this Act.
- 42 USC 300f-1 note.

STUDY RELATING TO CHIROPRACTIC HEALTH PROFESSIONS

- 42 USC 292h note. SEC. 903. (a) (1) The Secretary of Health, Education, and Welfare shall arrange for the conduct of a study to determine the national average annual per student educational cost of providing education programs which lead to a degree of doctor of chiropractics.
- Report to Secretary and congressional committees. (2) Such study shall be completed and an interim report thereon submitted not later than March 30, 1978, and a final report not later than January 1, 1979, to the Secretary, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.
- (3) Such study shall develop methodologies for ascertaining the average annual cost of chiropractic education, and the factors that affect any variation among schools with respect to their average annual per student educational costs. The study shall employ the most recent data available from the chiropractic schools in the United States at the time of the study.
- (4) The study shall also determine the current demand for chiropractic services throughout the United States and shall develop methodologies for determining if current supply of chiropractors is sufficient to meet this demand.
- (5) The study shall include an analysis of the current costs of chiropractic services by type of service and shall include an analysis of such costs over the past five years.
- (b) The Secretary shall enter into an agreement with an appropriate nonprofit group or association to conduct such a study under an arrangement in which the Secretary reimburses such group or association for actual expenses incurred by such group or association in conducting such a study.
- Effective date. (c) The provisions of this section shall take effect on the date of enactment of this Act.

STUDIES OF TRAINING IN BILINGUAL AND BICULTURAL AWARENESS AND OF ADMISSIONS EXAMINATIONS OF PERSONS FROM POPULATION GROUPS OF LIMITED ENGLISH-SPEAKING ABILITY

- 42 USC 292h note. SEC. 904. (a) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study of the adequacy of the efforts of health professions schools which provide training in clinical facilities which serve populations of limited English-speaking ability (1) in recruiting and training individuals who are competent in the predominant language (other than English) spoken by such populations, and (2) in conducting programs to increase the awareness of such individuals of the cultural sensitivities of such populations.
- (b) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study or studies to determine the effectiveness of health training institution admissions examinations in

evaluating accurately the potential and ability of the student applicant from a population group of limited English-speaking ability to participate in and successfully complete the educational program. Such study or studies shall particularly consider the extent of any cultural bias in admissions examinations utilized by such institutions.

(c) Within one year of the date of enactment of this Act the Secretary shall report to the Congress the findings made in the studies conducted pursuant to subsections (a) and (b), recommendations for administrative action and legislation, and the steps taken to carry out such action.

Report to Congress; legislative recommendations.

DEFINITION OF STATE

SEC. 905. (a) Section 2(f) is amended to read as follows:

42 USC 201.

"(f) Except as provided in sections 314(g)(4)(B), 318(c)(1), 331(h)(3), 355(5), 361(d), 701(9), 1002(c), 1201(2), 1401(13), 1531(1), and 1633(1), the term 'State' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, and the Virgin Islands."

(b)(1) Sections 314(g)(4)(B), 355(5), 1002(c), 1201(2), 1401(13), and 1633(1) are amended by inserting "the Northern Mariana Islands," immediately after "Puerto Rico," in each such section.

42 USC 246, 263c, 300a, 300d, 300f, 300s-3.

(2) Section 318(c)(1) is amended by inserting "the Northern Mariana Islands," immediately after "American Samoa,".

42 USC 247c.

LABOR CERTIFICATION

SEC. 906. (a) The Secretary of Health, Education, and Welfare shall (not later than one year after the date of the enactment of this Act) develop sufficient data to enable the Secretary of Labor to make equitable determinations with regard to applications for labor certification by graduates of foreign medical schools.

8 USC 1182 note.

(b) The data required under subsection (a) shall include the number of physicians (by specialty and by percent of population) in a geographic area necessary to provide adequate medical care, including such care in hospitals, nursing homes, and other health care institutions, in such area.

(c) The Secretary of Health, Education, and Welfare shall develop such data after consultation with such medical or other associations as may be necessary.

Approved October 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-266 (Comm. on Interstate and Foreign Commerce) and No. 94-1612 (Comm. of Conference).

SENATE REPORTS: No. 94-886 (Comm. on Labor and Public Welfare) and No. 94-887 accompanying S. 3239 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 11, considered and passed House.

Vol. 122 (1976): July 1, considered and passed Senate, amended.

Sept. 20, Senate agreed to conference report.

Sept. 27, House receded and concurred in Senate amendment with amendment.

Sept. 30, Senate agreed to House amendment.

Public Law 94-485
94th Congress

An Act

Oct. 12, 1976
[S. 1414]

To amend the Commercial Fisheries Research and Development Act of 1964 to change certain procedures in order to improve the operation of the programs under such Act and to make the Trust Territory of the Pacific Islands eligible to participate in such programs.

Commercial
Fisheries
Research and
Development Act
of 1964,
amendments.
16 USC 779.

16 USC 779c.

Apportioned
funds.

16 USC 779d.

Effective date.
16 USC 779 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779 et seq.) is amended—

(1) by striking out “and Guam” in section 2 and inserting in lieu thereof “Guam, and the Trust Territory of the Pacific Islands”;

(2) by inserting “initial” immediately after “receive an” in the second sentence of section 5(a);

(3) by amending section 5(b) to read as follows:

“(b) (1) Except as provided in paragraph (2) of this subsection, so much of any apportionment for any fiscal year to any State which is not obligated during such year remains available for obligation to that State to carry out the purposes of this Act until the close of the succeeding fiscal year, and, if unobligated at the end of that year, the funds shall not be considered thereafter to be apportioned to that State and shall remain available until expended to carry out the purposes of this Act as determined by the Secretary without regard to any provision of subsection (a) of this section.

“(2) If any State—

“(A) notifies the Secretary that it does not wish to receive all or any part of any funds apportioned to it for any fiscal year pursuant to subsection (a) of this section, or

“(B) returns to the Secretary funds received by it pursuant to any apportionment pursuant to such subsection (a), such funds shall not be considered to be apportioned to that State and shall immediately be available, and remain available until expended, to carry out the purposes of this Act as determined by the Secretary without regard to any provision of such subsection (a). Any notification or return of funds made by any State pursuant to this paragraph is irrevocable.”; and

(4) by amending section 6(c)—

(A) by inserting “or where he otherwise deems it appropriate,” immediately after “completed,” in the first sentence; and

(B) by striking out the second and third sentences thereof.

SEC. 2. The amendments made by the first section of this Act shall take effect October 1, 1976.

Approved October 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1472 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-868 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 21, considered and passed Senate.

Sept. 20, considered and passed House, amended.

Sept. 28, Senate concurred in House amendments.

Public Law 94-486
94th Congress

An Act

To amend the Wild and Scenic Rivers Act, and for other purposes.

Oct. 12, 1976

[S. 1506]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wild and Scenic
Rivers Act,
amendments.

TITLE I—FLATHEAD, MONTANA

SEC. 101. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271 et seq.) is amended by adding the following new paragraph at the end thereof:

16 USC 1274.

“(13) FLATHEAD, MONTANA.—The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence to the South Fork; and the South Fork from its origin to the Hungry Horse Reservoir, as generally depicted on the map entitled ‘Proposed Flathead Wild and Scenic River Boundary Location’ dated February 1976; to be administered by agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) of this section shall be taken within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than \$6,719,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.”.

Appropriation
authorization.

TITLE II—MISSOURI, MONTANA

SEC. 201. Section 3(a) of the Act is further amended by adding at the end thereof the following new paragraph:

“(14) MISSOURI, MONTANA.—The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled ‘Missouri Breaks Freeflowing River Proposal’, dated October 1975, to be administered by the Secretary of the Interior. For the purposes of this river, there are authorized to be appropriated not more than \$1,800,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.”.

Appropriation
authorization.

SEC. 202. After consultation with the State and local governments and the interested public, the Secretary shall, pursuant to section 3(b) of the Wild and Scenic Rivers Act and within one year of enactment of this Act—

Consultation.
16 USC 1274.
note.

(1) establish detailed boundaries of the river segment designated as a component of the National Wild and Scenic Rivers System pursuant to section 1 of this Act (hereinafter referred to as the “river area”): *Provided*, That the boundaries of the portion of the river area from Fort Benton to Coal Banks Landing and the portion of the river area within the boundaries of the Charles M. Russell National Wildlife Range shall be drawn to include only the river and its bed and exclude all adjacent land except significant historic sites and such campsites and access

points as are deemed necessary by the Secretary, and to which the Secretary finds no reasonable alternative, as set forth in the management plan required pursuant to clause (2) of this section; and

(2) determine, in accordance with the guidelines in section 2(b) of the Wild and Scenic Rivers Act, which of the three classes—wild river, scenic river, or recreation river—best fit portions of the river segment, designate such portions in such classes, and prepare a management plan for the river area in accordance with such designation.

Management.
16 USC 1274
note.
16 USC 1271
note.

SEC. 203. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall manage the river area pursuant to the provisions of this Act and the Wild and Scenic Rivers Act, and in accordance with the provisions of the Taylor Grazing Act (48 Stat. 1269), as amended (43 U.S.C. 315), under principles of multiple use and sustained yield, and with any other authorities available to him for the management and conservation of natural resources and the protection and enhancement of the environment, where such Act, principles, and authorities are consistent with the purposes and provisions of this Act and the Wild and Scenic Rivers Act.

Land acquisition.

16 USC 1277.

(b) (1) The Secretary may acquire land and interests in land only in accordance with the provisions of this Act and the Wild and Scenic Rivers Act and the limitations contained in section 6 of that Act and only: (A) at Fort Benton for the visitor facility as provided in subsection (g) (2) of this section; (B) at the site of Fort McKenzie; (C) in that portion of the river area downstream from Fort Benton to Coal Banks Landing for historic sites, campsites, and access points in accordance with section 202 (1) of this Act; and (D) in that portion of the river area downstream from Coal Banks Landing so as to provide, wherever practicable and necessary for the purposes of this Act and the Wild and Scenic Rivers Act, rim-to-rim protection for such portion.

Condemnation.

(2) In accordance with section 6(b) of the Wild and Scenic Rivers Act, the Secretary shall not acquire fee title to any lands by condemnation under the authority of that Act or this Act, except that the Secretary may use condemnation when necessary and within the limitations on acquisition set forth in clause (1) of this subsection to clear title, acquire scenic easements, or acquire such other easements as are reasonably necessary to give the public access to the river segment within the river area and to permit its members to traverse the length of said river area or of selected portions thereof.

Priority
expenditure.

(3) The Secretary shall, to the extent feasible, give priority in expenditure of funds pursuant to this Act for the acquisition and development of campsites and historic sites, including the site of the visitor center at Fort Benton and the site of Fort McKenzie.

Easements.

(c) Consistent with the provisions of this Act and the Wild and Scenic Rivers Act, the Secretary may issue easements, licenses, or permits for rights-of-way through, over, or under the lands in Federal ownership within the river area, or for the use of such lands on such terms and conditions as are in accordance with the provisions of this Act, the Wild and Scenic Rivers Act, and other applicable law.

Bridge
construction.

(d) The Secretary is authorized to permit the construction of a bridge across the river in the general vicinity of the community of Winifred, Montana, in order to accommodate the flow of north-south traffic. Such construction shall be in accordance with a plan which is mutually acceptable to the Secretary and State and local highway officials, and which is consistent with the purposes of this Act and the Wild and Scenic Rivers Act.

(e) To the extent and in a manner consistent with the purposes of the Wild and Scenic Rivers Act the Secretary shall permit such pumping facilities and associated pipelines as may be necessary to assure the continuation of an adequate supply of water from the Missouri River to the owners of lands adjacent to the river and for future agricultural use outside the river corridor. The Secretary is authorized to permit such pumping facilities and associated pipelines for use for fish, wildlife, and recreational uses outside the river corridor.

Pumping facilities and associated pipelines.

(f) The Secretary shall permit hunting and fishing in the river area in accordance with applicable Federal and State laws, except that he may designate zones where, and periods when, no hunting or fishing shall be permitted for reasons of public safety or administration.

Hunting and fishing.

(g) (1) The Secretary, acting through the Bureau of Land Management, shall exercise management responsibilities in the river area for:

- (A) the grazing of livestock;
- (B) the application of the United States mining and mineral leasing laws;
- (C) the management of fish and wildlife habitat;
- (D) the diversion and use of water for agricultural and domestic purposes;
- (E) the acquisition of lands and interests therein;
- (F) the administration of public recreational uses of, and any historic sites and campsites in, the river area; and
- (G) all other management responsibilities except those set forth in paragraph (2) of this subsection.

(2) The Secretary, acting through the National Park Service, shall be responsible for the construction, operation, and management of any visitor facility in or near Fort Benton which is found necessary in accordance with the management plan developed pursuant to section 202 and the provision, at such facility, of interpretive services for the historic, archeological, scenic, natural, and fish and wildlife resources of the area.

Visitor facility, construction.

TITLE III—OBED, TENNESSEE

SEC. 301. Section 3(a) of the Act is further amended by adding the following new paragraph at the end thereof:

16 USC 1274.

“(15) OBED, TENNESSEE.—The segment from the western edge of the Catoosa Wildlife Management Area to the confluence with the Emory River; Clear Creek from the Morgan County line to the confluence with the Obed River, Daddys Creek from the Morgan County line to the confluence with the Obed River; and the Emory River from the confluence with the Obed River to the Nemo bridge as generally depicted and classified on the stream classification map dated December 1973. The Secretary of the Interior shall take such action, with the participation of the State of Tennessee as is provided for under subsection (b) within one year following the date of enactment of this paragraph. The development plan required by such subsection (b) shall include cooperative agreements between the State of Tennessee acting through the Wildlife Resources Agency and the Secretary of the Interior. Lands within the Wild and Scenic River boundaries that are currently part of the Catoosa Wildlife Management Area shall continue to be owned and managed by the Tennessee Wildlife Resources Agency in such a way as to protect the wildlife resources and primitive character of the area, and without further development of roads, campsites, or associated recreational facilities unless deemed necessary by that agency for wildlife management practices. The

Cooperative agreements.

Appropriation
authorization.

Obed Wild and Scenic River shall be managed by the Secretary of the Interior. For the purposes of carrying out the provisions of this Act with respect to this river, there are authorized to be appropriated such sums as may be necessary, but not to exceed \$2,000,000 for the acquisition of lands or interests in lands and not to exceed \$400,000 for development. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.”

TITLE IV—HOUSATONIC, CONNECTICUT

- 16 USC 1276. SEC. 401. Subsection (a) of section 5 of the Act is further amended by adding at the end thereof the following:
“(58) Housatonic, Connecticut: The segment from the Massachusetts-Connecticut boundary downstream to its confluence with the Shepaug River.”

TITLE V—SECTION IV AMENDMENT

- 16 USC 1275. SEC. 501. Subsection (b) of section 4 of the Act is amended by deleting the final sentence thereof.

TITLE VI—FEATHER, CALIFORNIA

- 16 USC 1274. SEC. 601. Subsection (a) of section 3 of the Act is further amended by striking the paragraph numbered (3) and inserting in lieu thereof:
Administration. “(3) FEATHER, CALIFORNIA.—The entire Middle Fork downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California; to be administered by the Secretary of Agriculture.”

TITLE VII—PIEDRA, COLORADO

- 16 USC 1276. SEC. 701. Paragraph (47) of section 5(a) of the Act is amended by striking out “including the tributaries and headwaters on national forest lands”.

Approved October 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1657 accompanying H.R. 15422 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-502 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 4, considered and passed Senate.

Vol. 122 (1976): Sept. 27, considered and passed House, amended, in lieu of H.R. 15422.

Sept. 28, Senate concurred in House amendments.

Public Law 94-487
94th Congress

An Act

To amend the Public Works and Economic Development Act of 1965, as amended, to extend the authorizations for a three-year period.

Oct. 12, 1976
[S. 2228]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Works and
Economic
Development Act
Amendments of
1976.

42 USC 3121
note.

Rural and urban
area assistance.

TITLE I

SEC. 101. This Act may be cited as the "Public Works and Economic Development Act Amendments of 1976".

SEC. 102. Section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is amended by inserting at the end the following new sentence: "Congress further declares that, in furtherance of maintaining the national economy at a high level, the assistance authorized by this Act should be made available to both rural and urban areas; that such assistance be available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and that such assistance be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place."

SEC. 103. (a) Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended by striking out subsection (e).

(b) The second sentence of subsection (c) of section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended by striking out "may" each of the two places it appears and inserting in lieu thereof at each such place "shall".

(c) Section 101(c) of such Act is further amended by adding after the second sentence the following new sentence: "In case of any community development corporation which the Secretary determines has exhausted its effective borrowing capacity, the Secretary may reduce the non-Federal share below such per centum or waive the non-Federal share in the case of such a grant for a project in a redevelopment area designated as such under section 401(a) (6) of this Act."

Community
development
corporation
grants, non-
Federal share,
waiver.

42 USC 3161.

SEC. 104. The first sentence of section 102 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by striking out "and June 30, 1976," and inserting in lieu thereof "June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979,"; and

(2) by inserting immediately before "shall be available" the following: "and for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed \$7,500,000 of the funds authorized to be appropriated under such section 105 for such period,"

SEC. 105. Section 105 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3135) is amended—

(1) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "not to exceed \$62,500,000 for the period beginning July 1, 1976, and ending September 30,

1976, and not to exceed \$425,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.”;

(2) by striking out “and June 30, 1976,” in the third sentence and inserting in lieu thereof “June 30, 1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,”; and

(3) by striking out “10 per centum” in the third sentence and inserting in lieu thereof “15 per centum”.

SEC. 106. Title I of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131-3136) is further amended by adding at the end thereof the following:

“CONSTRUCTION COST INCREASES

42 USC 3137.

“SEC. 107. In any case where a grant (including a supplemental grant) has been made under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Secretary, in such costs, but in no event shall be percentage of the Federal share of such project exceed that originally provided for in such grant.”.

Appropriation
authorization.

SEC. 107. (a) Section 201(c) (42 U.S.C. 3141) is amended to read as follows:

Infra.

“(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section and section 202, except that annual appropriations for the purpose of purchasing evidences of indebtedness, paying interest supplement to or on behalf of private entities making and participating in loans, and guaranteeing loans, shall not exceed \$170,000,000 for the fiscal year ending June 30, 1966, and for each fiscal year thereafter through the fiscal year ending June 30, 1973, and shall not exceed \$55,000,000 for the fiscal year ending June 30, 1974, and shall not exceed \$75,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, and shall not exceed \$18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed \$200,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.”.

(b) Section 201 of such Act is further amended by striking subsection (d) of such section.

Interest
reduction,
payments.

(c) Section 202(a) (1) of such Act is amended by adding after paragraph (1) the following new paragraph:

42 USC 3142.

“(2) In addition to any other financial assistance under this title, the Secretary is authorized, in the case of any loan guarantee under authority of paragraph (1) of this section, to pay to or on behalf of the private borrower an amount sufficient to reduce up to 4 percentage points the interest paid by such borrower on such guaranteed loans. No payment under this paragraph shall result in the interest rate being paid by a borrower on such a guaranteed loan being less than the rate of interest for such a loan if it were made under section 201 of this Act. Payments made to or on behalf of such borrower shall be made no less often than annually.”.

(d) Section 202(a) of such Act is amended by renumbering existing paragraph (2) as (3), including any references thereto.

SEC. 108. Section 202(a) (3) of the Public Works and Economic

Development Act of 1965 (as redesignated by section 107 of this Act) is amended by striking out the period at the end thereof and adding the following: "(D) paying those debts with respect to which a lien against property has been legally obtained (including the refinancing of any such debt) in any case where the Secretary determines that it is essential to do so in order to save employment in a designated area, to avoid a significant rise in unemployment, or to create new or increased employment."

Ante, p. 2332.

SEC. 109. Title II of the Public Works and Economic Development Act of 1965 is amended by adding at the end thereof the following new section:

42 USC 3141.

"REDEVELOPMENT AREA LOAN PROGRAM

"SEC. 204. (a) If a redevelopment area prepares a plan for the redevelopment of the area or a part thereof and submits such plan to the Secretary for his approval and the Secretary approves such plan, the Secretary is authorized to make an interest free loan to such area for the purpose of carrying out such plan. Such plan may include industrial land assembly, land banking, acquisition of surplus government property, acquisition of industrial sites including acquisition of abandoned properties with redevelopment potential, real estate development including redevelopment and rehabilitation of historical buildings for industrial and commercial use, rehabilitation and renovation of usable empty factory buildings for industrial and commercial use, and other investments which will accelerate recycling of land and facilities for job creating economic activity. Any such interest free loan shall be made on condition (1) that the area will use such interest free loan to make loans to carry out such plan, (2) the repayment of any loans made by the area from such interest free loan shall be placed by such area in a revolving fund available solely for the making of other loans by the area, upon approval by the Secretary, for the economic redevelopment of the area. Any such interest free loan shall be repaid to the United States by a redevelopment area whenever such area has its designation as a redevelopment area terminated or modified under section 402 of this Act. This section shall not apply to any redevelopment area whose designation as a redevelopment area would be terminated or modified under section 402 of this Act except for the provisions of section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971", approved July 6, 1970 (P.L. 91-304).

Interest free loans.
42 USC 3144.

"(b) (1) Each eligible recipient which receives assistance under this section shall annually during the period such assistance continues make a full and complete report to the Secretary, in such manner as the Secretary shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this section in meeting the need it was designed to alleviate and the purposes of this section.

Repayment.
42 USC 3162.

"(2) The Secretary shall provide an annual consolidated report to the Congress, with his recommendations, if any, on the assistance authorized under this section, in a form which he deems appropriate. The first such report to Congress under this subsection shall be made not later than July 1, 1977.

42 USC 3131,
3161.
42 USC 3162
note.

"(c) There is authorized to be appropriated to carry out this section not to exceed \$125,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979."

Report to Congress.

SEC. 110. The fourth sentence of subsection (a) of section 302 of the Public Works and Economic Development Act of 1965 is amended to

Appropriation authorization.
State economic development plan.
42 USC 3151a.

read as follows: "Any overall State economic development plan prepared with assistance under this section shall be prepared cooperatively by the State, its political subdivisions, and the economic development districts located in whole or in part within such State. Upon completion of any such plan, the State shall certify to the Secretary (1) that in the preparation of such State plan, the local and economic development district plans were considered and, to the fullest extent possible, such State plan is consistent with such local and economic development district plans, and (2) that such State plan is consistent with such local and economic development district plans, or, if such State plan is not consistent with such local and economic development district plans, all of the inconsistencies of the State plan with the local and economic development district plans, and the justification for each of these inconsistencies."

Appropriation
authorization.

SEC. 111. (a) Section 303(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3152) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", \$18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and \$75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979."

(b) Section 303(b) of such Act is amended by striking out "and June 30, 1976" and inserting in lieu thereof "June 30, 1976, September 30, 1977, September 30, 1978, and September 30, 1979".

Appropriation
authorization.

SEC. 112. (a) Section 304(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3153) is amended by inserting immediately after "June 30, 1976," the following: "\$18,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and \$75,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979."

(b) Section 304(a) of such Act is further amended by striking out "titles I, II, and IV" and inserting in lieu thereof "titles I, II, III (other than planning grants authorized under sections 301(b) and 302), IV, and IX".

42 USC 3131,
3141, 3161.
42 USC 3151,
3152.
42 USC 3241.

(c) Section 304(c) of such Act is amended by striking out "title I, II, or IV" and inserting in lieu thereof "title I, II, III (other than planning grants authorized under sections 301(b) and 302), IV, or IX".

Area eligibility.
42 USC 3161.

SEC. 113. (a) Section 401(a)(1)(A) of the Public Works and Economic Development Act of 1965 is amended by striking out "available calendar year" and inserting in lieu thereof "twelve consecutive months".

(b) Section 401(a)(8) of the Public Works and Economic Development Act of 1965 is amended to read as follows:

"(8) those areas which the Secretary of Labor determines, on the basis of average annual available unemployment statistics, to have experienced unemployment which is both substantial and above the national average for the preceding twenty-four months;"

(c) Section 401(a) of such Act is further amended by adding at the end thereof the following:

"(9) those areas which the Secretary determines have demonstrated long-term economic deterioration."

SEC. 114. (a) Section 401(b)(4) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161) is amended by striking out "two hundred and fifty", and inserting in lieu thereof "twenty-five".

(b) Section 401(b) of the Public Works and Economic Develop-

ment Act of 1965 (42 U.S.C. 3171) is amended by adding at the end thereof the following:

"Nothing in this subsection shall prevent any municipality, designated as a redevelopment area or eligible to be designated as a redevelopment area, from combining with any other community having mutual economic interests and transportation and marketing patterns for the purposes of such designation."

SEC. 115. Section 403 (g) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171) is amended by inserting immediately after "June 30, 1976," the following: "not to exceed \$11,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed \$45,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

SEC. 116. Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3172) is amended by striking out ", and June 30, 1976," and inserting in lieu thereof the following: "and June 30, 1976, not to exceed \$6,250,000 for the period beginning July 1, 1976, and ending September 30, 1976, and not to exceed \$25,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979,".

SEC. 117. Title IV of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161 et seq.) is further amended by adding at the end thereof the following:

"PART D—UNEMPLOYMENT RATE DETERMINATIONS

"SEC. 405. Whenever any provision of this Act requires the Secretary of Labor, or the Secretary, to make any determination or other finding relating to the unemployment rate of any area, information regarding such unemployment rate may be furnished either by the Federal Government or by a State. Unemployment rates furnished by a State shall be accepted by the Secretary unless he determines that such rates are inaccurate. The Secretary shall provide technical assistance to State and local governments in the calculation of unemployment rates to insure their validity and standardization."

SEC. 118. (a) Section 509(c) of the Public Works and Economic Development Act of 1965 is amended by striking out the first sentence and inserting in lieu thereof the following: "The term 'Federal grant-in-aid programs' as used in this section means those Federal grant-in-aid programs authorized on or before September 30, 1979, by this Act and Acts other than this Act for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including but not limited to grant-in-aid programs authorized by the following Acts: Federal Water Pollution Control Act; Watershed Protection and Flood Prevention Act; titles VI and XVI of the Public Health Services Act; Vocational Education Act of 1963; Library Services and Construction Act; Federal Airport Act; Airport and Airway Development Act of 1970; part IV of title III of the Communications Act of 1934; titles VI (part A) and VII of the Higher Education Act of 1965; Land and Water Conservation Fund Act of 1965; National Defense Education Act of 1958; Consolidated Farm and Rural Development Act; and titles I and IX of this Act."

(b) The first sentence of section 509(d)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3188a) is amended by striking out at the end thereof "and for the fiscal year ending September 30, 1977, to be available until expended, \$250,000,000," and inserting in lieu thereof "and for the fiscal years ending September 30,

42 USC 3161.

Appropriation
authorization.

Appropriation
authorization.

42 USC 3173.

"Federal grant-
in-aid programs."
42 USC 3188a.

33 USC 1151 note.
16 USC 1001 note.
42 USC 291, 300o.
20 USC 1241 note.
20 USC 351 note.
49 USC
1101-1120
notes.
49 USC 1701 note.
47 USC 390.
20 USC 1121,
1132a.
16 USC 4601-4
note.
20 USC 401 note.
7 USC 1921 note.
42 USC 3162,
3241.

Appropriation
authorization.

1977, September 30, 1978, and September 30, 1979, to be available until expended, \$250,000,000 per fiscal year.”.

SEC. 119. Section 509(d)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3188a) is amended by striking out at the end thereof “and for the fiscal year ending September 30, 1977, to be available until expended, not to exceed \$5,000,000.” and inserting in lieu thereof “and for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979, to be available until expended, \$5,000,000 per fiscal year.”.

Financial
assistance for
energy,
limitations.

SEC. 120. Section 704(e) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3214) is amended to read as follows:

“(e) No financial assistance authorized under this Act shall be used to finance the cost of facilities for the generation, transmission, or distribution of electrical energy, or to finance the cost of facilities for the production or transmission of gas (natural, manufactured, or mixed), except (1) for projects specifically authorized by Congress, and (2) for local projects for industrial parks and industrial or commercial areas in communities where the electrical energy or gas supply is, or is threatened to be interrupted or curtailed resulting in a loss of jobs, or where the purpose is to save jobs, or create new jobs, on condition that (A) the Secretary finds that project financing is not available from private lenders or other Federal agencies on terms which, in the opinion of the Secretary, will permit accomplishment of the project, and (B) the State or Federal regulatory body regulating such service determines that the facility to be financed will not compete with an existing public utility rendering such a service to the public at rates or charges subject to regulation by such State or Federal regulatory body, or if there is a determination of competition, the State or Federal regulatory body must make a determination that in the area to be served by the facility for which the financial assistance is to be extended there is a need for an increase in such service (taking into consideration reasonably foreseeable future needs) which the existing public utility is not able to meet through its existing facilities or through an expansion which it agrees to undertake. Not more than \$7,000,000 appropriated to carry out titles I and II of this Act may be expended annually for such projects.”.

42 USC 3131,
3141.

SEC. 121. (a) Section 901 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241) is amended by inserting “(including long-term economic deterioration)” immediately after “economic conditions”.

(b) Section 903(a)(1) of such Act (42 U.S.C. 3243) is amended—
(1) by inserting “(A)” immediately before “which the Secretary”;

(2) by inserting “, or (B) which the Secretary determines has demonstrated long-term economic deterioration,” immediately after “Federal Government)”;

(3) by inserting “and businesses” immediately after “relocation of individuals”; and

(4) by striking out “and other appropriate assistance,” and inserting in lieu thereof the following: “and other assistance which demonstrably furthers the economic adjustment objectives of this title.”.

(c) Section 903(a)(2)(A) of such Act is amended by inserting immediately after “loan guarantees,” the following: “payments to reduce interest on loan guarantees.”.

(d) Section 905 of such Act (42 U.S.C. 3245) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: “, not to exceed \$25,000,000 for the transition quarter end-

Appropriation
authorization.

ing September 30, 1976, and not to exceed \$100,000,000 per fiscal year for the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979.”.

SEC. 122. Section 1002 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking the entire section and inserting the following:

“Eligible area.”
42 USC 3246a.

“SEC. 1002. For the purpose of this title the term ‘eligible area’ means any area, which the Secretary of Labor designates as an area which has a rate of unemployment equal to or in excess of 7 per centum for the most recent calendar quarter or any area designated pursuant to section 204(c) of the Comprehensive Employment and Training Act of 1973 which has unemployment equal to or in excess of 7 per centum with special consideration given to areas with unemployment rates above the national average.”

29 USC 844.

SEC. 123. (a) Section 1003(c) of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

Grant
applications.
42 USC 3246b.

“(c) Where necessary to effectively carry out the purposes of this title, the Secretary of Commerce is authorized to assist eligible areas in making applications for grants under this title.”.

(b) Section 1003(d) of such Act, as amended, is amended to read as follows:

Funds allocation
priorities.

“(d) Notwithstanding any other provisions of this title, funds allocated by the Secretary of Commerce shall be available only for a program or project which the Secretary identifies and selects pursuant to this subsection, and which can be initiated or implemented promptly and substantially completed within twelve months after allocation is made. In identifying and selecting programs and projects pursuant to this subsection, the Secretary shall (1) give priority to programs and projects which are most effective in creating and maintaining productive employment, including permanent and skilled employment measured as the amount of such direct and indirect employment generated or supported by the additional expenditures of Federal funds under this title, and (2) consider the appropriateness of the proposed activity to the number and needs of unemployed persons in the eligible area.”.

(c) Section 1003(e) of such Act, as amended, is amended to read as follows:

“(e) (1) The Secretary, if the national unemployment rate is equal to or exceeds 7 per centum for the most recent calendar quarter, shall expedite and give priority to grant applications submitted for such areas having unemployment in excess of the national average rate of unemployment for the most recent calendar quarter. Seventy per centum of the funds appropriated pursuant to this title shall be available only for grants in areas as defined in the first sentence of this subsection.

“(2) Not more than 15 per centum of all amounts appropriated to carry out this title shall be available under this title for projects or programs within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be available for such projects or programs.”.

SEC. 124. Section 1004 of the Public Works and Economic Development Act of 1965, as amended, is amended to read as follows:

Program review.
42 USC 3246c.

“SEC. 1004. (a) Within forty-five days after any funds are appropriated to the Secretary to carry out the purposes of this title, after the date of enactment of the Public Works and Economic Development Act Amendments of 1976, each department, agency, or instrumentality of the Federal Government, each regional commission established by section 101 of the Appalachian Regional Development Act of 1965 or

Ante, p. 2331.
40 USC app. 101.

42 USC 3182.

pursuant to section 502 of this Act, shall (1) complete a review of its budget, plans, and programs and including State, substate, and local development plans filed with such department, agency or commission; (2) evaluate the job creation effectiveness of programs and projects for which funds are proposed to be obligated in the calendar year and additional programs and projects (including new or revised programs and projects submitted under subsection (b)) for which funds could be obligated in such year with Federal financial assistance under this title; and (3) submit to the Secretary of Commerce recommendations for programs and projects which have the greatest potential to stimulate the creation of jobs for unemployed persons in eligible areas. Within forty-five days of the receipt of such recommendations the Secretary of Commerce shall review such recommendations, and after consultation with such department, agency, instrumentality, regional commission, State, or local government make allocations of funds in accordance with section 1003(d) of this title.

Ante, p. 2337.

“(b) States and political subdivisions in any eligible area may, pursuant to subsection (a), submit to the appropriate department, agency, or instrumentality of the Federal Government (or regional commission) program and project applications for Federal financial assistance provided under this title.

“(c) The Secretary, in reviewing programs and projects recommended for any eligible area shall give priority to programs and projects originally sponsored by States and political subdivisions, including, but not limited to, new or revised programs and projects submitted in accordance with this section.”

42 USC
3246d-3246g.
42 USC 3246e.

SEC. 125. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, is amended by striking such section and renumbering subsequent sections accordingly.

SEC. 126. Section 1005 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by this Act, is amended by striking the period and inserting the following at the end thereof: “unless this would require project grants to be made in areas which do not meet the criteria of this title.”

Appropriation
authorization.
42 USC 3246f.

SEC. 127. Section 1006 of the Public Works and Economic Development Act of 1965, as amended, as redesignated by this Act, is amended to read as follows:

“SEC. 1006. (a) There are hereby authorized to be appropriated to carry out the provisions of this title \$81,250,000 for each calendar quarter of a fiscal year during which the national average unemployment is equal to or exceeds 7 per centum on the average. No further appropriation of funds is authorized under this section if a determination is made that the national average rate of unemployment has receded below an average of 7 per centum for the most recent calendar quarter as determined by the Secretary of Labor.

“(b) Funds authorized by subsection (a) are available for grants by the Secretary when the national average unemployment is equal to or in excess of an average of 7 per centum for the most recent calendar quarter. If the national average unemployment rate recedes below an average of 7 per centum for the most recent calendar quarter, the authority of the Secretary to make grants or obligate funds under this title is terminated. Grants may not be made until the national average unemployment has equaled or exceeded an average of 7 per centum for the most recent calendar quarter.

“(c) Funds authorized to carry out this title shall be in addition to, and not in lieu of, any amounts authorized by other provisions of law.”

42 USC 3246g.

SEC. 128. Section 1007 as redesignated by this Act is amended by

striking "December 31, 1975" and inserting in lieu thereof "September 30, 1979".

SEC. 129. Title X of the Public Works and Economic Development Act of 1965 is further amended by adding at the end thereof the following new section: 42 USC 3246.

"CONSTRUCTION COSTS

"SEC. 1008. No program or project originally approved for funds under an existing program shall be determined to be ineligible for Federal financial assistance under this title solely because of increased construction costs." 42 USC 3246h.

SEC. 130. Section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971", approved July 6, 1970 (Public Law 91-304), is amended by striking out "June 1, 1976," and inserting in lieu thereof "September 30, 1979." 42 USC 3162 note.

TITLE II

SEC. 201. (a) The President of the United States is authorized and requested to call a White House Conference on Balanced National Growth and Economic Development within one year of the date of enactment of this Act in order to develop recommendations for further action toward balanced national growth and economic development, and to take account of present conditions and trends as set forth in the report accompanying this Act. Such conference shall be planned and conducted under the direction of the domestic council with the cooperation and assistance of such other Federal departments and agencies, including the regional commissions established under the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act. 42 USC 3121 note.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of our country's social and economic needs, the conference shall assemble representatives of government, business, labor, and other citizens and representatives of institutions who could work together for balanced national growth and economic development.

(c) A final report of the White House Conference on Balanced National Growth and Economic Development shall be submitted to the President not later than one hundred and eighty days following the date on which the conference is called and findings and recommendations included therein shall be immediately made available to the public. The President shall, within ninety days after the submission of such final report, transmit to the Congress his recommendations for the administrative action and legislation necessary to implement the recommendations contained in such report.

Report to President for transmittal to Congress.

SEC. 202. In administering this title, the President shall—

42 USC 3121 note.

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

(2) give all reasonable assistance, including financial assistance, to the States to enable them to organize and conduct conferences on balanced growth and economic development;

(3) prepare and make available background materials for the use of delegates to the White House Conference on Balanced National Growth and Economic Development as they may deem necessary;

(4) prepare and distribute interim reports of the White House

Conference on Balanced National Growth and Economic Development as may be appropriate; and

5 USC 101 *et seq.*

5 USC 5701,
5301.

"State."

42 USC 3121
note.

Advisory
Committee to the
White House
Conference on
Balanced
National Growth
and Economic
Development.
Establishment.
42 USC 3121
note.

(5) engage such personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 203. For the purpose of this title the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

SEC. 204. The President is authorized and directed to establish an Advisory Committee to the White House Conference on Balanced National Growth and Economic Development composed of fifteen members, of whom not less than five shall represent businesses in the private sector, and the Secretaries of the Departments of Commerce, Agriculture, Housing and Urban Development, and relevant Federal program managers.

Approved October 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1075 accompanying H.R. 9398 (Comm. on Public Works and Transportation) and No. 94-1671 (Comm. of Conference).

SENATE REPORTS: No. 94-839 (Comm. on Public Works) and No. 94-1299 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 2, considered and passed Senate.

Aug. 30, considered and passed House, amended, in lieu of H.R. 9398.

Sept. 24, Senate agreed to conference report.

Sept. 29, House agreed to conference report.

Public Law 94-488
94th Congress

An Act

To extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

Oct. 13, 1976
[H.R. 13367]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

State and Local
Fiscal Assistance
Amendments of
1976.

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Fiscal Assistance Amendments of 1976".

31 USC 1221
note.

SEC. 2. AMENDMENT OF STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221 et seq.; 86 Stat. 919).

SEC. 3. ELIMINATION OF EXPENDITURE CATEGORIES.

(a) Section 103 (relating to requirement that local governments use revenue sharing funds only for priority expenditures) is repealed.

Repeal.
31 USC 1222.
31 USC 1243.

(b) Section 123(a) (relating to assurances to the Secretary of the Treasury) is amended by striking out paragraph (3).

SEC. 4. ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING.

(a) Section 104 (relating to prohibition on use of revenue sharing funds as matching funds) is repealed.

Repeal.
31 USC 1223.
31 USC 1263.

(b) Section 143(a) (relating to judicial review of withholding of payments) is amended by striking out "104(b) or".

SEC. 5. EXTENSION OF PROGRAM AND FUNDING.

(a) IN GENERAL.—Section 105 (relating to funding for revenue sharing) is amended—

31 USC 1224.

(1) by inserting "or (c)" immediately after "as provided in subsection (b)" in subsection (a)(1);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—In the case of any entitlement period described in paragraph (3), there are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided for such entitlement period an amount equal to \$6,650,000,000 times a fraction—

"(A) the numerator of which is the amount of the Federal individual income taxes collected in the last calendar year ending more than one year before the end of such entitlement period, and

"(B) the denominator of which is the amount of the Federal individual income taxes collected in the calendar year 1975.

The amount determined under this paragraph is not to exceed \$6,850,000,000.

"(2) **NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.**—In the case of any entitlement period described in paragraph (3), there are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided for such entitlement period an amount equal to \$4,780,000 times a fraction—

"(A) the numerator of which is the amount of the Federal individual income taxes collected in the last calendar year ending more than one year before the end of such entitlement period, and

"(B) the denominator of which is the amount of the Federal individual income taxes collected in the calendar year 1975.

The amount determined under this paragraph is not to exceed \$4,923,759.

"(3) **ENTITLEMENT PERIODS.**—The following entitlement periods are described in this paragraph:

"(A) The entitlement period beginning January 1, 1977, and ending September 30, 1977;

"(B) The entitlement period beginning October 1, 1977, and ending September 30, 1978;

"(C) The entitlement period beginning October 1, 1978, and ending September 30, 1979; and

"(D) The entitlement period beginning October 1, 1979, and ending September 30, 1980.

"(4) **SHORT ENTITLEMENT PERIOD.**—In the case of an entitlement period of 9 months which follows an entitlement period of 6 months—

"(A) the amount determined under paragraph (1) for such 9-month period shall be reduced by one-half the amount appropriated for such 6-month period under subsection (b)(1), and

"(B) the amount determined under paragraph (2) for such entitlement period shall be reduced by one-half the amount appropriated for such 6-month entitlement period under subsection (b)(2)."

(4) by inserting "; **AUTHORIZATIONS FOR ENTITLEMENTS**" in the heading of such section immediately after "**APPROPRIATIONS**".

(b) **CONFORMING AMENDMENTS.**—

31 USC 1225.

(1) Subsection (a) of section 106 (relating to general rule for allocation among States) is amended to read as follows:

"(a) **IN GENERAL.**—There shall be allocated an entitlement to each State—

31 USC 1224.

"(1) for each entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

Ante, p. 2341.

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the

amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).”.

(2) Paragraph (1) of section 106(b) (relating to general rule for determining allocable amounts) is amended to read as follows:

31 USC 1225.

“(1) IN GENERAL.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if—

“(A) in the case of an entitlement period beginning before December 31, 1976, the amount allocable to such State under paragraph (3) is greater than the sum of the amounts allocable to such State under paragraph (2) and subsection (c); and

“(B) in the case of an entitlement period beginning on or after January 1, 1977, the amount allocable to such State under paragraph (3) is greater than the amount allocable to such State under paragraph (2).”.

(3) Paragraph (1) of section 106(c) (general rule for noncontiguous State adjustment) is amended to read as follows:

“(1) IN GENERAL.—In addition to the amounts allocated to the States under subsection (a), there shall be allocated for each entitlement period an additional amount to any State in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code—

“(A) in the case of an entitlement period beginning before December 31, 1976, out of amounts appropriated under section 105(b)(2), if the allocation of such State under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection; and

31 USC 1224.

“(B) in the case of an entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(2).”.

Ante, p. 2341.

(4) Section 106(c)(2) (relating to amount of noncontiguous State adjustments) is amended—

31 USC 1225.

(A) by striking out “subsection (b)(2)” and inserting in lieu thereof “subsection (b)”, and

(B) by inserting immediately after “section 105(b)(2) for any entitlement period” the following: “beginning before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977.”.

31 USC 1224.

(5) Section 108(b)(6)(D)(i) (relating to entitlements less than \$200) is amended by inserting after “6 months” the following: “, \$150 for an entitlement period of 9 months”.

31 USC 1227.

(6) Section 108(c)(1)(C) (relating to optional formula for allocation among local governments) is amended by striking out “December 31, 1976,” and inserting in lieu thereof “September 30, 1980.”.

(7) Section 141(b) (relating to definition of “entitlement period”) is amended by inserting at the end thereof the following new paragraphs:

31 USC 1261.

“(6) The period beginning January 1, 1977, and ending September 30, 1977.

“(7) The one-year periods beginning October 1 of 1977, 1978, and 1979.”.

SEC. 6. SPECIAL ENTITLEMENT RULES.

31 USC 1226.

(a) **STATE MAINTENANCE OF TRANSFERS TO LOCAL GOVERNMENTS.**—
 (1) Paragraph (1) of section 107(b) (relating to general rule for State maintenance of transfers to local governments) is amended to read as follows:

“(1) **GENERAL RULE.**—

“(A) **PRE-1977 ENTITLEMENT PERIODS.**—The entitlement of any State government for any entitlement period beginning on or after July 1, 1973, and before December 31, 1976, shall be reduced by the amount (if any) by which—

“(i) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

“(ii) the similar aggregate amount for the one-year period beginning July 1, 1971.

“(B) **POST-1976 ENTITLEMENT PERIODS.**—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

“(i) one-half of the aggregate amounts transferred by the State government (out of its own sources) during the 24-month period ending on the last day of the last fiscal year of such State for which the relevant data are available (in accordance with regulations prescribed by the Secretary) on the first day of such entitlement period, to all units of local government in such State, is less than,

“(ii) one-half of the similar aggregate amount for the 24-month period ending on the day before the start of the 24-month period described in clause (i).

“(C) For purposes of subparagraphs (A) (i) and (B) (i), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.”.

(2) Section 107(b)(2) (relating to adjustment where State assumes responsibility for category of expenditures) is amended—

(A) by striking out “under paragraph (1)(B)” and inserting in lieu thereof “under paragraph (1)(A)(ii) or (1)(B)(ii)”; and

(B) by striking out “the one-year period beginning July 1, 1971,” and inserting in lieu thereof “the period utilized for purposes of such paragraph”.

(3) Section 107(b)(3) (relating to adjustments in the case of new taxing powers) is amended by striking out “paragraph (1)(B)” and inserting in lieu thereof “paragraph (1)(A)(ii) (in the case of an entitlement period beginning before December 31, 1976) or paragraph (1)(B)(ii) (in the case of an entitlement period beginning on or after January 1, 1977)”.

(4) Section 107(b) (relating to State maintenance of support to local governments) is amended by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively, and by inserting after paragraph (5) the following new paragraphs:

“(6) **SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.**—
 In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amounts taken into

account under clauses (i) and (ii) of paragraph (1) (B) shall be three-fourths of the amount which (but for this paragraph) would be taken into account.

“(7) ADJUSTMENT WHERE FEDERAL GOVERNMENT ASSUMES RESPONSIBILITY FOR CATEGORY OF EXPENDITURES.—If, for an entitlement period beginning on or after January 1, 1977, a State government establishes to the satisfaction of the Secretary that during all or part of the period utilized for purposes of paragraph (1) (B) (i), the Federal Government has assumed responsibility for a category of expenditures for which such State government transferred amounts which (but for this paragraph) would be included in the aggregate amount taken into account under paragraph (1) (B) (ii) for the period utilized for purposes of such paragraph, then (under regulations prescribed by the Secretary) the aggregate amount taken into account under paragraph (1) (B) (ii) shall be reduced to the extent that increased Federal Government spending in that State for such category of expenditures has replaced corresponding amounts which such State government had transferred to units of local government during the period utilized for purposes of paragraph (1) (B) (ii).”.

(b) WAIVERS BY INDIAN TRIBES AND ALASKAN NATIVE VILLAGES.—

(1) Paragraph (4) of section 108(b) (relating to Indian tribes and Alaskan native villages) is amended by striking out the last sentence. 31 USC 1227.

(2) Paragraph (6) (D) of such section (relating to effect of waivers) is amended by adding at the end thereof the following: “If the entitlement of an Indian tribe or Alaskan native village is waived for any entitlement period by the governing body of that tribe or village, then the amount of such entitlement for such period shall (in lieu of being paid to such tribe or village) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such tribe or village is located.”.

(c) SEPARATE LAW ENFORCEMENT OFFICERS.—

(1) GENERAL RULE.—Section 108 (relating to entitlements of local governments) is amended by adding at the end thereof the following new subsection:

“(e) SEPARATE LAW ENFORCEMENT OFFICERS.—

“(1) ENTITLEMENT OF SEPARATE LAW ENFORCEMENT OFFICERS.—The office of the separate law enforcement officer for any county area in the State of Louisiana, other than the parish of East Baton Rouge, shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 15 percent of the amount which would (but for the provisions of this subsection) be the entitlement of the government of such county area. The office of the separate law enforcement officer for the parish of East Baton Rouge shall be entitled to receive for each entitlement period beginning on or after January 1, 1977, an amount equal to 7.5 percent of the sum of the amounts which would (but for the provisions of this subsection) be the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each such entitlement period.

Louisiana.

“(2) REDUCTION OF ENTITLEMENT OF COUNTY GOVERNMENT.—The entitlement of the government of a county area for an entitlement period shall be reduced by an amount equal to one half of the entitlement for the separate law enforcement officer for such county area for such entitlement period. For the purpose of

applying this paragraph to the parish of East Baton Rouge, Louisiana, the entitlements of the governments of Baton Rouge, Baker, and Zachary, Louisiana, for each entitlement period shall each be reduced by an amount equal to 3.75 percent of the amount which would (but for the provisions of this paragraph) be the entitlement of each such government.

“(3) REDUCTION OF ENTITLEMENT OF STATE GOVERNMENT.—The entitlement of the State government of Louisiana for an entitlement period shall be reduced by an amount equal to the sum of the reductions provided under paragraph (2) for governments of county areas in such State for such entitlement period. For purposes of this paragraph—

“(A) the reductions provided under paragraph (2) for the governments of Baton Rouge, Baker, and Zachary, Louisiana, shall be considered as reductions of entitlements of governments of county areas, and

“(B) the entitlement of the parish of Orleans for an entitlement period shall be considered to have been reduced by an amount equal to the additional amount provided for such parish for that entitlement period under paragraph (4).

“(4) ENTITLEMENT OF PARISH OF ORLEANS.—In the case of the parish of Orleans, Louisiana, paragraphs (1) and (2) shall not apply, and such parish shall be entitled to receive, for each entitlement period beginning after December 31, 1976, an additional amount equal to 7.5 percent of the amount which would otherwise be the entitlement of such parish.”.

(2) CONFORMING AMENDMENTS.—

31 USC 1227.

(A) Section 108(b)(7)(A) (relating to general rule for adjustment of entitlement) is amended by striking out “and any adjustment required under paragraph (6)(D) last.” and inserting in lieu thereof “any adjustment required under paragraph (6)(D) next, and any adjustment required under subsection (e) last.”.

(B) Section 108(d)(1) (defining “unit of local government”) is amended by adding at the end thereof the following: “Such term also means (but only for purposes of subtitles B and C) the office of the separate law enforcement officer to which subsection (e)(1) applies.”.

31 USC 1226.

(C) Section 107 (relating to entitlements of State governments) is amended by adding at the end thereof the following new subsection:

“(c) CROSS REFERENCE.—

Ante, p. 2345.

“For reduction of State government entitlement because of provision for separate law enforcement officers, see section 108(e).”.

(d) CURRENCY OF DATA.—

31 USC 1228.

(1) Section 109(a)(7) (relating to data used and uniformity of data) is amended—

(A) in subparagraph (A) by striking out “subparagraph (B)” and inserting in lieu thereof “subparagraph (B) or (C)”, and

(B) by adding at the end thereof the following new subparagraph:

“(C) TAX COLLECTIONS.—Data with respect to tax collections for a period more recent than the most recent reporting year for an entitlement period (as defined in subsection (c)(2)(B)) shall not be used in the determination of entitlements for such period.”.

(2) Section 109(c)(2)(B) (defining “most recent reporting year”) is amended by striking out “made before the close of such period.” and inserting in lieu thereof “made before the beginning of such period.”. 31 USC 1228.

(e) **LIMITATION ON ADJUSTMENT OF PAYMENTS.**—Section 102 (relating to payments to State and local governments) is amended— 31 USC 1221.

(1) by striking out “Except” and inserting in lieu thereof

“(a) **IN GENERAL.**—Except”; and

(2) adding at the end thereof the following new subsection:
 “(b) **LIMITATIONS ON ADJUSTMENTS.**—No adjustment shall be made to increase or decrease a payment made for any entitlement period beginning after December 31, 1976, to a State government or a unit of local government, unless a demand therefor shall have been made by such government or the Secretary within 1 year of the end of the entitlement period with respect to which the payment was made.”.

(f) **RESERVES FOR ADJUSTMENTS.**—Section 102 (relating to payments to State and local governments), as amended by subsection (e), is amended by adding at the end thereof the following subsection:

“(c) **RESERVES FOR ADJUSTMENTS.**—The Secretary may reserve such percentage (not exceeding 0.5 percent) of the total entitlement payment for any entitlement period with respect to any State government and all units of local government within such State as he deems necessary to insure that there will be sufficient funds available to pay adjustments due after the final allocation of funds among such governments.”.

(g) **RECOVERY OF CERTAIN OVERPAYMENTS.**—In the case of an adjustment to decrease a payment made for an entitlement period ending before January 1, 1977, under title I of the State and Local Fiscal Assistance Act of 1972 to a unit of local government (as defined in 31 USC 1221.

section 108(d)(1) of that Act), the amount of such adjustment shall be withheld from the reserves for adjustments established by the Secretary under section 102(c) of such Act for the State within which 31 USC 1221.

such units of local government are located. Amounts withheld under this subsection shall be covered into the State and Local Government Fiscal Assistance Trust Fund. 31 USC 1227.

Supra.

SEC. 7. CITIZEN PARTICIPATION; REPORTS, ENFORCEMENTS.

(a) **CITIZENS PARTICIPATION.**—Section 121 (relating to reports on use of funds and publication of reports) is amended to read as follows: 31 USC 1241.

“SEC. 121. REPORT ON USE OF FUNDS; PUBLICATION AND PUBLIC HEARINGS.

“(a) **REPORTS ON USE OF FUNDS.**—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each fiscal year, submit a report to the Secretary (which report shall be available to the public for inspection) setting forth the amounts and purposes for which funds received under subtitle A have been appropriated, spent, or obligated during such period and showing the relationship of those funds to the relevant functional items in the government’s budget. Such report shall identify differences between the actual use of funds received and the proposed use of such funds. Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe. Report to Secretary of the Treasury.

“(b) **PUBLIC HEARINGS REQUIRED.**—

“(1) **HEARING ON PROPOSED USE.**—Not less than 7 calendar days before its budget is presented to the governmental body responsible for enacting the budget, each State government or unit of local government which expends funds received under subtitle A Notice.

in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds before the governmental authority responsible for presenting the proposed budget to such body.

31 USC 1221.

“(2) BUDGET HEARING.—Each State government or unit of local government which expends fund received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall have at least one public hearing on the proposed use of such funds in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to ask questions concerning the entire budget and the relation thereto of funds made available under subtitle A. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

“(3) WAIVER.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitle A in relation to its entire budget.

“(c) NOTIFICATION AND PUBLICITY OF PUBLIC HEARINGS; ACCESS TO BUDGET SUMMARY AND PROPOSED USE OF FUNDS.—

“(1) IN GENERAL.—Each State government and unit of local government which expends funds received under subtitle A in any fiscal period, the budget for which is to be enacted on or after January 1, 1977, shall—

“(A) at least 10 days prior to the public hearing required by subsection (b) (2)—

Publication.

“(i) publish, in at least one newspaper of general circulation, the proposed uses of funds made available under subtitle A together with a summary of its proposed budget and a notice of the time and place of such public hearing; and

Public inspection.

“(ii) make available for inspection by the public at the principal office of such State government or unit of local government a statement of the proposed use of funds, together with a summary of its proposed budget; and

“(B) within 30 days after adoption of its budget as provided for under State or local law—

“(i) make a summary of the adopted budget, including the proposed use of funds made available under subtitle A, available for inspection by the public at the principal office of such State government or unit of local government; and

“(ii) publish in at least one newspaper of general circulation a notice of the availability for inspection of the information referred to in clause (i).

“(2) **WAIVER.**—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use of funds and the summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible. In addition, the 10-day provisions of paragraph (1)(A) may be modified to the maximum extent necessary to comply with applicable State and local law if the Secretary is satisfied that the citizens of such State or local government will receive adequate notification of the proposed use of funds consistent with the intent of this section.

31 USC 1221.

“(d) **REPORT SUBMITTED TO THE GOVERNOR.**—The Secretary shall furnish to the Governor of the State in which any unit of local government which receives funds under subtitle A is located, a copy of each report filed with the Secretary as required under subsection (a), in such manner and form as the Secretary may prescribe by regulation.

“(e) **BUDGETS.**—The Secretary shall promulgate regulations for the application of this section to circumstances under which the State government or unit of local government does not adopt a budget.

Regulations.

“(f) **REPORT OF THE SECRETARY.**—The Secretary shall include with the report required under section 105(a)(2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of—

Report to Congress.

31 USC 1224.

“(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

Post, p. 2350.

“(2) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of such section;

31 USC 1243.

“(3) the manner in which funds distributed under subtitle A have been distributed in recipient jurisdictions; and

“(4) any significant problems arising in the administration of the Act and the proposals to remedy such problems through appropriate legislation.

“(g) **PARTICIPATION BY SENIOR CITIZENS.**—In conducting any hearing required under this section, or under its own budget processes, a State or unit of local government shall endeavor to provide senior citizens and their organizations with an opportunity to be heard prior to the final allocation of any funds provided under the Act pursuant to such a hearing.”

(b) **ENFORCEMENT.**—Subtitle B (relating to administrative provisions) is amended by adding at the end thereof the following new sections:

“SEC. 124. PRIVATE CIVIL ACTIONS.

“(a) **STANDING.**—Whenever a State government or a unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

31 USC 1244.

“(b) **RELIEF.**—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or

other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

Infra.

“(c) **INTERVENTION BY ATTORNEY GENERAL.**—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

“(d) **EXHAUSTION OF ADMINISTRATIVE REMEDIES.**—As used in this section, administrative remedies shall be deemed to be exhausted upon the expiration of 90 days after the date the administrative complaints were filed with the Secretary or with an Agency with which the Secretary has an agreement under section 122(h) if, within such period, the Secretary or such Agency—

“(1) issues a determination that such Government under unit has not failed to comply with this Act; or

“(2) fails to issue a determination on such complaint.

“(e) **ATTORNEY FEES.**—In any action under this section to enforce section 122(a), the court, in its discretion, may allow to the prevailing party, other than the United States, reasonable attorney fees, and the United States shall be liable for fees and costs the same as a private person.

“SEC. 125. INVESTIGATIONS AND COMPLIANCE REVIEWS.

Regulations.
31 USC 1245.

“By March 31, 1977, the Secretary shall promulgate regulations establishing—

Supra.

“(1) reasonable and specific time limits (in no event to exceed 90 days) for the Secretary to conduct an investigation and make a finding after receiving a complaint (described in section 124(d)), a determination by a State or local administrative agency, or other information relating to the possible violation of the provisions of this Act;

“(2) reasonable and specific time limits for the Secretary to conduct audits and reviews (including investigations of allegations) relating to possible violations of the provisions of this Act. The regulations promulgated pursuant to paragraphs (1) and (2) shall also establish reasonable and specific time limits for the Secretary to advise any complainant of the status of his investigation, audit, or review of any allegation of violation of section 122(a) or any other provision of this Act.”

31 USC 1263.

(c) **JUDICIAL REVIEW.**—Section 143(a) (relating to petitions for judicial review) is amended by striking out “receives a notice of withholding of payments under section 104(b) or 123(b),” and inserting in lieu thereof “receives a notice of withholding of payments under section 104(b) or 123(b) a determination under section 122(b) (3) (C) that payments be suspended, or a determination under section 122(b) (3) (D) that payments be terminated.”

31 USC 1242.

SEC. 8. NONDISCRIMINATION PROVISIONS.

(a) **IN GENERAL.**—Section 122 (relating to nondiscrimination provisions) is amended to read as follows:

“SEC. 122. NONDISCRIMINATION PROVISIONS.

“(a) **PROHIBITION.**—

“(1) **IN GENERAL.**—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, hereafter referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.

42 USC 6101
note.
29 USC 794.

42 USC 2000a
note.
42 USC 3601.

“(2) EXCEPTIONS.—

“(A) FUNDING.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under subtitle A.

31 USC 1221.
Effective date.

“(B) CONSTRUCTION PROJECTS IN PROGRESS.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

“(b) DETERMINATION BY THE SECRETARY.—

“(1) NOTICE OF NONCOMPLIANCE.—Within 10 days after the Secretary has received a holding described in subsection (c) (1) or has made a finding described in subsection (c) (4), with respect to a State government or a unit of local government, he shall send a notice of noncompliance to such government setting forth the basis of such holding or finding.

“(2) PROCEDURE BEFORE SECRETARY; SUSPENSION OF PAYMENT OF REVENUE SHARING FUNDS.—Within 30 days after a notice of noncompliance has been sent to a State government or a unit of local government in accordance with paragraph (1), such government may informally present evidence to the Secretary regarding the issues of—

“(A) (except in the case of a holding described in subsection (c) (1)) whether there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an ‘otherwise qualified handicapped individual’, as provided in section 504 of the Rehabilitation Act of 1973, or a violation of any prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, and

“(B) whether the program or activity in connection with which such exclusion, denial, discrimination, or violation is charged has been funded in whole or in part with funds made available under subtitle A.

Before the end of such 30-day period, unless a compliance agreement is entered into with such government, the Secretary shall issue a determination as to whether such government failed to comply with subsection (a). If the Secretary determines that such government has failed to comply with subsection (a), the Secretary shall suspend the payment of funds under subtitle A to such government unless such government within the 10 day period

following such determination enters into a compliance agreement or requests a hearing with respect to such determination.

“(3) HEARINGS BEFORE ADMINISTRATIVE LAW JUDGE; SUSPENSION OR TERMINATION OF PAYMENT OF REVENUE SHARING FUNDS.—

“(A) Hearings requested by a State government or a unit of local government pursuant to paragraph (2) shall begin before an administrative law judge within 30 days after the Secretary receives the request for the hearing.

“(B) Within 30 days after the beginning of the hearing provided under subparagraph (A), the administrative law judge conducting the hearing shall, on the record then before him, issue a preliminary finding (which shall be consistent with subsection (c)(2)) as to whether such government has failed to comply with subsection (a). If the administrative law judge issues a preliminary finding that such government is not likely to prevail, on the basis of the evidence presented, in demonstrating compliance with subsection (a), then the Secretary shall suspend the payment of funds under subtitle A to such government. No such preliminary finding shall be issued in any case where a determination has previously been issued under subparagraph (C).

“(C) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that such government has failed to comply with subsection (a), then, unless such government enters into a compliance agreement before the 31st day after such issuance, the Secretary, subject to the provisions of subparagraph (D), shall suspend the payment of funds under subtitle A to such government; if a suspension in accordance with subparagraph (B) is still in effect, then, subject to the provisions of subparagraph (D), that suspension is to be continued.

“(D) In the event of a determination described in subparagraph (C), the administrative law judge may, in his discretion, order the termination of payment of funds under subtitle A to such government or unit.

“(E) If, after the completion of such hearing, the administrative law judge issues a determination (consistently with subsection (c)(2)) that there has not been a failure to comply with subsection (a), and a suspension is in effect in accordance with subparagraph (B), such suspension shall be promptly discontinued.

“(c) HOLDING BY COURT OR GOVERNMENTAL AGENCY; FINDING BY SECRETARY.—

“(1) DESCRIPTION.—A holding is described in this paragraph if it is a holding by a Federal Court, a State Court, or a Federal administrative law judge, with respect to a State government or a unit of local government which expends funds received under subtitle A that such government has, in the case of a person in the United States, excluded such person from participation in, denied such person the benefits of, or subjected such person to discrimination under any program or activity on the ground of race, color, national origin, or sex, or violated any prohibition against discrimination (A) on the basis of age under the Age Discrimination Act of 1975 or (B) with respect to an ‘otherwise qualified handicapped individual’, as provided in section 504 of the Rehabilitation Act of 1973 or (C) on the basis of religion as provided

31 USC 1221.

42 USC 6101
note.

29 USC 794.

in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, in connection with any such program or activity.

42 USC 2000a
note.
42 USC 3601.

“(2) **EFFECT ON PROCEEDINGS OR HEARING.**—If there has been a holding described in paragraph (1) with respect to a State government or a unit of local government, then, in the case of proceedings by the Secretary pursuant to subsection (b) (2) or a hearing pursuant to subsection (b) (3) with respect to such government, such proceedings or such hearing shall relate only to the question of whether the program or activity in which the exclusion, denial, discrimination, or violation occurred is funded in whole or in part with funds made available under subtitle A. In such proceedings or hearing, the holding described in paragraph (1), to the effect that there has been exclusion, denial, or discrimination on account of race, color, national origin, or sex, or a violation of any prohibition against discrimination (A) on the basis of age effected by the Age Discrimination Act of 1975, (B) with respect to an ‘otherwise qualified handicapped individual’, as provided in section 504 of the Rehabilitation Act of 1973, (C) on the basis of religion as provided in the Civil Rights Act of 1964 or title VIII of the Civil Rights Act of 1968, shall be treated as conclusive.

31 USC 1221.

42 USC 6101
note.
29 USC 794.

“(3) **EFFECT OF REVERSAL.**—If a holding described in paragraph (1) is reversed by an appellate tribunal, then proceedings under subsection (b) which are dependent upon such holding shall be discontinued; any suspension or termination of payments resulting from such proceedings shall also be discontinued.

“(4) **FINDING BY SECRETARY.**—A finding is described in this paragraph if it is a finding by the Secretary with respect to a complaint referred to in section 124(d), a determination by a State or local administrative agency, or other information (pursuant to procedures provided in regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of local government has failed to comply with subsection (a).

Ante, p. 2349.

“(d) **COMPLIANCE AGREEMENT.**—For purposes of this section and section 124, a compliance agreement is an agreement between—

“(1) the governmental office or agency responsible for prosecuting the claim or complaint which is the basis of the holding described in subsection (c) (1) and the chief executive officer of the State government or the unit of local government that has failed to comply with subsection (a), if such agreement is approved by the Secretary, or

“(2) the Secretary and such chief executive officer, setting forth the terms and conditions with which such government or unit has agreed to comply that would satisfy the obligations of such government under subsection (a). Such agreement shall cover all the matters which had been determined or would constitute failures to comply with subsection (a), and may consist of a series of agreements which, in the aggregate, dispose of all such matters. Within 15 days after the execution of such agreement (or, in the case of an agreement under paragraph (1), the approval of such agreement by the Secretary, if later), the Secretary shall send a copy of such agreement to each person who has filed a complaint referred to in section 124(d) with respect to such failure to comply with subsection (a), or, in the case of an agreement under paragraph (1), to each person who has filed a complaint with the governmental office or agency (described in such paragraph) with respect to such failure to comply with subsection (a).

Copies.

“(e) **RESUMPTION OF SUSPENDED PAYMENTS.**—If payment to a State

31 USC 1221.

government or a unit of local government of funds made available under subtitle A has been suspended under subsection (b) (2) or (b) (3), payment of such funds shall be resumed only if—

“(1) such government enters into a compliance agreement (but only at the times and under the circumstances set forth in such agreement, or, in the case of any agreement under subsection (d) (1), only at the times and under the circumstances set forth in the Secretary’s approval of such agreement);

“(2) such government complies fully with the holding of a Federal or State court, or Federal administrative law judge, if that holding covers all the matters raised by the Secretary in the notice pursuant to subsection (b) (1), or if such government is found to be in compliance with subsection (a) by such court or Federal administrative law judge;

“(3) in the case of a hearing before an administrative law judge under subsection (b) (3), the judge determines that such government is in compliance with subsection (a); or

“(4) the provisions of subsection (c) (3) (relating to reversal of holding of discrimination) require such suspension of payment to be discontinued.

For purposes of this section, compliance by a government may include the satisfying of a requirement of the payment of restitution to persons injured by the failure of such government to comply with subsection (a).

“(f) **RESUMPTION OF TERMINATED PAYMENTS.**—If payment to a State government or unit of local government of funds made available under subtitle A has been terminated under subsection (b) (3) (D), payment of such funds shall be resumed only if the determination resulting in such termination is reversed by an appellate tribunal.

Civil actions.

“(g) **AUTHORITY OF ATTORNEY GENERAL.**—Whenever the Attorney General has reason to believe that a State government or a unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under subtitle A, or placing any further payments under subtitle A in escrow pending the outcome of the litigation.

“(h) **AGREEMENTS BETWEEN AGENCIES.**—The Secretary shall endeavor to enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary of any actions instituted by such agencies against a State government or a unit of local government alleging a violation of any Federal civil rights statute or regulations issued thereunder.”.

SEC. 9. ACCOUNTING AND AUDITING PROVISIONS.

31 USC 1243.

Section 123(c) (relating to accounting, auditing, and evaluation) is amended—

(1) by redesignating paragraph (2) as paragraph (9), and
(2) by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

“(1) **INDEPENDENT AUDITS.**—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after Janu-

ary 1, 1977 (other than a government to which an election under paragraph (2) applies with respect to such entitlement period), shall have an independent audit of its financial statements conducted for the purpose of determining compliance with this title, in accordance with generally accepted auditing standards, not less often than once every 3 years.

“(2) ELECTION.—Paragraph (1) shall not apply to any State or unit of local government whose financial statements are audited by independent auditors under State or local law not less often than every 3 years, if (A) such government makes an election under this paragraph that the provisions of paragraph (1) shall not apply, and (B) such government certifies that such audits under State or local law will be conducted in accordance with generally accepted auditing standards. Such election shall include a brief description of the auditing standards to be applied. Such election shall apply to audits of funds received under subtitle A for such entitlement periods as are specified in such election and as to which such State or local law auditing provisions are applicable.

31 USC 1221.

“(3) SERIES OF AUDITS.—If a series of audits conducted over a period not exceeding 3 fiscal years covers, in the aggregate, all of the funds of accounts in the financial activity of such a government, then such series of audits shall be treated as a single audit for purposes of paragraph (1) and paragraph (2).

“(4) ENTITLEMENTS UNDER \$25,000.—

“(A) The requirements of paragraph (1) shall not apply to a State government or unit of local government for any fiscal period in which such government receives less than \$25,000 of funds made available under subtitle A, unless subparagraph (B) applies for such fiscal period.

“(B) In the case of a fiscal period which is described in subparagraph (A), if State or local law requires an audit of such government's financial statements, then the conducting of such audit shall constitute compliance with the requirements of paragraph (1).

“(5) WAIVER.—The Secretary may waive the requirements of paragraph (1) or paragraph (2), in whole or in part, with respect to any State government or unit of local government for any fiscal period as to which he finds (in accordance with regulations prescribed by the Secretary) (A) that the financial accounts of such governments for such period are not auditable, and (B) that such government demonstrates substantial progress toward making such financial accounts auditable.

“(6) COORDINATION WITH OTHER FEDERALLY REQUIRED AUDITS.—An audit of the financial statements of a State government or unit of local government for a fiscal period, conducted in accordance with the provisions of any Federal law other than this title, shall be accepted as an audit which satisfies the requirements of paragraph (1) with respect to the fiscal period for which such audit is conducted, if such audit substantially complies with the requirements for audits conducted under paragraph (1).

“(7) AUDIT OPINIONS.—Any opinions rendered with respect to audits made pursuant to this subsection shall be provided to the Secretary, in such form and at such times as he may require.

“(8) COMPTROLLER GENERAL SHALL REVIEW COMPLIANCE.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments and

the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.”.

SEC. 10. MISCELLANEOUS PROVISIONS.

31 USC 1243
note.

(a) **BUDGET ACT.**—In accordance with section 401(d)(2) of the Congressional Budget Act of 1974 (31 U.S.C. 1351(d)(2); 88 Stat. 297, 318), subsections (a) and (b) of section 401 of such Act shall not apply to this Act.

31 USC 1227.

(b) **DEFINITION OF “UNIT OF LOCAL GOVERNMENT”.**—Section 108(d)(1) (defining “unit of local government”) is amended by striking out “municipality, township, or other unit of local government below the State which is a unit of general government” and inserting in lieu thereof “municipality, or township, which is a unit of general government below the State”.

SEC. 11. STUDY OF REVENUE SHARING AND FEDERALISM.

31 USC 1261.

Subtitle C (relating to general provisions) is amended by adding at the end thereof the following new section:

“SEC. 145. STUDY OF REVENUE SHARING AND FEDERALISM.

31 USC 1265.

“(a) **STUDY.**—The Advisory Commission on Intergovernmental Relations shall study and evaluate the American Federal fiscal system in terms of the allocation and coordination of public resources among Federal, State, and local governments including, but not limited to, a study and evaluation of—

“(1) the allocation and coordination of taxing and spending authorities between levels of government, including a comparison of other Federal Government systems;

“(2) State and local governmental organization from both legal and operational viewpoints to determine how general local governments do and ought to relate to each other, to special districts, and to State governments in terms of service and financing responsibilities, as well as annexation and incorporation responsibilities;

“(3) the effectiveness of Federal Government stabilization policies on State and local areas and the effects of State and local fiscal decisions on aggregate economic activity;

“(4) the legal and operational aspects of citizen participation in Federal, State, and local governmental fiscal decisions;

“(5) forces likely to affect the nature of the American Federal system in the short-term and long-term future and possible adjustments to such system, if any, which may be desirable, in light of future developments.

“(b) COOPERATION OF OTHER FEDERAL AGENCIES.—

“(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law and within the limits of available funds, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

“(2) The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

“(3) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

Administrative
support services.

“(c) **REPORTS.**—The Commission shall submit to the President and the Congress such interim reports as it deems advisable, and not later than three years after the day on which the first appropriation is made available under subsection (d), a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation as it deems advisable.

Reports to
President and
Congress.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Commission, effective with the fiscal year beginning October 1, 1977, such sums as may be necessary to carry out the provisions of this section.”

SEC. 12. PROHIBITION ON USE FOR LOBBYING PURPOSES.

Section 123 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

31 USC 1243.

“(e) **PROHIBITION OF USE FOR LOBBYING PURPOSES.**—No State government or unit of local government may use any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A.”

31 USC 1221.

SEC. 13. EFFECTIVE DATES.

(a) Except as otherwise provided in this Act, the amendments made by this Act shall apply to entitlement periods beginning on or after January 1, 1977.

31 USC 1222
note.

(b) The amendment made by section 11 takes effect on February 1, 1977.

31 USC 1265
note.

Approved October 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1165, Part 1 and No. 94-1165, Part II (both from Comm. on Government Operations), No. 94-1165, Part 3 (Comm. on Appropriations) and No. 94-1720 (Comm. of Conference).

SENATE REPORT No. 94-1207 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 122 (1976): June 10, considered and passed House.

Sept. 13, 14, considered and passed Senate, amended.

Sept. 30, House receded and concurred in Senate amendment with an amendment; Senate agreed to House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 40 (1976): Sept. 30, Presidential statement.

Vol. 12, No. 42 (1976): Oct. 13, Presidential statement.

Public Law 94-489
94th Congress

An Act

Oct. 13, 1976

[H.R. 15246]

To amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such Act, and for other purposes.

Service Contract
Act of 1965,
amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a) of the Service Contract Act of 1965 (41 U.S.C. 351 (a)) is amended by striking out “, as defined herein,”;

(b) section 2(b) of the Service Contract Act of 1965 (41 U.S.C. 351(b)) is amended by striking out “as defined herein”.

SEC. 2. Section (a) (5) of the Service Contract Act of 1965 (41 U.S.C. 351(a) (5)) is amended by inserting immediately after “section 5341” the following: “or section 5332”.

SEC. 3. Section 8(b) of the Service Contract Act of 1965 (41 U.S.C. 357(b)) is amended to read as follows:

“Service
employee.”

“(b) The term ‘service employee’ means any person engaged in the performance of a contract entered into by the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.”.

Approved October 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1571 (Comm. on Education and Labor).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Sept. 30, considered and passed Senate.

Public Law 94-490
94th Congress

An Act

To authorize and direct the Secretary of Commerce to develop a national policy on weather modification, and for other purposes.

Oct. 13, 1976

[S. 3383]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Weather Modification Policy Act of 1976".

National Weather
Modification
Policy Act of
1976.

15 USC 330 note.

15 USC 330 note.

SEC. 2. DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Weather-related disasters and hazards, including drought, hurricanes, tornadoes, hail, lightning, fog, floods, and frost, result in substantial human suffering and loss of life, billions of dollars of annual economic losses to owners of crops and other property, and substantial financial loss to the United States Treasury;

(2) Weather modification technology has significant potential for preventing, diverting, moderating, or ameliorating the adverse effects of such disasters and hazards and enhancing crop production and the availability of water;

(3) The interstate nature of climatic and related phenomena, the severe economic hardships experienced as the result of occasional drought and other adverse meteorological conditions, and the existing role and responsibilities of the Federal Government with respect to disaster relief, require appropriate Federal action to prevent or alleviate such disasters and hazards; and

(4) Weather modification programs may have long-range and unexpected effects on existing climatic patterns which are not confined by national boundaries.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to develop a comprehensive and coordinated national weather modification policy and a national program of weather modification research and development—

Policy.
Research and
development
program.

(1) to determine the means by which deliberate weather modification can be used at the present time to decrease the adverse impact of weather on agriculture, economic growth, and the general public welfare, and to determine the potential for weather modification;

(2) to conduct research into those scientific areas considered most likely to lead to practical techniques for drought prevention or alleviation and other forms of deliberate weather modification;

(3) to develop practical methods and devices for weather modification;

(4) to make weather modification research findings available to interested parties;

(5) to assess the economic, social, environmental, and legal impact of an operational weather modification program;

(6) to develop both national and international mechanisms designed to minimize conflicts which may arise with respect to the peaceful uses of weather modification; and

(7) to integrate the results of existing experience and studies in weather modification activities into model codes and agreements for regulation of domestic and international weather modification activities.

SEC. 3. DEFINITIONS.

15 USC 330 note.

As used in this Act:

- (1) The term "Secretary" means the Secretary of Commerce.
- (2) The term "State" means any State of the United States, the District of Columbia, or any Commonwealth, territory, or possession of the United States.
- (3) The term "weather modification" means any activity performed with the intention and expectation of producing changes in precipitation, wind, fog, lightning, and other atmospheric phenomena.

SEC. 4. STUDY.

15 USC 330 note.

The Secretary shall conduct a comprehensive investigation and study of the state of scientific knowledge concerning weather modification, the present state of development of weather modification technology, the problems impeding effective implementation of weather modification technology, and other related matters. Such study shall include—

(1) a review and analysis of the present and past research efforts to establish practical weather modification technology, particularly as it relates to reducing loss of life and crop and property destruction;

(2) a review and analysis of research needs in weather modification to establish areas in which more research could be expected to yield the greatest return in terms of practical weather modification technology;

(3) a review and analysis of existing studies to establish the probable economic importance to the United States in terms of agricultural production, energy, and related economic factors if the present weather modification technology were to be effectively implemented;

(4) an assessment of the legal, social, and ecological implications of expanded and effective research and operational weather modification projects;

(5) formulation of one or more options for a model regulatory code for domestic weather modification activities, such code to be based on a review and analysis of experience and studies in this area, and to be adaptable to State and national needs;

(6) recommendations concerning legislation desirable at all levels of government to implement a national weather modification policy and program;

(7) a review of the international importance and implications of weather modification activities by the United States;

(8) a review and analysis of present and past funding for weather modification from all sources to determine the sources and adequacy of funding in the light of the needs of the Nation;

(9) a review and analysis of the purpose, policy, methods, and funding of the Federal departments and agencies involved in weather modification and of the existing interagency coordination of weather modification research efforts;

(10) a review and analysis of the necessity and feasibility of negotiating an international agreement concerning the peaceful uses of weather modification; and

(11) formulation of one or more options for a model international agreement concerning the peaceful uses of weather modification and the regulation of national weather modification activities; and a review and analysis of the necessity and feasibility of negotiating such an agreement.

SEC. 5. REPORT.

(a) **IN GENERAL.**—The Secretary shall prepare and submit to the President and the Congress, within 1 year after the date of enactment of this Act, a final report on the findings, conclusions, and recommendations of the study conducted pursuant to section 4. Such report shall include:

Submittal to
President and
Congress.
15 USC 330 note.

(1) a summary of the findings made with respect to each of the areas of investigation specified in section 4;

(2) other findings which are pertinent to the determination and implementation of a national policy on weather modifications;

(3) a recommended national policy on weather modification and a recommended national weather modification research and development program which is consistent with, and likely to contribute to, achieving the objectives of such policy;

(4) recommendations for levels of Federal funding sufficient to support adequately a national weather modification research and development program;

(5) recommendations for any changes in the organization and involvement of Federal departments and agencies in weather modification which may be needed to implement effectively the recommended national policy on weather modification and the recommended research and development program; and

(6) recommendations for any regulatory and other legislation which may be required to implement such policy and program or for any international agreement which may be appropriate concerning the peaceful uses of weather modification, including recommendations concerning the dissemination, refinement, and possible implementation of the model domestic code and international agreement developed under the specifications of section 4.

Each department, agency, and other instrumentality of the Federal Government is authorized and directed to furnish the Secretary any information which the Secretary deems necessary to carry out his functions under this Act.

Cooperation.

(b) **OPERATION AND CONSULTATION.**—The Secretary shall solicit and consider the views of State agencies, private firms, institutions of higher learning, and other interested persons and governmental entities in the conduct of the study required by section 4, and in the preparation of the report required by subsection (a).

SEC. 6. AUTHORIZATION FOR APPROPRIATIONS.

(a) There is authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act not to exceed \$1,000,000.

15 USC 330 note.

(b) Section 6 of the Act entitled “An Act to provide for the reporting of weather modification activities to the Federal Government”, approved December 18, 1971 (85 Stat. 736; 88 Stat. 1212; 15 U.S.C. 330e), is further amended by striking out “1973, 1974, 1975, 1976, and 1977,” and inserting in lieu thereof “1973 through 1980,”.

Approved Oct. 13, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-859 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 122 (1976):

May 21, considered and passed Senate.

Sept. 20, considered and passed House, amended.

Sept. 28, Senate concurred in House amendments.

Public Law 94-491
94th Congress

An Act

To amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II.

Oct. 14, 1976
[H.R. 71]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109 of title 38, United States Code, is amended by adding at the end thereof the following:

“(c) (1) Any person who served during World War I or World War II as a member of any armed force of the Government of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States and has been a citizen of the United States for at least ten years shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless such person is entitled to, or would, upon application thereof, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or World War II.

“(2) In order to assist the Administrator in making a determination of proper service eligibility under this subsection, each applicant for the benefits thereof shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either such Office which clearly indicate military service of the applicant in the Czechoslovakian or Polish armed forces and subsequent service in or with the armed forces of France or Great Britain during the period of World War I or World War II.”.

Allied wartime
veterans.
Medical care.

38 USC 601.

Certification of
military service.

Approved October 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-337 (Comm. on Veterans' Affairs).

SENATE REPORT No. 94-694 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): July 21, considered and passed House.

Vol. 122 (1976): Sept. 1, 9, 10, considered and passed Senate, amended.

Oct. 1, Senate receded from its amendment.

Public Law 94-492
94th Congress

Joint Resolution

Oct. 14, 1976
[S.J. Res. 209]

Authorizing the President to proclaim the week of October 10 through 16, 1976, as "Native American Awareness Week".

Whereas native American people, both on and off the reservations, are receiving too little recognition for their contributions to society; Whereas to the extent there has been oppression of all Indian tribes and people, many non-Indians have lost or have never fully understood the true image of the native American; Whereas there is a strong and renewed interest in the self-preservation of all aspects of Indian culture and heritage; Whereas there is urgency to promote a unified effort of all for the common good, and to bring about a more wholesome relationship among native Americans; Whereas the native American population is working for a better future, for a revival of participation in the tribal affairs, and for a revival of moral support for the tribal councils; Whereas the opportunity exists for an improved understanding regarding how the peoples' needs and desires are reflected in the programs and policies of the tribal governments and Federal agencies; Whereas the native American communities are voicing greater self-expression and exposure of their values to surrounding communities, and are taking a more active role in the use and development of their skills and resources; Whereas the native American people made significant historical contributions to the welfare and survival of early pioneers and explorers who ultimately founded the Republic of the United States of America: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and directed to issue a proclamation designating the week of October 10 through 16, 1976, as "Native American Awareness Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Native
American
Awareness
Week.
Designation
authorization.

Approved October 14, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-1362 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Sept. 30, considered and passed Senate.
Oct. 1, considered and passed House.

Public Law 94-493
94th Congress

Joint Resolution

Consenting to an extension and renewal of the interstate compact to conserve oil and gas.

Oct. 14, 1976
[S.J. Res. 126]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to an extension and renewal from September 1, 1974, to December 31, 1978, of the interstate compact to conserve oil and gas, as amended, which was signed in its initial form in the city of Dallas, Texas, the 16th day of February 1935, by the representatives of Oklahoma, Texas, California, and New Mexico, and at the same time and place was signed by the representatives, as a recommendation for approval to the Governors and legislatures of the States of Arkansas, Colorado, Illinois, Kansas, and Michigan, and which, prior to August 27, 1935, was presented to and approved by the legislatures and Governors of the States of New Mexico, Kansas, Oklahoma, Illinois, Colorado, and Texas, and which so approved by the six States last above named was deposited in the Department of State of the United States, and thereafter was consented to by the Congress in Public Resolution Numbered 64, Seventy-fourth Congress, approved August 27, 1935, for a period of two years, and thereafter was extended by the representatives of the compacting States and consented to by the Congress for successive periods, without interruption, the last extension being for the period from September 1, 1971, to September 1, 1974, consented to by Congress by Public Law Numbered 92-322, Ninety-second Congress, approved June 30, 1972. The agreement to amend, extend, and renew said compact effective September 1, 1971, duly executed by representatives of the States of Alabama, Alaska, Arizona, Arkansas, Colorado, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming has been deposited in the Department of State of the United States, and reads as follows:

Oil and gas
conservation
compact.
Extension
and renewal.

49 Stat. 939.

86 Stat. 383.

**“AN AGREEMENT TO AMEND, EXTEND AND RENEW THE
INTERSTATE COMPACT TO CONSERVE OIL AND GAS**

“WHEREAS, on the 16th day of February, 1935, in the City of Dallas, Texas, there was executed ‘An Interstate Compact to Conserve Oil and Gas’ which was thereafter formally ratified and approved by the States of Oklahoma, Texas, New Mexico, Illinois, Colorado and Kansas, the original of which is now on deposit with the Department of State of the United States;

“WHEREAS, effective as of September 1, 1971, the several compacting states deem it advisable to amend said compact so as to provide that upon the giving of Congressional consent thereto in its amended form, said Compact will remain in effect until Congress withdraws such consent;

“WHEREAS, the original of said Compact as so amended will, upon execution thereof, be deposited promptly with the Department of State of the United States, a true copy of which follows:

“AN INTERSTATE COMPACT TO CONSERVE OIL AND
GAS

“ARTICLE I

“This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three of the States of Texas, Oklahoma, California, Kansas and New Mexico have ratified and Congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

“ARTICLE II

“The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

“ARTICLE III

“Each state bound hereby agrees that within a reasonable time it will enact laws, or if the laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

“(a) The operation of any oil well with an inefficient gas-oil ratio.

“(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas, in paying quantities.

“(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

“(d) The creation of unnecessary fire hazards.

“(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

“(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

“The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

“ARTICLE IV

“Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

“ARTICLE V

“It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

“ARTICLE VI

“Each state joining herein shall appoint one representative to a commission hereby constituted and designated as THE INTER-STATE OIL COMPACT COMMISSION, the duty of which said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

“The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said Commission shall organize and adopt suitable rules and regulations for the conduct of its business.

“No action shall be taken by the Commission except: (1) By the affirmative votes of the majority of the whole number of the compacting states represented at any meeting, and (2) by a concurring vote of a majority in interest of the compacting states at said meeting, such interest to be determined as follows: Such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

“ARTICLE VII

“No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

“ARTICLE VIII

“This compact shall continue in effect until Congress withdraws its consent. But any state joining herein may, upon sixty (60) days' notice, withdraw herefrom.

“The representatives of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the Department of State of the United States, and a duly certified copy shall be forwarded to the governor of each of the signatory states.

“This compact shall become effective when ratified and approved as provided in Article I. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified, and ratified.

“Done in the City, of Dallas, Texas, this sixteenth day of February, 1935.”

“WHEREAS, the said ‘Interstate Compact to Conserve Oil and Gas’ in its initial form has heretofore been duly renewed and extended with the consent of the Congress to September 1, 1971; and

“WHEREAS, it is desired to amend said ‘Interstate Compact to Conserve Oil and Gas’ effective September 1, 1971, and to renew and extend said compact as so amended:

“NOW, THEREFORE, THIS WRITING WITNESSETH:

“It is hereby agreed that effective September 1, 1971, the Compact entitled ‘An Interstate Compact to Conserve Oil and Gas’ executed within the City of Dallas, Tex, on the 16th day of February, 1935,

Public Law 94-494
94th Congress

Joint Resolution

Oct. 14, 1976
[H.J. Res. 1119]

To provide for the convening of the first session of the Ninety-fifth Congress.

95th Congress.
First session.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the Ninety-fifth Congress shall begin at 2 o'clock post meridiem on Tuesday, January 4, 1977.

Approved October 14, 1976

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Oct. 1, considered and passed House and Senate.

Public Law 94-495
94th Congress

An Act

To authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery and to study and formulate proposals for renovation and permanent maintenance of such sections by the United States.

Oct. 14, 1976

[S. 3441]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to the provisions of subsection (b), the Architect of the Capitol is authorized to perform such work as may be necessary to prevent further deterioration of, and to maintain, those sections of the cemetery located in the District of Columbia known as the Congressional Cemetery which are of historical significance, including those sections in which former Members of the Senate and House of Representatives are buried, and including any such work in the remainder of the cemetery as he determines to be necessary to protect the historical sections.

Congressional
Cemetery.
Historical
section
maintenance.

(b) Before commencing any work under subsection (a), the Architect of the Capitol shall obtain the consent and approval of the person or persons who have legal responsibility for the care and maintenance of the cemetery and shall enter into such agreements with them as may be necessary to carry out the provisions of such subsection. Such agreements shall include provisions protecting the liability of the Architect of the Capitol and the employees of his Office.

(c) To carry out the provisions of subsection (a), there are authorized to be appropriated the sum of \$175,000 for the fiscal year ending September 30, 1978, and the sum of \$75,000 for the fiscal year ending September 30, 1979.

Appropriation
authorizations.

SEC. 2. (a) The Architect of the Capitol shall conduct a study for the purpose of determining the continuing maintenance and preservation needs for those historical sections of the Congressional Cemetery referred to in the first section of this Act, including the costs which he estimates would be associated with various maintenance actions which he may recommend for the cemetery. He shall transmit such study to the Committees on Interior and Insular Affairs of the Senate and House of Representatives not later than September 30, 1978.

Study.

Reports to
congressional
committees.

Appropriation
authorization.

(b) To carry out the provisions of subsection (a), there is authorized to be appropriated not to exceed \$50,000 for the fiscal year ending September 30, 1978.

Approved October 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1682 accompanying H.R. 13789 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1154 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 17, considered and passed Senate.

Sept. 27, considered and passed House, amended, in lieu of H.R. 13789.

Oct. 1, Senate concurred in House amendments.

Public Law 94-496
94th Congress

An Act

To amend title 10, United States Code, to make certain changes in the Survivor Benefit Plan provided for under subchapter II of chapter 73 of title 10, United States Code, and for other purposes.

Oct. 14, 1976
[H.R. 14773]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 73 of title 10, United States Code, is amended as follows:

Armed Forces.
Survivor Benefit
Plan.

(1) Clauses (3)(A) and (4)(A) of section 1447 are each amended by striking out “two years” and inserting in place thereof “one year”.

10 USC 1447.

(2) The second sentence of section 1448(a) is amended by inserting “or elects to provide an annuity for a dependent child but not for his spouse” after “maximum level.”

10 USC 1448.

(3) Section 1450(a) is amended by striking out “or” at the end of clause (2), renumbering clause (3) as clause (4), and inserting after clause (2) a new clause (3) as follows:

10 USC 1450.

“(3) the dependent children in equal shares if the person to whom section 1448 of this title applies elected to provide an annuity for dependent children but not for the spouse; or”.

(4) Sections 1450(f), 1451(b), 1452(a), and 1452(c) are each amended by striking out “(a)(3)” and inserting in place thereof “(a)(4)”.

10 USC 1450,
1451, 1452.

(5) Section 1452 of title 10, United States Code, is amended by—

10 USC 1452.

(A) further amending subsection (a) by—

(i) striking out the first word and inserting the following in place thereof: “Except as provided in subsection (b), the”; and

(ii) adding the following new sentence at the end thereof: “The reduction in retired or retainer pay prescribed by the first sentence of this subsection shall not be applicable during any month in which there is no eligible spouse beneficiary”;

(B) amending subsection (b) by inserting “or who has a spouse but has elected to provide an annuity for dependent children only,” after “spouse,”; and

(C) further amending subsection (c) by adding the following sentence at the end thereof: “The reduction in retired or retainer pay prescribed by this subsection shall continue during the lifetime of the person designated under section 1450(a)(4) of this title or until the person receiving retired or retainer pay changes his election under section 1450(f).”.

SEC. 2. Section 4 of Public Law 92-425, September 21, 1972 (86 Stat. 712), is amended as follows:

10 USC 1448
note.

(1) Subsection (a)(3) is amended by striking “\$1,400” and inserting “\$2,100” in place thereof.

(2) The first sentence of subsection (b) is amended by striking “\$1,400” and inserting “\$2,100” in place thereof.

(3) Add at the end thereof a new subsection (c) as follows:
“(c) Subsection 1450(i) and section 1453 as added to title 10, United States Code, by clause 3 of the first section of this Act, are applicable to persons covered by this section.”.

Effective
date.

10 USC 1447
note.

SEC. 3. This Act shall be effective as of September 21, 1972. No pay shall accrue to any person by virtue of the enactment of this Act for any period prior to October 1, 1976.

Approved October 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1458, Pt. 1 (Comm. on Armed Services) and No. 94-1458, Pt. 2 (Comm. on Appropriations).

SENATE REPORT No. 94-1328 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 20, considered and passed House.

Oct. 1, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 94-497
94th Congress

Joint Resolution

Authorizing the acceptance of the Joint Committee on the Library on behalf of the Congress, from the United States Capitol Historical Society, of preliminary design sketches and funds for murals, in the first floor corridors in the House wing of the Capitol, and for other purposes.

Oct. 14, 1976
[H.J. Res. 967]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Joint Committee on the Library is authorized to accept, on behalf of the Congress, as a gift from the United States Capitol Historical Society, preliminary design sketches intended as a basic design for murals proposed to be painted on the ceiling and walls of the first floor corridors in the House wing of the United States Capitol.

U.S. Capitol.
Design sketches
and funds for
murals.
40 USC 166 note.

SEC. 2. Notwithstanding any other provision of law, the Architect of the Capitol is authorized—

40 USC 166 note.

(1) to accept in the name of the United States, from the United States Capitol Historical Society, such sum or sums as such society may tender in full payment thereof, and such sum or sums, when so received, shall be credited to the appropriation account "Capitol Buildings, Architect of the Capitol", and

(2) subject to section 3 of this joint resolution, to expend such sum or sums for the employment, by contract, of an artist or artists, for the execution of mural decorations on the ceiling and walls of the first floor corridor in the House wing of the United States Capitol in substantial accordance with the preliminary design sketches referred to in the first section of the joint resolution, after the acceptance by the Joint Committee on the Library, and for all other necessary items in connection therewith, subject to such modifications thereof as may be approved by such joint committee.

SEC. 3. The Architect of the Capitol, under the direction of the Speaker of the House of Representatives, is authorized to enter into contracts and to incur such other obligations and make such expenditures, as may be necessary to carry out the purposes of the joint resolution.

Contract
authority.
40 USC 166 note.

SEC. 4. Sums received under the joint resolution, when credited to the appropriation account "Capitol Buildings, Architect of the Capitol", shall be expended and shall remain available until expended. Any net monetary amounts remaining after the completion of the

40 USC 166 note.

project authorized by the joint resolution, and in excess of the cost of such project, shall be returned to the United States Capitol Historical Society.

Approved October 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1396 (Comm. on House Administration).
SENATE REPORT No. 94-1371 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 122 (1976):
 Sept. 20, considered and passed House.
 Oct. 1, considered and passed Senate.

Public Law 94-498
94th Congress

An Act

To designate a Federal building and United States Post Office in Jasper, Georgia, as the "Phil M. Landrum Federal Building and Post Office".

Oct. 14, 1976

[H.R. 12927]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building and United States Post Office bounded by Church Street, Pratcher Street, and Richards Street, Jasper, Georgia, shall hereafter be known and designated as the "Phil M. Landrum Federal Building and Post Office". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Phil M. Landrum Federal Building and Post Office".

Phil M.
Landrum
Federal Building
and Post
Office,
Jasper, Ga.
Designation.

Approved October 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1588 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-1384 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-499
94th Congress

An Act

Oct. 14, 1976
[H.R. 14886]

To revise the appropriation authorization for the Presidential Transition Act of 1963, and for other purposes.

Presidential
Transition Act
of 1963,
amendments.
Appropriation
authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended to read as follows:

"SEC. 5. There are hereby authorized to be appropriated to the Administrator such funds as may be necessary for carrying out the purposes of this Act, except that with respect to any one Presidential transition—

"(1) not more than \$2,000,000 may be appropriated for the purposes of providing services and facilities to the President-elect and Vice President-elect under section 3, and

"(2) not more than \$1,000,000 may be appropriated for the purposes of providing services and facilities to the former President and former Vice President under section 4.

The President shall include in the budget transmitted to Congress, for each fiscal year in which his regular term of office will expire, a proposed appropriation for carrying out the purposes of this Act."

(b) Section 3(a) (3) of the Presidential Transition Act of 1963 is amended by striking out "at rates not to exceed \$100 per diem for individuals".

SEC. 2. Section 3(a) (2) of the Presidential Transition Act of 1963 is amended by striking out "or nonreimbursable".

SEC. 3. The amendment made by the first section of this Act shall take effect on—

(1) the date of the enactment of this Act, or

(2) October 1, 1976,

whichever is later.

Approved October 14, 1976.

3 USC 102
note.

Effective
date.
3 USC 102
note.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1442 (Comm. on Government Operations).

SENATE REPORT No. 94-1322 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 1, considered and passed House.

Sept. 30, considered and passed Senate.

Public Law 94-500
94th Congress

An Act

To name the new post office in Youngstown, Ohio, the "Michael J. Kirwan Post Office".

Oct. 14, 1976
[H.R. 14503]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building being constructed by the United States Postal Service at 99 South Walnut Street, in Youngstown, Ohio, shall be known and designated as the "Michael J. Kirwan Post Office". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be considered to be a reference to the Michael J. Kirwan Post Office.

Michael J. Kirwan
Post Office,
Youngstown,
Ohio.
Designation.

Approved October 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1591 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-1364 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Sept. 30, considered and passed Senate.

Public Law 94-501
94th Congress

An Act

Oct. 14, 1976
[H.R. 15546]

To designate the "Ray J. Madden Post Office Building".

Ray J. Madden
Post Office
Building,
Gary, Ind.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Post Office Building at 1499 Doctor Martin Luther King Drive, Gary, Indiana, shall hereafter be known and designated as the "Ray J. Madden Post Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Ray J. Madden Post Office Building.

Approved October 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1594 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-1387 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Oct. 1, considered and passed Senate.

SEC. 102. Section 1503(c) of title 38, United States Code, is amended by striking out “, but not beyond ten years after such termination date, or June 30, 1975, whichever date is the later,” and inserting in lieu thereof “when such action is determined by the Administrator to be necessary for such veteran based upon such veteran’s disability and need for vocational rehabilitation.”

SEC. 103. Section 1511 of title 38, United States Code, is amended by adding at the end thereof the following: “Notwithstanding any other provision of law, the facilities of any agency of the United States, as designated in clause (3) of this section, may be used to provide unpaid training or work experience as part or all of a veteran’s program of vocational rehabilitation when the Administrator determines such training or work experience to be necessary to accomplish vocational rehabilitation. While pursuing such training or work experience, an uncompensated veteran shall be deemed an employee of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administered by the Civil Service Commission.”

SEC. 104. Chapter 31 of title 38, United States Code, is amended—

- 38 USC 1502. (1) by striking out in the second sentence of section 1502(b) “him” and inserting in lieu thereof “the veteran”;
- 38 USC 1503. (2) by striking out in subsections (a) and (b) of section 1503 “his”, “he”, and “him” each time they appear and inserting in lieu thereof “the veteran’s”, “the veteran”, and “the veteran”, respectively;
- 38 USC 1504. (3) by striking out in section 1503(c) “him” and “he” each time they appear and inserting in lieu thereof “the veteran” and by striking out “his” the first and second time it appears and inserting in lieu thereof “the veteran’s” and “the veteran”, respectively;
- 38 USC 1505. (4) by striking out in subsections (a) and (c) of section 1504 “his” and “him” and inserting in lieu thereof “the veteran’s” and “the employer”, respectively;
- 38 USC 1507. (5) by striking out in section 1505 “he” and “his” and inserting in lieu thereof “the Administrator” and “the veteran’s”, respectively;
- 38 USC 1508. (6) by striking out in section 1507 “him” and inserting in lieu thereof “the Administrator”;
- 38 USC 1509. (7) by striking out in section 1508 “he” and inserting in lieu thereof “the Administrator”;
- 38 USC 1510. (8) by striking out in section 1509(a) “him”, “his”, and “he” each time they appear and inserting in lieu thereof “the veteran”, “the veteran’s”, and “the veteran”, respectively;
- 38 USC 1511. (9) by striking out in section 1509(b) “he” and inserting in lieu thereof “the Administrator”;
- 38 USC 1511. (10) by striking out in section 1510 “he” each time it appears and inserting in lieu thereof “such person”; and
- 38 USC 1511. (11) by striking out in section 1511 “he” and inserting in lieu thereof “the Administrator”.

TITLE II—VETERANS’ EDUCATION RATE AND PROGRAM ADJUSTMENTS

SEC. 201. Chapter 34 of title 38, United States Code, is amended—

- 38 USC 1682. (1) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:

degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. Such term shall also include a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree.

“Standard
college degree.”
38 USC 1770 *et*
seq.

“(g) For the purposes of this chapter and chapter 36 of this title, the term ‘standard college degree’ means an associate or higher degree awarded by (1) an institution of higher learning that is accredited as a collegiate institution by a recognized regional or national accrediting agency; or (2) an institution of higher learning that is a ‘candidate’ for accreditation as that term is used by the regional or national accrediting agencies; or (3) an institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. For the purpose of this section, the accrediting agency must be one recognized by the Commissioner of Education under the provisions of section 1775 of this title.”.

SEC. 203. Section 1661 of title 38, United States Code, is amended—

(1) by striking out in the second sentence of subsection (a) all after “period of” the second time it appears and inserting in lieu thereof “45 months (or the equivalent thereof in part-time educational assistance).”; and

(2) by amending subsection (c) to read as follows:

“(c) Except as provided in subsection (b) and in subchapters V and VI of this chapter, no eligible veteran shall receive educational assistance under this chapter in excess of 45 months.”.

SEC. 204. (a) The Administrator shall carry out a study of the vocational objective programs approved for the enrollment of veterans and other eligible persons under chapters 31, 34, 35, and 36 of title 38, United States Code. The study shall include the extent to which such programs are in compliance with the applicable provisions of such chapters particularly the requirements of section 1673(a)(2) of that title.

(b) The findings and report of such study with respect to the provisions of section 1673(a)(2) of such title shall include, but shall not be limited to—

(1) the number of veterans and institutions submitting justification asserting compliance with the requirements of such section and the extent to which any courses were challenged or disqualified by a State approving agency or by the Veterans’ Administration;

(2) the number of institutions and courses for which justification showing compliance with the requirements of such section was not submitted;

(3) the number of courses for which justification showing compliance with the requirements of this section was submitted and actively reviewed by either the appropriate State approving agency or by the Veterans’ Administration;

(4) the extent to which courses subject to the requirements of such section have not been identified or surveyed;

(5) the extent to which vocational objective programs have been converted to degree programs following enactment of Public Law 93-508;

(6) information as to completion rates of those courses submitting placement reports pursuant to such section;

38 USC 1690,
1695.
Study.
38 USC 1501
note.
38 USC 1501,
1651,
1700, 1770.
38 USC 1673.

38 USC 1501
note.

(7) the extent to which justification submitted pursuant to such section disclosed invalid survey population;

(8) the extent to which justification submitted pursuant to such section disclosed improper exclusion of students who completed the course but did not take or pass a licensing examination given by the State;

(9) the extent to which justification submitted pursuant to such section disclosed improper exclusion of persons employed in other fields;

(10) the extent to which justification submitted pursuant to such section disclosed improper exclusion of persons as being in closely related occupations, when in fact they were not;

(11) the extent to which justification submitted pursuant to such section disclosed improper exclusion of some persons as not being available for employment;

(12) the extent to which there are deficiencies in basic procedures, instructions, and forms issued pursuant to such section; and

(13) the extent to which vocational objective programs are being pursued for avocational or recreational purposes.

(c) The Administrator shall report the results of the study carried out under this section to the Congress and the President not later than 180 days after the date of enactment of this Act and shall include in such report any recommendations for legislative or administrative action the Administrator deems appropriate.

Report to
President and
Congress.

SEC. 205. Section 1673 of title 38, United States Code, is amended—

(1) by striking out at the end of subsection (a) (2) "or";

(2) by striking out the period at the end of subsection (a) (3) and inserting in lieu thereof "; or";

(3) by adding at the end of subsection (a) a new clause (4) as follows:

"(4) any independent study program except one leading to a standard college degree."; and

(4) by amending subsection (d) to read as follows:

"(d) The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course (other than one offered pursuant to subchapter V, any farm cooperative training course, or any course described in section 1789(b)(6) of this title) for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veterans' Administration under this title and/or by grants from any Federal agency. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines it to be in the interest of the eligible veteran and the Federal Government."

SEC. 206. Section 1674 of title 38, United States Code, is amended by inserting immediately after the first sentence thereof the following:

"Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time the eligible veteran is not progressing at a rate that will permit such veteran to graduate within the approved length of the course based on the training time as certified to the Veterans' Administration."

SEC. 207. Section 1682 of title 38, United States Code, is amended by adding a new subsection (e) at the end thereof as follows:

“(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b) (2) of this section. In those cases where independent study is combined with resident training and the resident training constitutes the major portion of such training, the maximum allowance may not exceed the full-time institutional allowance provided under subsection (a) (1) of this section.”

SEC. 208. Section 1685(b) of title 38, United States Code, is amended by adding at the end thereof the following: “In the event the veteran ceases to be a full-time student before completing such agreement, the veteran may, with the approval of the Administrator, be permitted to complete such agreement.”

SEC. 209. Section 1692 of title 38, United States Code, is amended, by striking out in subsection (b) “\$60” and “\$720” and inserting in lieu thereof “\$65” and “\$780”, respectively.

SEC. 210. Chapter 34 of title 38, United States Code, is amended—

(1) by striking out in section 1652(e) “United States Code”;

(2) by striking out in subsections (a) and (b) of section 1681 “section 1780” and inserting in lieu thereof “chapter 36”;

(3) by redesignating section 1697A as section 1698;

(4) by striking out in the table of sections at the beginning of such chapter “1697A” and inserting in lieu thereof “1698”; and

(5) by amending section 1696 by inserting at the end thereof the following new subsection:

“(d) After October 31, 1976, no person other than a member of the Armed Forces described in section 1631(b) of this title shall be permitted to enroll, or re-enroll, in any course provided under the authority of this subchapter.”

SEC. 211. Chapter 34 of title 38, United States Code, is amended—

(1) by striking out in subsections (a) and (d) of section 1652 “he” and “wife” and inserting in lieu thereof “such individual” and “spouse”, respectively;

(2) by striking out in section 1661(a) “his” and “he” each time they appear and inserting in lieu thereof “the veteran’s” and “the veteran”, respectively;

(3) by striking out in subsections (a), (b), and (d) of section 1662 “his” and “he” each time they appear and inserting in lieu thereof “the veteran’s” and “the veteran”, respectively;

(4) by striking out in section 1663 “he” each time it appears and inserting in lieu thereof “the Administrator”;

(5) by striking out in section 1670 “him” each time it appears and inserting in lieu thereof “the veteran”;

(6) by striking out in section 1671 “he” the first time it appears and inserting in lieu thereof “the Administrator”, by striking out “he” the second time it appears and inserting in lieu thereof “the veteran or person”, and by striking out “his” each time it appears and inserting in lieu thereof “the veteran’s or person’s”;

(7) by striking out in section 1673(a) “he” and “his” and inserting in lieu thereof “the Administrator” and “the veteran’s”, respectively;

(8) by striking out in section 1674 “his” and “he” each time they appear and inserting in lieu thereof “the veteran’s” and “the Administrator”, respectively;

Special
supplementary
assistance.

38 USC 1652.

38 USC 1697A.

38 USC 1696.

38 USC 1631.

38 USC 1652.

38 USC 1661.

38 USC 1662.

38 USC 1663.

38 USC 1670.

38 USC 1671.

38 USC 1673.

38 USC 1674.

(9) by striking out in section 1676 “his” and “he” and inserting in lieu thereof “the Administrator’s” and “the Administrator”, respectively; 38 USC 1676.

(10) by striking out in section 1681(a) “his” and inserting in lieu thereof “the veteran’s”; 38 USC 1681.

(11) by striking out in section 1685(c) “he” and “his” each time they appear and inserting in lieu thereof “the Administrator” and “the veteran’s”, respectively; 38 USC 1685.

(12) by striking out in section 1691(a) “his” and “he” each time they appear and inserting in lieu thereof “the veteran’s” and “the veteran”, respectively; 38 USC 1691.

(13) by striking out in section 1696(a) “he” and inserting in lieu thereof “the Administrator”; and 38 USC 1696.

(14) by striking out in subsections (a) and (b) of section 1698 (as redesignated by section 211(3) of this Act) “he” and “his” and inserting in lieu thereof “the Administrator” and “such person’s”, respectively. 38 USC 1698.

TITLE III—CHAPTER 35 SURVIVORS’ AND DEPENDENTS’ EDUCATIONAL ASSISTANCE RATE AND PROGRAM ADJUSTMENTS

SEC. 301. Chapter 35 of title 38, United States Code, is amended—

(1) by striking out in section 1732(b) “\$217” and inserting in lieu thereof “\$235”; and 38 USC 1732.

(2) by amending subsection (a) of section 1742 to read as follows: 38 USC 1742.

“(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on behalf of such person a special training allowance computed at the basic rate of \$292 per month. If the charges for tuition and fees applicable to any such course are more than \$92 per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed \$92 a month, upon election by the parent or guardian of the eligible person to have such person’s period of entitlement reduced by one day for each \$9.76 that the special training allowance paid exceeds the basic monthly allowance.”.

SEC. 302. Section 1701(a) of title 38, United States Code, is amended by adding at the end thereof the following new paragraphs: 38 USC 1701.

“(10) For the purposes of this chapter and chapter 36 of this title, the term ‘institution of higher learning’ means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. Such term shall also include a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree.”

“Institution of higher learning.”
38 USC 1770 *et seq.*

“(11) For the purposes of this chapter and chapter 36 of this title, the term ‘standard college degree’ means an associate or higher degree awarded by (A) an institution of higher learning that is accredited as a collegiate institution by a recognized regional or national accrediting agency; or (B) an institution of higher learning that is a ‘candidate’ for accreditation as that term is used by the regional or national

“Standard college degree.”
38 USC 1770 *et seq.*

accrediting agencies; or (C) an institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. For the purpose of this section, the accrediting agency must be one recognized by the Commissioner of Education under the provisions of section 1775 of this title.”

38 USC 1775.

SEC. 303. Section 1711 of title 38, United States Code, as amended—

(1) by striking out in subsection (a) “thirty-six” and inserting in lieu thereof “45”; and

(2) by striking out in subsection (b) “nine” and inserting in lieu thereof “12”.

SEC. 304. Section 1712 of title 38, United States Code, is amended—

(1) by striking out in clauses (3) and (4) of subsection (a) “five” each time it appears and inserting in lieu thereof “8”;

(2) by amending clause (5) of subsection (a) to read as follows:

“(5) (A) if such person is enrolled in an educational institution regularly operated on the quarter or semester system and such period ends during a quarter or semester, such period shall be extended to the end of the quarter or semester; or

“(B) if such person is enrolled in an educational institution operated on other than a quarter or semester system and such period ends after a major portion of the course is completed, such period shall be extended to the end of the course, or until 12 weeks have expired, whichever first occurs.”; and

(3) by repealing subsection (d) and redesignating subsections (e), (f), and (g), as subsections (d), (e), and (f), respectively.

Application.

SEC. 305. Section 1713 of title 38, United States Code, is amended to read as follows:

“The parent or guardian of a person or the eligible person if such person has attained legal majority for whom educational assistance is sought under this chapter shall submit an application to the Administrator which shall be in such form and contain such information as the Administrator shall prescribe. If the Administrator finds that the person on whose behalf the application is submitted is an eligible person, the Administrator shall approve the application provisionally. The Administrator shall notify the parent or guardian or eligible person (if the person has attained legal majority) of the provisional approval or of the disapproval of the application.”

SEC. 306. Section 1723(a) of title 38, United States Code, is amended—

(1) by striking out at the end of clause (2) “or”;

(2) by striking out at the end of clause (3) the period and inserting in lieu thereof “; or”; and

(3) by adding at the end thereof a new clause (4) as follows:

“(4) any independent study program except one leading to a standard college degree.”

Discontinuance
for unsatisfactory
progress.

SEC. 307. Section 1724 of title 38, United States Code, is amended by inserting immediately after the first sentence thereof the following: “Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time an eligible person is not progressing at a rate that will permit such person to graduate within the approved length of the course based on the training time as certified to the Veterans’ Administration.”

Computation.

SEC. 308. Section 1732(c) of title 38, United States Code, is amended by adding a new paragraph (3) at the end thereof as follows:

“(3) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing an independent study program which leads to a standard college degree shall be computed at the rate prescribed in section 1682(e) of this title.”

SEC. 309. (a) The title of chapter 35 of title 38, United States Code, is amended by striking out

**“CHAPTER 35—WAR ORPHANS’ AND WIDOWS’
EDUCATIONAL ASSISTANCE”**

and inserting in lieu thereof

**“CHAPTER 35—SURVIVORS’ AND DEPENDENTS’
EDUCATIONAL ASSISTANCE”**

(b) The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part III of such title are each amended by striking out

“35. War Orphans’ and Widows’ Education Assistance----- 1700”
and inserting in lieu thereof

“35. Survivors’ and Dependents’ Educational Assistance----- 1700”.

(c) Section 1731 (a) is amended by striking out “section 1780” and inserting in lieu thereof “chapter 36”. 38 USC 1731.

SEC. 310. Chapter 35 of title 38, United States Code, is amended—

(1) by striking out in section 1700 “widows”, “wives”, and “his” each time they appear and inserting in lieu thereof “surviving spouses”, “spouses”, and “the veteran’s”, respectively; 38 USC 1700.

(2) by striking out in section 1701(a) “widow” and “wife” each time they appear and inserting in lieu thereof “surviving spouse” and “spouse”, respectively; 38 USC 1701.

(3) by striking out in section 1701(b) “his” and inserting in lieu thereof “the person’s” and by striking out “himself”;

(4) by striking out in section 1701(c) “his” each time it appears and inserting in lieu thereof “such person’s” and by striking out “himself”;

(5) by striking out in section 1701(d) “he” each time it appears and inserting in lieu thereof “such person”;

(6) by striking out in section 1711(b) “she” the first time it appears and inserting in lieu thereof “the spouse”, by striking out “her” each time it appears and inserting in lieu thereof “such person’s”, and by striking out “he or she” each time it appears and inserting in lieu thereof “such person”; 38 USC 1711.

(7) by striking out in section 1712(a) “him”, “his”, and “he” each time they appear and inserting in lieu thereof “the person”, “the person’s”, and “the person”, respectively; 38 USC 1712.

(8) by striking out in section 1712(c) “him”, “he”, “his” each time they appear and inserting in lieu thereof “such person”, “such person”, and “such person’s”, respectively;

(9) by striking out in subsections (e) and (f) of section 1712 (as redesignated by section 304(3) of this Act) “her” and “he” and inserting in lieu thereof “the” and “such person”, respectively;

(10) by striking out in section 1720(a) “his” each time it appears and inserting in lieu thereof “such person’s”; 38 USC 1720.

(11) by striking out in section 1721 “he” and inserting in lieu thereof “the Administrator”; 38 USC 1721.

- 38 USC 1723. (12) by striking out in section 1723(a) "he" and "his" and inserting in lieu thereof "the Administrator" and "the person's", respectively;
- (13) by striking out in section 1723(c) "his" and "he" and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively;
- (14) by striking out in section 1723(d) "his" each time it appears and inserting in lieu thereof "such person's";
- 38 USC 1724. (15) by striking out in section 1724 "he" the first time it appears and inserting in lieu thereof "such person", by striking out "his" each time it appears and inserting in lieu thereof "the person's", and by striking out "he" the second time it appears and inserting in lieu thereof "the Administrator";
- 38 USC 1731. (16) by striking out in section 1731(b) "his" and "he" and inserting in lieu thereof "the person's" and "the person", respectively;
- 38 USC 1733. (17) by striking out in section 1733(a) "wife or widow" and "she" and inserting in lieu thereof "spouse or surviving spouse" and "such spouse", respectively;
- (18) by striking out in section 1733(b) "he" and inserting in lieu thereof "such person";
- 38 USC 1734. (19) by striking out in section 1734(b) "wife or widow" and inserting in lieu thereof "spouse or surviving spouse";
- 38 USC 1736. (20) by striking out in section 1736 "he" and inserting in lieu thereof "the Administrator";
- 38 USC 1741. (21) by striking out in section 1741(b) "he" and inserting in lieu thereof "the Administrator";
- 38 USC 1743. (22) by striking out in subsections (a) and (b) of section 1743 "his" and "he" each time they appear and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively;
- 38 USC 1761. (23) by striking out in section 1761(a) "he" and inserting in lieu thereof "the Administrator"; and
- 38 USC 1763. (24) by striking out in section 1763 "his" and inserting in lieu thereof "such person's".

TITLE IV—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE ACT

Post-Vietnam Era
Veterans'
Educational
Assistance Act of
1977.
38 USC 1601
note.
"Eligible
veteran."

SEC. 401. This title may be cited as the "Post-Vietnam Era Veterans' Educational Assistance Act of 1977".

SEC. 402. Section 1652 of title 38, United States Code, is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) The term 'eligible veteran' means any veteran who—

"(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and before January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable; or

"(B) contracted with the Armed Forces and was enlisted in or assigned to a reserve component prior to January 1, 1977, and as a result of such enlistment or assignment served on active duty for a period of more than 180 days, any part of which commenced within 12 months after January 1, 1977, and was discharged or released from such active duty under conditions other than dishonorable; or

“(C) was discharged or released from active duty, any part of which was performed after January 31, 1955, and before January 1, 1977, or following entrance into active service from an enlistment provided for under clause (B) of this paragraph, because of a service-connected disability.”; and

(2) by inserting in subsection (a)(2) “or (B)” after “paragraph (1)(A)”.

SEC. 403. (a) Section 1661(a) of title 38, United States Code, is amended by adding at the end thereof a new sentence as follows: “In the case of any person serving on active duty on December 31, 1976, or a person whose eligibility is based on section 1652(a)(1)(B) of this chapter, the ending date for computing such person’s entitlement shall be the date of such person’s first discharge or release from active duty after December 31, 1976.”.

38 USC 1652.

(b) Section 1662 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

“(e) No educational assistance shall be afforded any eligible veteran under this chapter or chapter 36 of this title after December 31, 1989.”.

38 USC 1770 *et seq.*

SEC. 404. Part III of title 38, United States Code, is amended by inserting immediately after chapter 31 of such title a new chapter as follows:

“CHAPTER 32—POST-VIETNAM ERA VETERANS’ EDUCATIONAL ASSISTANCE

“SUBCHAPTER I—PURPOSE; DEFINITIONS

“Sec.

“1601. Purpose.

“1602. Definitions.

“SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

“1621. Eligibility.

“1622. Contributions; matching fund.

“1623. Refunds of contributions upon disenrollment.

“1624. Death of participant.

“1625. Discharge or release under conditions which would bar use of benefits.

“SUBCHAPTER III—ENTITLEMENT; DURATION

“1631. Entitlement; loan eligibility.

“1632. Duration; limitations.

“SUBCHAPTER IV—ADMINISTRATION

“1641. Requirements.

“1642. Reporting requirements.

“1643. Deposits; reports.

“Subchapter I—Purpose; Definitions

“§ 1601. Purpose

38 USC 1601.

“It is the purpose of this chapter (1) to provide educational assistance to those men and women who enter the Armed Forces after December 31, 1976, (2) to assist young men and women in obtaining an education they might not otherwise be able to afford, and (3) to promote and assist the all volunteer military program of the United States by attracting qualified men and women to serve in the Armed Forces.

38 USC 1602.

“§ 1602. Definitions

“For the purposes of this chapter—

“(1)(A) The term ‘eligible veteran’ means any veteran who (i) initially entered military service on or after January 1, 1977, served on active duty for a period of more than 180 days commencing on or after such date, and was discharged or released therefrom under conditions other than dishonorable, or (ii) initially entered military service on or after January 1, 1977, and was discharged or released from active duty after such date for a service-connected disability.

“(B) The requirement of discharge or release, prescribed in subparagraph (A), shall be waived in the case of any participant who has completed his or her first obligated period of active duty (which began after December 31, 1976) or 6 years of active duty (which began after December 31, 1976), whichever period is less.

“(C) For the purposes of subparagraphs (A) and (B), the term ‘active duty’ does not include any period during which an individual (i) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (ii) served as a cadet or midshipman at one of the service academies, or (iii) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

38 USC 1652.

“(2) The terms ‘program of education’ and ‘educational institution’ shall have the same meaning ascribed to them in sections 1652(b) and 1652(c), respectively, of this title.

“(3) The term ‘participant’ is a person who is participating in the educational benefits program established under this chapter.

“Subchapter II—Eligibility; Contributions; and Matching Fund

38 USC 1621.

“§ 1621. Eligibility

“(a) Each person entering military service on or after January 1, 1977, shall have the right to enroll in the educational benefits program provided by this chapter (hereinafter in this chapter referred to as the ‘program’ except where the text indicates otherwise) at any time during such person’s service on active duty. When a person elects to enroll in the program, such person must participate for at least 12 consecutive months before disenrolling or suspending participation.

“(b) The requirement for 12 consecutive months of participation required by subsection (a) of this section shall not apply when (1) the participant suspends participation or disenrolls from the program because of personal hardship as defined in regulations issued jointly by the Administrator and the Secretary of Defense (hereinafter in this chapter referred to as the ‘Secretary’), or (2) the participant is discharged or released from active duty.

“(c) A participant shall be permitted to suspend participation or disenroll from the program at the end of any 12-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed by regulations issued jointly by the Administrator and the Secretary.

“(d) If a participant disenrolls from the program, such participant forfeits any entitlement to benefits under the program except as provided in subsection (e) of this section. A participant who disenrolls from the program is eligible for a refund of such participant’s contributions as provided in section 1623 of this title.

“(e) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed jointly by the Administrator and the Secretary.

“§ 1622. Contributions; matching fund

38 USC 1622.

“(a) Each person electing to participate in the program shall agree to have a monthly deduction made from such person's military pay. Such monthly deduction shall be in any amount not less than \$50 nor more than \$75 except that the amount must be divisible by 5. Any such amount contributed by the participant or contributed by the Secretary pursuant to subsection (c) of this section shall be deposited in a deposit fund account entitled the ‘Post—Vietnam Era Veterans Education Account’ (hereinafter in this chapter referred to as the ‘fund’) to be established in the Treasury of the United States. Contributions made by the participant shall be limited to a maximum of \$2,700.

“(b) Except as otherwise provided in this chapter, each monthly contribution made by a participant under subsection (a) shall entitle the participant to matching funds from the Veterans' Administration at the rate of \$2 for each \$1 contributed by the participant.

“(c) The Secretary is authorized to contribute to the fund of any participant such contributions as the Secretary deems necessary or appropriate to encourage persons to enter or remain in the Armed Forces. The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary or appropriate to implement the provisions of this subsection.

Rules and regulations.

“§ 1623. Refunds of contributions upon disenrollment

38 USC 1623.

“(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1624.

“(b) If a participant disenrolls from the program prior to discharge or release from active duty, such participant's contributions will be refunded on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Administrator of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or other good reason as prescribed in regulations issued jointly by the Administrator and the Secretary.

“(c) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded within 60 days of receipt of an application for a refund from the participant.

“(d) In the event the participant (1) dies while on active duty, (2) dies after discharge or release from active duty, or (3) disenrolls or is disenrolled from the program without having utilized any entitlement, the participant may have accrued under the program, or, in the event the participant utilizes part of such participant's entitlement and disenrolls or is disenrolled from the program, the amount contributed by the Secretary under the authority of section 1622(c) remaining in the fund shall be refunded to the Secretary.

“§ 1624. Death of participant

38 USC 1624.

“(a) If a participant dies, the amount of such participant's unused contributions to the fund shall be paid (1) to the beneficiary or beneficiaries designated by such participant under such participant's Servicemen's Group Life Insurance policy, or (2) to the participant's estate if no beneficiary has been designated under such policy or if the participant is not insured under the Servicemen's Group Life Insurance program.

“(b) If a participant dies after having been discharged or released from active duty and before using any or all of the contributions which the participant made to the fund, such unused contributions shall be paid as prescribed in subsection (a) of this section.

38 USC 1625. **“§ 1625. Discharge or release under conditions which would bar the use of benefits**

“If a participant in the program is discharged or released from active duty under dishonorable conditions, such participant is automatically disenrolled and any contributions made by such participant shall be refunded to such participant on the date of such participant's discharge or release from active duty or within 60 days from receipt of notice by the Administrator of such discharge or release, whichever is later.

“Subchapter III—Entitlement; Duration

38 USC 1631. **“§ 1631. Entitlement; loan eligibility**

“(a) (1) A participant shall be entitled to a maximum of 36 monthly benefit payments (or their equivalent in the event of part-time benefit payments).

“(2) The amount of the monthly payment to which any eligible veteran is entitled shall be ascertained by (A) adding all contributions made to the fund by the eligible veteran, (B) multiplying the sum by 3, (C) adding all contributions made to the fund for such veteran by the Secretary, and (D) dividing the sum by the lesser of 36 or the number of months in which contributions were made by such veteran.

“(3) Payment of benefits under this chapter may be made only for periods of time during which an eligible veteran is actually enrolled in and pursuing an approved program of education and, except as provided in paragraph (4), only after an eligible veteran has been discharged or released from active duty.

“(4) Payment of benefits under this chapter may be made after a participant has completed his or her first obligated period of active duty (which began after December 31, 1976), or 6 years of active duty (which began after December 31, 1976), whichever period is less.

“(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to participate in the PredischARGE Education Program (PREP), authorized by subchapter VI of chapter 34 of this title, during the last 6 months of such member's first enlistment.

38 USC 1681.

“(c) When an eligible veteran is pursuing either a program of education under this chapter by correspondence or a program of flight training, such eligible veteran's entitlement shall be charged at the rate of 1 month's entitlement for each month of benefits paid to the eligible veteran (computed on the basis of the formula provided in subsection (a) (2) of this section).

38 USC 1798.

“(d) Eligible veterans participating in the program shall be eligible for education loans authorized by subchapter III of chapter 36 of this title in such amounts and on the same terms and conditions as provided in such subchapter, except that the term ‘eligible veteran’ as used in such subchapter shall be deemed to include ‘eligible veteran’ as defined in this chapter.

38 USC 1632. **“§ 1632. Duration; limitations**

“No educational assistance benefits shall be afforded an eligible veteran under this chapter beyond the date of 10 years after such veteran's last discharge or release from active duty. In the event an

eligible veteran has not utilized any or all of such veteran's entitlement by the end of the 10-year period, such eligible veteran is automatically disenrolled and any contributions made by such veteran remaining in the fund shall be refunded to the veteran following notice to the veteran and an application by the veteran for such refund. If no application is received within 1 year from date of notice, it will be presumed for the purposes of subsection (a) of section 725s of title 31, that the individual's whereabouts is unknown and the funds shall be transferred as directed in the last proviso of that subsection.

"Subchapter IV—Administration

"§ 1641. Requirements

38 USC 1641.

"The provisions of sections 1670, 1671, 1673, 1674, 1676, 1677, 1681(c), 1683, 1696, and 1698 of this title and the provisions of chapter 36 of this title, with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the program.

38 USC 1770 *et seq.*

"§ 1642. Reporting requirements

38 USC 1642.

"The Administrator and the Secretary shall, within 90 days after the date of enactment of this chapter, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a joint report containing their respective plans for implementation of the program provided for in this chapter. The Administrator and the Secretary shall submit to such committees a report each year detailing the operations of the program during the preceding year. The first such annual report shall be submitted 15 months after the date of enactment of this section.

Report to congressional committees.

"§ 1643. Deposits; reports

38 USC 1643.

"Deductions made by the Department of Defense from the military pay of any participant shall be promptly transferred to the Administrator for deposit in the fund. The Secretary shall also submit to the Administrator a report each month showing the name, service number, and the amount of the deduction made from the military pay of each initial enrollee, any contribution made by the Secretary pursuant to section 1622(c), as well as any changes in each participant's enrollment and/or contribution. The report shall also include any additional information the Administrator and the Secretary deem necessary to administer this program. The Administrator shall maintain accounts showing contributions made to the fund by individual participants and by the Secretary as well as disbursements made from the fund in the form of benefits."

Report to Administrator.

SEC. 405. The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part III of such title are each amended by inserting immediately below

"31. VOCATIONAL REHABILITATION----- 1501"
the following:

"32. POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE----- 1601".

SEC. 406. The provisions of this title shall become effective on January 1, 1977.

Effective date.
38 USC 1601
note.

SEC. 407. Section 725s(b) of title 31, United States Code, is amended by adding at the end thereof the following:

"(84) Post-Vietnam Era Veterans Education Account, Veterans' Administration."

SEC. 408. (a) (1) No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided

38 USC 1621
note.

SEC. 502. (a) Section 1798 of title 38, United States Code, is amended—

(1) by striking out in subsection (b) (3) “\$270” and “\$600” and inserting in lieu thereof “\$292” and “\$1,500”, respectively; and

(2) by amending clause (3) of subsection (d) to read as follows:

“(3) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at a rate prescribed by the Administrator, at the time the loan is contracted for which rate shall be comparable to the rate of interest charged students at such time on loans insured by the Commissioner of Education, Department of Health, Education, and Welfare, under part B of title IV of the Higher Education Act of 1965, but in no event shall the rate so prescribed by the Administrator exceed the rate charged students on such insured loans, and shall provide that no interest shall accrue prior to the beginning date of repayment; and”.

20 USC 1071.

(b) The amendments made by subsection (a) shall be effective with respect to loans made under section 1798 of title 38, United States Code, on and after October 1, 1976.

38 USC 1798 note.

SEC. 503. Section 1774 of title 38, United States Code, is amended—

(1) by adding at the end of subsection (a) thereof the following new sentence: “The Administrator may also reimburse such agencies for work performed by their subcontractors where such work has a direct relationship to the requirements of chapter 32, 34, 35, or 36 of this title, and has had the prior approval of the Administrator.”; and

Ante, p. 2393.
38 USC 1651,
1700, 1770.

(2) by amending subsection (b) to read as follows:

“(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

“Total salary cost reimbursable under this section	Allowable for administrative expense
\$5,000 or less-----	\$600.
Over \$5,000 but not exceeding \$10,000-----	\$1,080.
Over \$10,000 but not exceeding \$35,000-----	\$1,080 for the first \$10,000 plus \$1,000 for each additional \$5,000 or fraction thereof.
Over \$35,000 but not exceeding \$40,000-----	\$6,535.
Over \$40,000 but not exceeding \$75,000-----	\$6,535 for the first \$40,000 plus \$865 for each additional \$5,000 or fraction thereof.
Over \$75,000 but not exceeding \$80,000-----	\$12,960.
Over \$80,000-----	\$12,960 for the first \$80,000 plus \$755 for each additional \$5,000 or fraction thereof.”.

SEC. 504. Section 1775 of title 38, United States Code, is amended—

(1) by striking out the period at the end of subsection (a) and inserting in lieu thereof “which must be certified as true and correct in content and policy by an authorized representative of the school. The catalog or bulletin must specifically state its progress requirements for graduation and must include as a minimum the information required by sections 1776(b) (6) and (7) of this title.”; and

(2) by inserting before the period in the first sentence of subsection (b) the following: “and must include as a minimum (except for attendance) the requirements set forth in section 1776(c) (7) of this title”.

SEC. 505. Section 1780(a) of title 38, United States Code, is amended—

- (1) by striking out at the end of clause (1) “or”;
- (2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and
- (3) by inserting immediately after clause (2) the following new clauses:

“(3) to any eligible veteran or person for auditing a course;

“(4) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the Administrator finds there are mitigating circumstances; or

“(5) to any eligible veteran or person for pursuit of a program of education exclusively by correspondence as authorized under section 1786 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than 6 months. A certification as to the normal period of time required to complete the course must be made to the Administrator by the educational institution.”.

38 USC 1786.

SEC. 506. The last sentence of section 1780(a) of title 38, United States Code, is amended to read as follows: “Notwithstanding the foregoing, the Administrator may, subject to such regulations as the Administrator shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) or (2) of this subsection—

“(A) during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation, and such periods shall not be counted as absences for the purposes of clause (2);

“(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days, but such periods shall be counted as absences for the purposes of clause (2); or

“(C) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual semester, term, or quarter basis if the interval between such periods does not exceed 1 full calendar month, but such periods shall be counted as absences for the purposes of clause (2).”.

SEC. 507. Section 1784(a) of title 38, United States Code, is amended by adding at the end thereof the following: “The date of interruption or termination will be the last date of pursuit or, in the case of correspondence training, the last date a lesson was serviced by the school.”.

SEC. 508. Section 1784(b) of title 38, United States Code, is amended by striking out “\$3” and “\$4” and inserting in lieu thereof “\$5” and “\$6”, respectively.

SEC. 509. (a) Section 1788(a) of title 38, United States Code, is amended—

- (1) by striking out the semicolon at the end of clause 1 and inserting in lieu thereof a comma and the following: “but if such

course is approved pursuant to section 1775 of this title, then 27 38 USC 1775.
 hours per week of attendance, with no more than 21½ hours of
 rest period per week allowed and excluding supervised study,
 shall be considered full time;"; and

(2) by striking out the semicolon at the end of clause 2 and
 inserting in lieu thereof a comma and the following: "but if such
 course is approved pursuant to section 1775 of this title, then 22
 hours per week net of instruction (excluding supervised study),
 which may include customary intervals not to exceed ten minutes
 between hours of instruction, shall be considered full time;";

(b) Section 1789 of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (4) in subsection
 (b);

(2) by striking out the period at the end of clause (5) in sub-
 section (b) and inserting in lieu thereof "; or";

(3) by adding at the end of subsection (b) a new clause (6) to
 read as follows:

"(6) any course offered by an educational institution under a
 contract with the Department of Defense that (A) is given on, or
 immediately adjacent to, a military base; (B) is available only
 to active duty military personnel and/or their dependents and
 (C) has been approved by the State approving agency of the
 State in which the base is located."; and

(4) by adding at the end thereof a new subsection (c) as
 follows:

"(c) Notwithstanding the provisions of subsection (b) (1), (2),
 (3), or (4) of this section, the provisions of subsection (a) shall apply
 to any course offered by a branch or extension of—

"(1) a public or other tax-supported institution where the
 branch or extension is located outside of the area of the taxing
 jurisdiction providing support to such institution; or

"(2) a proprietary profit or proprietary nonprofit educational
 institution where the branch or extension is located beyond the
 normal commuting distance of such institution.".

SEC. 510. Section 1790(c) of title 38, United States Code, is amended
 to read as follows:

"(c) Notwithstanding any other provision of law, the records and
 accounts of educational institutions pertaining to eligible veterans or
 eligible persons who received educational assistance under this chapter
 or chapter 31, 32, 34, or 35 of this title, as well as the records of other
 students which the Administrator determines necessary to ascertain
 institutional compliance with the requirements of such chapters, shall
 be available for examination by duly authorized representatives of the
 Government."

38 USC 1501.
Ante, p. 2393.
 38 USC 1651,
 1700.

SEC. 511. Subchapter II of chapter 36, United States Code, is
 amended—

(1) by striking out section 1793 and inserting in lieu thereof
 the following:

"§ 1793. Compliance surveys

38 USC 1793.

"The Administrator shall conduct an annual compliance survey of
 each institution offering one or more courses approved for the enroll-
 ment of eligible veterans or persons where at least 300 veterans or
 persons are enrolled under provisions of this title or where the course
 does not lead to a standard college degree. Such compliance survey

shall assure that the institution and approved courses are in compliance with all applicable provisions of chapters 31, 34, 35, and 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section.”; and

(2) by striking out in the table of sections at the beginning of chapter 36 of such title

“1793. Institutions listed by Attorney General.”

and inserting in lieu thereof

“1793. Compliance surveys.”.

Advertising,
sales, and
enrollment;
record
maintenance.

Sec. 512. Section 1796 of title 38, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as (c) and (d), respectively; and

(2) by inserting after subsection (a) a new subsection (b) as follows:

“(b) To ensure compliance with this section, any institution offering courses approved for the enrollment of eligible persons or veterans shall maintain a complete record of all advertising, sales, or enrollment materials (and copies thereof) utilized by or on behalf of the institution during the preceding 12-month period. Such record shall be available for inspection by the State approving agency or the Administrator. Such materials shall include but are not limited to any direct mail pieces, brochures, printed literature used by sales persons, films, video tapes, and audio tapes disseminated through broadcast media, material disseminated through print media, tear sheets, leaflets, handbills, fliers, and any sales or recruitment manuals used to instruct sales personnel, agents, or representatives of such institution.”.

Sec. 513. (a) Chapter 36 of title 38, United States Code, is amended—

38 USC 1771.

(1) by striking out in section 1771(a) “his” and inserting in lieu thereof “such”;

38 USC 1775.

(2) by striking out in section 1775(a) “he” and inserting in lieu thereof “the Commissioner”;

38 USC 1777.

(3) by striking out in subsections (b) and (c) of section 1777 “he”, “him”, “his” each time they appear and inserting in lieu thereof “the veteran or person”, “the veteran or person”, and “such veteran’s or person’s”, respectively;

38 USC 1779.

(4) by striking out in section 1779(b) “his” and inserting in lieu thereof “the Administrator’s”;

38 USC 1780.

(5) by striking out in subsections (a) and (b) of section 1780 “his”, “wife or widow”, and “wife’s or widow’s” each time they appear and inserting in lieu thereof “such veteran’s or person’s”, “spouse or surviving spouse”, and “spouse’s or surviving spouse’s”, respectively;

(6) by striking out in subsections (c) and (d) of section 1780 “his” and “he” each time they appear and inserting in lieu thereof “such veteran’s or person’s” and “the veteran or person”, respectively;

(7) by inserting “may” immediately before “need” in section 1780(d)(1);

(8) by inserting immediately after the fourth sentence in section 1780(d)(2) the following new sentence: “An advance pay-

ment may not be made under this subsection to any veteran or person unless the veteran or person requests such payment and the Administrator finds that the educational institution at which such veteran or person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs 5(B) and (C) and (6) of this subsection."

(9) by striking out section 1780(e) and the heading thereto; 38 USC 1780.

(10) by redesignating subsections (f), (g), and (h) of section 1780 as subsections (e), (f), and (g), respectively, and by adding at the end of such subsection (g) (as so redesignated) the following: "Subject to such reports and proof as the Administrator may require to show an eligible veteran's or eligible person's enrollment in and satisfactory pursuit of such person's program, the Administrator is authorized to withhold the final payment of benefits to such person until the required proof is received and the amount of the final payment is appropriately adjusted.";

(11) by striking out in section 1780(f) "him" and inserting in lieu thereof "such veteran or person";

(12) by striking out in section 1780(h) "he" the first time it appears and inserting in lieu thereof "the Administrator" and by striking out "he" the second time it appears and inserting in lieu thereof "the veteran or person";

(13) by striking out in section 1781 "him" and inserting in lieu thereof "such person"; 38 USC 1781.

(14) by striking out in section 1783(a) "his" and inserting in lieu thereof "such officer's or employee's"; 38 USC 1783.

(15) by striking out in section 1783(b) "he" the first time it appears and inserting in lieu thereof "such person" and by striking out "he" the second time it appears and inserting in lieu thereof "the Administrator";

(16) by striking out in section 1783(d) "he" and inserting in lieu thereof "the Administrator";

(17) by striking out in subsections (a) and (b) of section 1784 "him" and inserting in lieu thereof "the Administrator"; 38 USC 1784.

(18) by striking out in subsections (a), (b), and (c) of section 1786 "wife and widow" and "his" each time they appear and inserting in lieu thereof "spouse or surviving spouse" and "such veteran's or spouse's", respectively;

(19) by striking out in subsections (a), (b), and (d) of section 1790 "he" each time it appears and inserting in lieu thereof "the Administrator";

(20) by striking out in subsections (a), (b), and (c) of section 1791 "his" and "he" each time they appear and inserting in lieu thereof "the veteran's or person's" and "the Administrator", respectively;

(21) by striking out in section 1794 "his" and inserting in lieu thereof "the Administrator's"; 38 USC 1794.

(22) by striking out in section 1796(c) (as redesignated by section 513(1) of this Act) "his" and inserting in lieu thereof "the Administrator's"; 38 USC 1796.

(23) by striking out in section 1798(b)(1) "he" and inserting in lieu thereof "the veteran or person" and by striking out in section 1798(e)(1) "he" and inserting in lieu thereof "the Administrator"; and 38 USC 1798.

38 USC 1799.

(24) by striking out in section 1799(d) “his” and inserting in lieu thereof “the Administrator’s”.

Effective date.
38 USC 1780
note.

(b) The amendments made by paragraphs (7), (8), (9), and (10) of subsection (a) shall take effect June 1, 1977, and shall apply with respect to educational assistance allowances and subsistence allowances paid under title 38, United States Code, for months after May 1977.

TITLE VI—VETERANS’ EMPLOYMENT ASSISTANCE PROVISIONS

SEC. 601. (a) Section 2002 of title 38, United States Code, is amended by inserting “by a Deputy Assistant Secretary of Labor for Veterans’ Employment, established by section 2002A of this title,” after “promulgated and administered”.

(b) Chapter 41 of title 38, United States Code, is amended by—
(1) adding after section 2002 a new section as follows:

38 USC 2002A.

“§ 2002A. Deputy Assistant Secretary of Labor for Veterans’ Employment

“There is established within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans’ Employment, appointed by the President by and with the advice and consent of the Senate, who shall be the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to carry out (1) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (2) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans.”; and

38 USC 2010,
2021.

(2) amending the table of sections at the beginning of chapter 41 of such title by inserting

“2002A. Deputy Assistant Secretary of Labor for Veterans’ Employment.
after

“2002. Purposes.”.

Repeal.

38 USC 2002
note.

(c) Section 104(a) of the Emergency Jobs and Unemployment Assistance Act of 1974 (Public Law 93-567) is repealed.

29 USC 801 note.

SEC. 602. Section 2003 of title 38, United States Code, is amended—

(1) by inserting in the fourth sentence “or by prime sponsors under the Comprehensive Employment and Training Act” after “programs administered by the Secretary”;

(2) by striking out “and” at the end of clause (5); and

(3) by redesignating clause (6) as clause (7) and inserting new clause (6) as follows:

“(6) promote the participation of veterans in Comprehensive Employment and Training Act programs and monitor the implementation and operation of Comprehensive Employment and Training Act programs to assure that eligible veterans receive special consideration when required; and”.

SEC. 603. Section 2006(a) of title 38, United States Code, is amended by inserting in the last sentence “each” after “shall”.

SEC. 604. Section 2007 of title 38, United States Code, is amended—

(1) by striking out in subsection (a)(1) “his” and inserting in lieu thereof “such veteran’s and eligible person’s”;

(2) by inserting in the second sentence of subsection (c) “and public service employment” after “occupational training”; and

(3) by striking out in the last sentence of subsection (c) “or 2006” and inserting in lieu thereof “, 2006, or 2007(a)”.

SEC. 605. Section 2012 of title 38, United States Code, is amended by adding at the end thereof a new subsection (c) as follows:

“(c) The Secretary shall include as part of the annual report required by section 2007(c) of this title the number of complaints filed pursuant to subsection (b) of this section, the actions taken thereon and the resolutions thereof. Such report shall also include the number of contractors listing suitable employment openings, the nature, types, and number of positions listed and the number of veterans receiving priority pursuant to subsection (a)(2) of this section.”.

SEC. 606. Chapter 41 of title 38, United States Code, is amended—

(1) by striking out in section 2003 “he” and “his” and inserting in lieu thereof “the Secretary” and “such representative’s”, respectively; 38 USC 2003.

(2) by striking out in section 2004 “his” and inserting in lieu thereof “such representative’s” and by inserting “or eligible persons” after “eligible veterans”; 38 USC 2004.

(3) by striking out in section 2005 “he” and inserting in lieu thereof “the Secretary”; and 38 USC 2005.

(4) by striking out in section 2008 “his” and “him” and inserting in lieu thereof “the Secretary’s” and “the Administrator”, respectively. 38 USC 2008.

SEC. 607. Chapter 42 of title 38, United States Code, is amended—

(1) by striking out in section 2011(2) “his” and inserting in lieu thereof “the person’s”; and 38 USC 2011.

(2) by striking out in the first sentence of section 2012(b) “his” and inserting in lieu thereof “the contractor’s”. 38 USC 2012.

SEC. 608. Chapter 43 of title 38, United States Code, is amended—

(1) by striking out in section 2021(a)(2)(B) “his” each time it appears and inserting in lieu thereof “the employer’s”; 38 USC 2021.

(2) by striking out in section 2021(b)(2) “his” and “he” and inserting in lieu thereof “the person’s” and “the person”, respectively; and

(3) by striking out in the sixth sentence of section 2024(d) “his” each time it appears and inserting in lieu thereof “such employer’s”. 38 USC 2024.

TITLE VII—MISCELLANEOUS AND EFFECTIVE DATE

SEC. 701. Section 3101(a) of title 38, United States Code, is amended by adding at the end thereof the following: “For the purposes of this subsection, in any case where a payee of an educational assistance allowance has designated the address of an attorney-in-fact as the payee’s address for the purpose of receiving his or her benefit check and has also executed a power of attorney giving the attorney-in-fact authority to negotiate such benefit check, such action shall be deemed to be an assignment and is prohibited.”.

SEC. 702. Section 2108(1)(B) of title 5, United States Code, is amended by striking out “after January 31, 1955,” and inserting in lieu thereof “any part of which occurred after January 31, 1955, and before the date of the enactment of the Veterans’ Education and Employment Assistance Act of 1976.”.

Effective date.
38 USC 1504
note.

SEC. 703. (a) Sections 101, 201, 203, 207, 209, 301, 303, 304, 308, 501, 502, 503, and 508 of this Act shall become effective on October 1, 1976.

(b) Sections 102, 104, 202, 204, 205(1), 205(2), 205(3), 208, 210, 211, 302, 305, 306, 309, 310, 506, 510, 511, and 513 (other than paragraphs (7), (8), (9), and (10) of subsection (a)) of this Act shall become effective on the date of the enactment of this Act.

(c) Sections 103, 205(4), 206, 307, 504, 505, 507, 509, 512, and 701 and title VI of this Act shall become effective on December 1, 1976.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-1243 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Oct. 1, considered and passed Senate;
considered and passed House, amended;
Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol 12, No. 43:
Oct. 15, Presidential statement.

Public Law 94-503
94th Congress

An Act

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968,
and for other purposes.

Oct. 15, 1976
[S. 2212]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Crime Control Act of 1976".

Crime Control
Act of 1976.
42 USC 3701
note.

TITLE I—AMENDMENTS RELATING TO L.E.A.A.

AMENDMENTS TO STATEMENT OF PURPOSE

SEC. 101. The "Declaration and Purpose" of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended as follows: 42 USC 3701.

(1) By inserting between the second and third paragraphs the following additional paragraph:

"Congress finds further that the financial and technical resources of the Federal Government should be used to provide constructive aid and assistance to State and local governments in combating the serious problem of crime and that the Federal Government should assist State and local governments in evaluating the impact and value of programs developed and adopted pursuant to this title."

(2) By striking out the fourth paragraph and inserting in lieu thereof the following new paragraph:

"It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by Federal assistance. It is the purpose of this title to (1) encourage, through the provision of Federal technical and financial aid and assistance, States and units of general local government to develop and adopt comprehensive plans based upon their evaluation of and designed to deal with their particular problems of law enforcement and criminal justice; (2) authorize, following evaluation and approval of comprehensive plans, grants to States and units of local government in order to improve and strengthen law enforcement and criminal justice; and (3) encourage, through the provision of Federal technical and financial aid and assistance, research and development directed toward the improvement of law enforcement and criminal justice and the development of new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals."

SUPERVISION BY ATTORNEY GENERAL

SEC. 102. Section 101(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after "authority" the following: ", policy direction, and general control". 42 USC 3711.

OFFICE OF COMMUNITY ANTI-CRIME PROGRAMS

SEC. 103. Section 101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

Office of
Community Anti-
Crime Programs.
Establishment.

“(c) There is established in the Administration the Office of Community Anti-Crime Programs (hereinafter in this subsection referred to as the ‘Office’). The Office shall be under the direction of the Deputy Administrator for Policy Development. The Office shall—

“(1) provide appropriate technical assistance to community and citizens groups to enable such groups to apply for grants to encourage community and citizen participation in crime prevention and other law enforcement and criminal justice activities;

“(2) coordinate its activities with other Federal agencies and programs (including the Community Relations Division of the Department of Justice) designed to encourage and assist citizen participation in law enforcement and criminal justice activities; and

“(3) provide information on successful programs of citizen and community participation to citizen and community groups.”.

AMENDMENT TO PART B PURPOSES

42 USC 3721.

SEC. 104. Section 201 of title I of such Act is amended by inserting immediately after “part” the following: “to provide financial and technical aid and assistance”.

SECTION 203 AMENDMENTS

42 USC 3723.

SEC. 105. Section 203 of title I of such Act is amended to read as follows:

State planning
agency.

“SEC. 203. (a) (1) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State or by State law and shall be subject to the jurisdiction of the chief executive. Where such agency is not created or designated by State law, it shall be so created or designated by no later than December 31, 1978, The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention.

“(2) The State planning agency shall include as judicial members, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer. The local trial court judicial officer and, if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members, shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership. Additional judicial members of the State planning agency as may be required by the Administration pursuant to section 515(a) of this title shall be appointed by the chief executive of the State from the membership of the judicial planning committee. Any executive committee of a State planning agency shall include in its membership the same proportion of judicial members as the total number of such members bears to the total membership of the State

Post, p. 2421.

planning agency. The regional planning units within the State shall be comprised of a majority of local elected officials. State planning agencies which choose to establish regional planning units may utilize the boundaries and organization of existing general purpose regional planning bodies within the State.

“(b) The State planning agency shall—

“(1) develop, in accordance with part C, a comprehensive statewide plan for the improvement of law enforcement and criminal justice throughout the State;

“(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement and criminal justice;

“(3) establish priorities for the improvement in law enforcement and criminal justice throughout the State; and

“(4) assure the participation of citizens and community organizations at all levels of the planning process.

“(c) The court of last resort of each State or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) may establish or designate a judicial planning committee for the preparation, development, and revision of an annual State judicial plan. The members of the judicial planning committee shall be appointed by the court of last resort or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of a majority of court officials (including judges, court administrators, prosecutors, and public defenders) and serve at its pleasure. The committee shall be reasonably representative of the various local and State courts of the State, including appellate courts, and shall include a majority of court officials (including judges, court administrators, prosecutors, and public defenders).

Judicial planning committee.

“(d) The judicial planning committee shall—

“(1) establish priorities for the improvement of the courts of the State;

“(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State; and

“(3) develop, in accordance with part C, an annual State judicial plan for the improvement of the courts of the State to be included in the State comprehensive plan.

The judicial planning committee shall submit to the State planning agency its annual State judicial plan for the improvement of the courts of the State. The State planning agency shall incorporate into the comprehensive statewide plan the annual State judicial plan, except to the extent that such State judicial plan fails to meet the requirements of section 304(b).

Post, p. 2414.

“(e) If a State court of last resort or a judicial agency authorized on the date of enactment of this subsection by State law to perform such function, provided it has a statutory membership of at least a majority of court officials (including judges, court administrators, prosecutors, and public defenders) does not create or designate a judicial planning committee, or if such committee fails to submit an annual State judicial plan in accordance with this section, the responsibility for preparing and developing such plan shall rest with the State planning agency. The State planning agency shall consult with the judicial planning committee in carrying out functions set forth in this section as they concern the activities of courts and the impact of the activities

of courts on related agencies (including prosecutorial and defender services). All requests from the courts of the State for financial assistance shall be received and evaluated by the judicial planning committee for appropriateness and conformity with the purposes of this title.

“(f) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least \$50,000 of the Federal funds granted to such agency under this part for any fiscal year will be available to the judicial planning committee and at least 40 per centum of the remainder of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units to participate in the formulation of the comprehensive State plan required under this part. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such funds made available to the judicial planning committee and such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

“(g) The State planning agency and any other planning organization for the purposes of this title shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is to be taken at that meeting on (1) the State plan, or (2) any application for funds under this title. The State planning agency and any other planning organization for the purposes of this title shall provide for public access to all records relating to its functions under this title, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.”.

JUDICIAL PLANNING EXPENSES FUNDING

42 USC 3724.

SEC. 106. Section 204 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting “the judicial planning committee and” between the words “by” and “regional” in the first sentence; and by striking out the words “expenses, shall,” and inserting in lieu thereof “expenses shall”.

JUDICIAL PLANNING PROVISION AND REALLOCATION OF CERTAIN FUNDS

42 USC 3725.

SEC. 107. Section 205 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

- (1) inserting “, the judicial planning committee,” immediately after the word “agency” in the first sentence;
- (2) striking out “\$200,000” from the second sentence and inserting in lieu thereof “\$250,000”; and
- (3) inserting the following sentence at the end thereof: “Any unused funds reverting to the Administration shall be available for reallocation under this part among the States as determined by the Administration.”.

STATE LEGISLATURES

SEC. 108. Part B of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new section:

"SEC. 206. At the request of the State legislature while in session or a body designated to act while the legislature is not in session, the comprehensive statewide plan shall be submitted to the legislature for an advisory review prior to its submission to the Administration by the chief executive of the State. In this review the general goals, priorities, and policies that comprise the basis of that plan, including possible conflicts with State statutes or prior legislative Acts, shall be considered. If the legislature or the interim body has not reviewed the plan forty-five days after receipt, such plan shall then be deemed reviewed."

42 USC 3726.

SECTION 301 AMENDMENTS

SEC. 109. (a) Section 301 of title I of such Act is amended by— 42 USC 3731.

(1) inserting immediately after "part" in subsection (a) the following: ", through the provision of Federal technical and financial aid and assistance,";

(2) striking out "Public education relating to crime prevention" from paragraph (3) of subsection (b) and inserting in lieu thereof "Public education programs concerned with law enforcement and criminal justice"; and

(3) striking out "and coordination" from paragraph (8) of subsection (b) and inserting in lieu thereof ", coordination, monitoring, and evaluation".

(b) Section 301(b) of such Act is amended—

(1) by striking out paragraph (6);

(2) by redesignating paragraph (7) as paragraph (6);

(3) by redesignating paragraphs (8) through (10) as paragraphs (7) through (9), respectively; and

(4) by adding at the end the following:

"(10) The definition, development, and implementation of programs and projects designed to improve the functioning of courts, prosecutors, defenders, and supporting agencies, reduce and eliminate criminal case backlog, accelerate the processing and disposition of criminal cases, and improve the administration of criminal justice in the courts; the collection and compilation of judicial data and other information on the work of the courts and other agencies that relate to and affect the work of the courts; programs and projects for expediting criminal prosecution and reducing court congestion; revision of court criminal rules and procedural codes within the rulemaking authority of courts or other judicial entities having criminal jurisdiction within the State; the development of uniform sentencing standards for criminal cases; training of judges, court administrators, and support personnel of courts having criminal jurisdiction; support of court technical assistance and support organizations; support of public education programs concerning the administration of criminal justice; and equipping of court facilities.

Grants,
eligibility.

"(11) The development and operation of programs designed to reduce and prevent crime against elderly persons.

"(12) The development of programs to identify the special needs of drug-dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers).

“(13) The establishment of early case assessment panels under the authority of the appropriate prosecuting official for any unit of general local government within the State having a population of two hundred and fifty thousand or more to screen and analyze cases as early as possible after the time of the bringing of charges, to determine the feasibility of successful prosecution, and to expedite the prosecution of cases involving repeat offenders and perpetrators of violent crimes.

“(14) The development and operation of crime prevention programs in which members of the community participate, including but not limited to ‘block watch’ and similar programs.”.

ADDITIONAL JUDICIAL PARTICIPATION

42 USC 3732. SEC. 110. Section 302 of the Omnibus Crime Control and Safe Streets Act is amended by inserting “(a)” immediately after “SEC. 302.” and by adding at the end the following new subsections:

Plan, filing. “(b) Any judicial planning committee established pursuant to this title may file at the end of each fiscal year with the State planning agency, for information purposes only, a multiyear comprehensive plan for the improvement of the State court system. Such multiyear comprehensive plan shall be based on the needs of all the courts in the State and on an estimate of funds available to the courts from all Federal, State, and local sources and shall, where appropriate—

“(1) provide for the administration of programs and projects contained in the plan;

“(2) adequately take into account the needs and problems of all courts in the State and encourage initiatives by the appellate and trial courts in the development of programs and projects for law reform, improvement in the administration of courts and activities within the responsibility of the courts, including bail and pretrial release services and prosecutorial and defender services, and provide for an appropriately balanced allocation of funds between the statewide judicial system and other appellate and trial courts;

“(3) provide for procedures under which plans and requests for financial assistance from all courts in the State may be submitted annually to the judicial planning committee for evaluation;

“(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of courts and court programs, including descriptions of (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the maximum extent practicable, the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

“(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment provided for courts and related purposes;

“(6) provide for research, development, and evaluation;

“(7) set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would, in the absence of such Federal funds, be made available for the courts; and

“(8) provide for such fund accounting, auditing, monitoring, and program evaluation procedures as may be necessary to assure sound fiscal control, effective management, and efficient use of funds received under this title.

“(c) Each year, the judicial planning committee shall submit an annual State judicial plan for the funding of programs and projects recommended by such committee to the State planning agency for approval and incorporation, in whole or in part, in accordance with the provisions of section 304(b), into the comprehensive State plan which is submitted to the Administration pursuant to part B of this title. Such annual State judicial plan shall conform to the purposes of this part.”.

Post, p. 2414.

STATE PLAN REQUIREMENTS AMENDMENTS

SEC. 111. Section 303 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

42 USC 3733.

(1) in paragraph (4) of subsection (a), inserting immediately before the semicolon the following: “Approval of such local comprehensive plan or parts thereof shall result in the award of funds to the units of general local government or combinations thereof to implement the approved parts of their plans, unless the State planning agency finds the implementation of such approved parts of their plan or revision thereof to be inconsistent with the overall State plan”;

(2) inserting immediately after “necessary” in paragraph (12) of subsection (a) the following: “to keep such records as the Administration shall prescribe”;

(3) striking out “and” after paragraph (14) of subsection (a), striking out the period at the end of paragraph (15) and inserting in lieu thereof “; and”, and adding after paragraph (15) the following:

“(16) provide for the development of programs and projects for the prevention of crimes against the elderly, unless the State planning agency makes an affirmative finding in such plan that such a requirement is inappropriate for the State;

“(17) provide for the development and, to the maximum extent feasible, implementation of procedures for the evaluation of programs and projects in terms of their success in achieving the ends for which they were intended, their conformity with the purposes and goals of the State plan, and their effectiveness in reducing crime and strengthening law enforcement and criminal justice; and

“(18) establish procedures for effective coordination between State planning agencies and single State agencies designated under section 409(e) (1) of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1176(e) (1)) in responding to the needs of drug dependent offenders (including alcoholics, alcohol abusers, drug addicts, and drug abusers).”;

(4) striking out subsection (b) and inserting in lieu thereof the following:

“(b) Prior to its approval of any State plan, the Administration shall evaluate its likely effectiveness and impact. No approval shall be given to any State plan unless and until the Administration makes an affirmative finding in writing that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State and that, on the basis of the evaluation made by the Administration, such plan is likely to contribute effectively to an improvement of law enforcement and criminal justice in the State and make a significant and effective contribution to the State’s efforts to deal with crime. No award of funds that are allocated to the States under this part on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.”;

(5) inserting in subsection (c) immediately after “unless” the following: “the Administration finds that”; and

(6) adding at the end the following new subsection:

“(d) In making grants under this part, the Administration and each State planning agency, as the case may be, shall provide an adequate share of funds for the support of improved court programs and projects, including projects relating to prosecutorial and defender services. No approval shall be given to any State plan unless and until the Administration finds that such plan provides an adequate share of funds for court programs (including programs and projects to reduce court congestion and accelerate the processing and disposition of criminal cases). In determining adequate funding, consideration shall be given to (1) the need of the courts to reduce court congestion and backlog; (2) the need to improve the fairness and efficiency of the judicial system; (3) the amount of State and local resources committed to courts; (4) the amount of funds available under this part; (5) the needs of all law enforcement and criminal justice agencies in the State; (6) the goals and priorities of the comprehensive plan; (7) written recommendations made by the judicial planning committee to the Administration; and (8) such other standards as the Administration may deem consistent with this title.”.

GRANTS TO UNITS; JUDICIAL PARTICIPATION

42 USC 3734. SEC. 112. Section 304 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

42 USC 3731. “SEC. 304. (a) State planning agencies shall receive plans or applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such a plan or application is in accordance with the purposes stated in section 301 and in conformance with an existing statewide comprehensive law enforcement plan or revision thereof, the State planning agency is authorized to disburse funds to implement the plan or application.

Ante, p. 2408. “(b) After consultation with the State planning agency pursuant to subsection (e) of section 203, the judicial planning committee shall transmit the annual State judicial plan approved by it to the State planning agency. Except to the extent that the State planning agency thereafter determines that such plan or part thereof is not in accordance with this title, is not in conformance with, or consistent with, the statewide comprehensive law enforcement and criminal justice plan, or does not conform with the fiscal accountability standards of the State planning agency, the State planning agency shall incorporate such plan or part thereof in the State comprehensive plan to be submitted to the Administration.”.

SECTION 306 AMENDMENTS

SEC. 113. Section 306 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting the following between the third and fourth sentences of the unnumbered paragraph in subsection (a): "Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary."

Grants, funds
allocation.
42 USC 3736.

SECTION 307 AMENDMENT

SEC. 114. Section 307 of such Act is amended by striking out "and of riots and other violent civil disorders" and inserting in lieu thereof the following "and programs and projects designed to reduce court congestion and backlog and to improve the fairness and efficiency of the judicial system".

Grants, priority
programs.
42 USC 3737.

TECHNICAL AMENDMENT

SEC. 115. Section 308 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "302(b)" and inserting "303" in lieu thereof.

42 USC 3738.
Ante, p. 2413.
42 USC 3733.

ANTITRUST ENFORCEMENT GRANTS

SEC. 116. Part C of title I of such Act is amended by inserting immediately after section 308 the following new section:

"SEC. 309. (a) The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State.

42 USC 3739.

"(b) The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall—

Plan, submittal.

"(1) provide for the administration of such plan by the attorney general of such State;

"(2) set forth a program for training State officers and employees to improve the antitrust enforcement capability of such State;

"(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

"(4) provide for making reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his function under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

"(c) The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

"(d) As soon as practicable after the date of enactment of this section the Attorney General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States.

Criteria.

"(e) Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on

account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

Audit.

“(f) The Comptroller General of the United States or any of his authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grantee under this section.

Notice and hearing.

“(g) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section, finds—

“(1) that the program for which such grant was made has been so changed that it no longer complies with the provisions of this section; or

“(2) that in the operation of the program there is failure to comply substantially with any such provision;

the Attorney General shall notify such State of his findings and no further payments may be made to such State by the Attorney General until he is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Attorney General may authorize the continuance of payments with respect to any program pursuant to this part which is being carried out by such State and which is not involved in the noncompliance.

Definitions.

“(h) As used in this section the term—

“(1) ‘State’ includes each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

“(2) ‘attorney general’ means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

“(3) ‘State officers and employees’ includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

Appropriation authorization.

“(i) In addition to any other sums authorized to be appropriated for the purposes of this title, there are authorized to be appropriated to carry out the purposes of this section not to exceed \$10,000,000 for the fiscal year ending September 30, 1977; not to exceed \$10,000,000 for the fiscal year ending September 30, 1978; and not to exceed \$10,000,000 for the fiscal year ending September 30, 1979.”.

INSTITUTE AMENDMENTS

**National Institute of Law Enforcement and Criminal Justice.
42 USC 3742.**

SEC. 117. (a) Section 402 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking out “Administrator” in the third sentence of subsection (a) and inserting in lieu thereof “Attorney General”;

(2) in the second paragraph of subsection (c), by striking out “to evaluate” and inserting in lieu thereof the following: “to make evaluations and to receive and review the results of evaluations of”;

(3) in the second paragraph of subsection (c), by adding at the end the following: “The Institute shall, in consultation with State planning agencies, develop criteria and procedures for the performance and reporting of the evaluation of programs and projects carried out under this title, and shall disseminate information about such criteria and procedures to State planning agencies. The Institute shall also assist the Administrator in the performance of those duties mentioned in section 515(a) of this title.”;

42 USC 3763.

(4) by inserting immediately before the final paragraph of subsection (c) the following:

Studies, report to President and Congress.
42 USC 3742.

"The Institute shall, in consultation with the National Institute on Drug Abuse, make studies and undertake programs of research to determine the relationship between drug abuse and crime and to evaluate the success of the various types of drug treatment programs in reducing crime and shall report its findings to the President, the Congress, and the State planning agencies and, upon request, to units of general local government"; and

(5) by adding at the end of such subsection the following:

Surveys.

"The Institute shall, before September 30, 1977, survey existing and future needs in correctional facilities in the Nation and the adequacy of Federal, State, and local programs to meet such needs. Such survey shall specifically determine the effect of anticipated sentencing reforms such as mandatory minimum sentences on such needs. In carrying out the provisions of this section, the Director of the Institute shall make maximum use of statistical and other related information of the Department of Labor, Department of Health, Education, and Welfare, the General Accounting Office, Federal, State, and local criminal justice agencies and other appropriate public and private agencies.

"The Institute shall identify programs and projects carried out under this title which have demonstrated success in improving law enforcement and criminal justice and in furthering the purposes of this title, and which offer the likelihood of success if continued or repeated. The Institute shall compile lists of such programs and projects for the Administrator who shall disseminate them to State planning agencies and, upon request, to units of general local government."

(b) Section 402(b)(3) of such Act is amended by striking out "and to evaluate the success of correctional procedures".

CONFORMING AMENDMENT

SEC. 118. (a) Section 453(10) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "and (15)" and inserting in lieu thereof "(15), and (17)".

42 USC 3750b.

NONPROFIT ORGANIZATIONS; INDIAN TRIBES

SEC. 119. Section 455 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "or" in paragraph (a)(2) and by inserting "or nonprofit organization," after the second occurrence of the word "units," in that paragraph.

42 USC 3750d.

(b) Section 507 of such Act is amended—

42 USC 3755.

(1) by inserting "(a)" immediately after "SEC. 507."; and

(2) by adding at the end the following new subsection:

"(b) In the case of a grant to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary."

RULES AND REGULATIONS REQUIREMENT

- 42 USC 3751. SEC. 120. Section 501 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding the following sentence at the end: "The Administration shall establish such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the Administration of both the comprehensiveness and impact of programs funded under this title in order to determine whether such programs submitted for funding are likely to contribute to the improvement of law enforcement and criminal justice and the reduction and prevention of crime and juvenile delinquency and whether such programs once implemented have achieved the goals stated in the original plan and application."

HEARING EXAMINERS

- 42 USC 3755. SEC. 121. Section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:
- "SEC. 507. Subject to the Civil Service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees as shall be necessary to carry out its powers and duties under this title and is authorized to select, appoint, employ, and fix compensation of such hearing examiners or to request the use of such hearing examiners selected by the Civil Service Commission pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out its powers and duties under this title."

CIVIL RIGHTS ENFORCEMENT PROCEDURES

- 42 USC 3757. SEC. 122. (a) Section 509 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "Whenever the Administration" and all that follows down through "grantee under this title," and inserting in lieu thereof "Except as provided in section 518(c), whenever the Administration, after notice to an applicant or a grantee under this title and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code,"

Infra.

42 USC 3766.

(b) Section 518(c) of such Act is amended to read as follows:

"(c) (1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

"(2) (A) Whenever there has been—

Notice and
hearing.

"(i) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Administration under subparagraph (ii)), to the effect that there has been a pattern or practice of discrimination in violation of subsection (c) (1); or

"(ii) a determination after an investigation by the Administration (prior to a hearing under subparagraph (F)) but including an opportunity for the State government or unit of general local government to make a documentary submission regarding the allegation of discrimination with respect to such program or activity, with funds made available under this title) that a State government or unit of general local government is not in compliance with subsection (c) (1);

the Administration shall, within ten days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of general local government is located, and the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with subsection (c) (1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of subparagraph (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

“(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Administration. On or prior to the effective date of the agreement, the Administration shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semiannual reports with the Administration detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports, the Administration shall send a copy thereof to each such complainant.

Reports to
Administration.

“(C) If, at the conclusion of ninety days after notification under subparagraph (A)—

“(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

“(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits; the Administration shall notify the Attorney General that compliance has not been secured and suspend further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Administration in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than one hundred and twenty days, or, if there is a hearing under subparagraph (G), not more than thirty days after the conclusion of such hearing, unless there has been an express finding by the Administration after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (c) (1).

“(D) Payment of the suspended funds shall resume only if—

“(i) such State government or unit of general local government enters into a compliance agreement approved by the Administration and the Attorney General in accordance with subparagraph (B);

“(ii) such State government or unit of general local government complies fully with the final order or judgment of a Federal or State court, or by a Federal or State administrative agency if that order or judgment covers all the matters raised by the Administration in the notice pursuant to subparagraph (A), or is found to be in compliance with subsection (c) (1) by such court; or

“(iii) after a hearing the Administration pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

“(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within forty-five days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Administration shall suspend further payment of any funds under this title to that specific program or activity alleged by the Attorney General to be in violation of the provisions of this subsection until such time as the court orders resumption of payment.

“(F) Prior to the suspension of funds under subparagraph (C), but within the ninety-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (G), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (G).

“(G) (i) At any time after notification under subparagraph (A), but before the conclusion of the one hundred and twenty day period referred to in subparagraph (C), a State government or unit of general local government may request a hearing, which the Administration shall initiate within sixty days of such request.

“(ii) Within thirty days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the one hundred and twenty day period referred to in subparagraph (C), the Administration shall make a finding of compliance or noncompliance. If the Administrator makes a finding of noncompliance, the Administration shall notify the Attorney General in order that the Attorney General may institute a civil action under subsection (c) (3), terminate the payment of funds under this title, and, if appropriate, seek repayment of such funds.

“(iii) If the Administration makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

“(H) Any State government or unit of general local government aggrieved by a final determination of the Administration under subparagraph (G) may appeal such determination as provided in section 511 of this title.

“(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of such funds made available under this title as the court may deem appropriate, or placing any further such funds in escrow pending the outcome of the litigation.

“(4) (A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this subsection, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administrative remedies shall be deemed to be exhausted upon the expiration of sixty days after the date of the administrative complaint was filed with the Administration, or any other administrative enforcement agency, unless within such period there has been a determination by the Administration or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

“(B) In any civil action brought by a private person to enforce compliance with any provision of this subsection, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

“(C) In any action instituted under this section to enforce compliance with section 518(c)(1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.”

Ante, p. 2418.

CONFORMING AMENDMENT

SEC. 123. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out section 512.

42 USC 3760.

ADMINISTRATIVE PROVISIONS

SEC. 124. Section 515 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

42 USC 3763.

“SEC. 515. (a) Subject to the general authority of the Attorney General, and under the direction of the Administrator, the Administration shall—

“(1) review, analyze, and evaluate the comprehensive State plan submitted by the State planning agency in order to determine whether the use of financial resources and estimates of future requirements as requested in the plan are consistent with the purposes of this title to improve and strengthen law enforcement and criminal justice and to reduce and prevent crime; if warranted, the Administration shall thereafter make recommendations to the State planning agency concerning improvements to be made in that comprehensive plan;

“(2) assure that the membership of the State planning agency is fairly representative of all components of the criminal justice system and review, prior to approval, the preparation, justification, and execution of the comprehensive plan to determine whether the State planning agency is coordinating and controlling the disbursement of the Federal funds provided under this title in a fair and proper manner to all components of the State and local criminal justice system; to assure such fair and proper disbursement, the State planning agency shall submit to the Administration, together with its comprehensive plan, a financial analysis indicating the percentage of Federal funds to be allocated under

the plan to each component of the State and local criminal justice system;

“(3) develop appropriate procedures for determining the impact and value of programs funded pursuant to this title and whether such funds should continue to be allocated for such programs; and

“(4) assure that the programs, functions, and management of the State planning agency are being carried out efficiently and economically.

“(b) The Administration is also authorized—

“(1) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement within and without the United States; and

“(2) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, institutions, or international agencies in matters relating to law enforcement and criminal justice.

“(c) Funds appropriated for the purposes of this section may be expanded by grant or contract, as the Administration may determine to be appropriate.”.

ANNUAL REPORTS AMENDMENT

Report to
President and
congressional
committees.
42 USC 3767.

SEC. 125. Section 519 of the Omnibus Crime Control and Safe Streets Act of 1968, is amended to read as follows:

“SEC. 519. On or before December 31 of each year, the Administration shall report to the President and to the Committees on the Judiciary of the Senate and House of Representatives on activities pursuant to the provisions of this title during the preceding fiscal year. Such report shall include—

“(1) an analysis of each State’s comprehensive plan and the programs and projects funded thereunder including—

“(A) the amounts expended for each of the components of the criminal justice system,

“(B) a brief description of the procedures followed by the State in order to audit, monitor, and evaluate programs and projects,

“(C) the descriptions and number of program and project areas, and the amounts expended therefore, which are innovative or incorporate advanced techniques and which have demonstrated promise of furthering the purposes of this title,

“(D) the descriptions and number of program and project areas, and amounts expended therefore, which seek to replicate programs and projects which have demonstrated success in furthering the purposes of this title,

“(E) the descriptions and number of program and project areas, and the amounts expended therefor, which have achieved the purposes for which they were intended and the specific standards and goals set for them,

“(F) the descriptions and number of program and project areas, and the amounts expended therefor, which have failed to achieve the purposes for which they were intended or the specific standards and goals set for them,

“(2) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

“(3) an explanation of the procedures followed by the Administration in reviewing, evaluating, and processing the comprehensive State plans submitted by the State planning agencies and programs and projects funded thereunder;

“(4) the number of comprehensive State plans approved by the Administration without recommending substantial changes;

“(5) the number of comprehensive State plans on which the Administration recommended substantial changes, and the disposition of such State plans;

“(6) the number of State comprehensive plans funded under this title during the preceding three fiscal years in which the funds allocated have not been expended in their entirety;

“(7) the number of programs and projects with respect to which a discontinuation, suspension, or termination of payments occurred under section 509, or 518(c), together with the reasons for such discontinuation, suspension, or termination;

42 USC 3757.
Ante, p. 2418.

“(8) the number of programs and projects funded under this title which were subsequently discontinued by the States following the termination of funding under this title;

“(9) a summary of the measures taken by the Administration to monitor criminal justice programs funded under this title in order to determine the impact and value of such programs;

“(10) an explanation of how the funds made available under sections 306(a)(2), 402(b), and 455(a)(2) of this title were expended, together with the policies, priorities, and criteria upon which the Administration based such expenditures; and

42 USC 3736,
3742, 3750d.

“(11) a description of the implementation of, and compliance with, the regulations, guidelines, and standards required by section 454 of this Act.”.

42 USC 3750c.

EXTENSION OF PROGRAM; AUTHORIZATION OF APPROPRIATIONS

SEC. 126. (a) Section 520(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out the first sentence and inserting in lieu thereof the following: “There are authorized to be appropriated for the purposes of carrying out this title not to exceed \$220,000,000 for the period beginning on July 1, 1976, and ending on September 30, 1976, not to exceed \$880,000,000 for the fiscal year ending September 30, 1977; \$800,000,000 for the fiscal year ending September 30, 1978; and \$800,000,000 for the fiscal year ending September 30, 1979. In addition to any other sums available for the purposes of grants under part C of this title, there is authorized to be appropriated not to exceed \$15,000,000 for the fiscal year ending September 30, 1977; and not to exceed \$15,000,000 for each of the two succeeding fiscal years; for the purposes of grants to be administered by the Office of Community Anti-Crime Programs for community patrol activities and the encouragement of neighborhood participation in crime prevention and public safety efforts under section 301(b)(6) of this title.”.

42 USC 3768.

(b) Section 520(b) of such Act is amended to read as follows:

“(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs.”.

42 USC 3731.

42 USC 5671.

REGULATIONS REQUIREMENT

42 USC 3769. SEC. 127. Section 521 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by inserting immediately after subsection (c) the following:

“(d) Within one hundred and twenty days after the enactment of this subsection, the Administration shall promulgate regulations establishing—

Ante, p. 2418.

“(1) reasonable and specific time limits for the Administration to respond to the filing of a complaint by any person alleging that a State government or unit of general local government is in violation of the provisions of section 518(c) of this title; including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint, and

“(2) reasonable and specific time limits for the Administration to conduct independent audits and reviews of State governments and units of general local government receiving funds pursuant to this title for compliance with the provisions of section 518(c) of this title.”; and

(2) by redesignating subsection (d) as subsection (e).

OPERATION STING

42 USC 3769.

SEC. 128. (a) Section 521 of the Omnibus Crime Control and Safe Streets Act of 1968 is further amended by adding at the end the following new subsection:

Revolving fund,
establishment.

“(e) There is hereby established a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such goods and property. Notwithstanding any other provisions of law, any income or royalties generated from such projects together with income generated from any sale or use of such goods or property, where such goods or property are not claimed by their lawful owner, shall be paid into the revolving fund. Where a party establishes a legal right to such goods or property, the Administrator of the fund may in his discretion assert a claim against the property or goods in the amount of Federal funds used to purchase such goods or property. Proceeds from such claims shall be paid into the revolving fund. The Administrator is authorized to make disbursements by appropriate means, including grants, from the fund for the purpose of this section.”.

42 USC 3731.

(b) Section 301(c) of such Act is amended by adding at the end of the section the following: “In the case of a grant for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt commerce in such property, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary.”.

DEFINITIONS AMENDMENTS

42 USC 3781.

“Court of last
resort.”

SEC. 129. (a) Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

“(p) The term ‘court of last resort’ means that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State’s judicial system and the institutions of the State judicial branch and rulemaking authority.

In other States having two or more courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. Except as used in the definition of the term 'court of last resort', the term 'court' means a tribunal or judicial system having criminal or juvenile jurisdiction."

"Court."

"(q) The term 'evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title."

"Evaluation."

(b) Section 601(c) of such Act is amended by inserting "the Trust Territory of the Pacific Islands," after "Puerto Rico,".

42 USC 3781.

JUVENILE JUSTICE ACT AMENDMENTS

SEC. 130. (a) Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (88 Stat. 1129) is amended by striking subsection (b) and inserting in lieu thereof the following:

42 USC 5671.

"(b) In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, the Administration shall maintain from the appropriation for the Law Enforcement Assistance Administration, each fiscal year, at least 19.15 percent of the total appropriations for the Administration, for juvenile delinquency programs."

(b) Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended by striking out "and (15)" and inserting in lieu thereof "(15), and (17)".

42 USC 5633.

(c) Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended as follows:

42 USC 5635.

(1) After section 225(c) (6) add a new paragraph as follows:

"(7) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than forty thousand, located within States which have not city with a population over two hundred and fifty thousand."

(2) Add at the end a new subsection (d) as follows:

"(d) No city should be denied an application solely on the basis of its population."

TITLE II—PROVISIONS RELATING TO OTHER MATTERS

DRUG ENFORCEMENT ADMINISTRATION

SEC. 201. (a) Effective beginning one year after date of the enactment of this Act, the following positions in the Drug Enforcement Administration (and individuals holding such positions) are hereby excepted from the competitive service:

Effective date.
28 USC 509 note.

(1) positions at GS-16, 17, and 18 of the General Schedule under section 5332(a) of title 5, United States Code, and

(2) positions at GS-15 of the General Schedule which are designated as—

(A) regional directors,

(B) office heads, or

(C) executive assistants (or equivalent positions) under the immediate supervision of the Administrator (or the Deputy Administrator) of the Drug Enforcement Administration.

Effective date.

(b) Effective during the one year period beginning on the date of the enactment of this Act, vacancies in positions in the Drug Enforcement Administration (other than positions described in subsection (a)) at a grade not lower than GS-14 shall be filled—

(1) first, from applicants who have continuously held positions described in subsection (a) since the date of the enactment of this Act and who have applied for, and are qualified to fill, such vacancies, and

(2) then, from other applicants in the order which would have occurred in the absence of this subsection.

Any individual placed in a position under paragraph (1) shall be paid in accordance with subsection (d).

Effective date.

(c) (1) Effective beginning one year after the date of the enactment of this Act, an individual in a position described in subsection (a) may be removed, suspended for more than 30 days, furloughed without pay, or reduced in rank or pay by the Administrator of the Drug Enforcement Administration if—

(A) such individual has been employed in the Drug Enforcement Administration for less than the one-year period immediately preceding the date of such action, and

(B) the Administrator determines, in his discretion, that such action would promote the efficiency of the service.

Effective date.

(2) Effective beginning one year after the date of the enactment of this Act, an individual in a position described in subsection (a) may be reduced in rank or pay by the Administrator within the Drug Enforcement Administration if—

(A) such individual has been continuously employed in such position since the date of the enactment of this Act, and

(B) the Administrator determines, in his discretion, that such action would promote the efficiency of the service.

Any individual reduced in rank or pay under this paragraph shall be paid in accordance with subsection (d).

(3) The provisions of sections 7512 and 7701 of title 5, United States Code, and otherwise applicable Executive orders, shall not apply with respect to actions taken by the Administrator under paragraph (1) or any reduction in rank or pay (under paragraph (2) or otherwise) of any individual in a position described in subsection (a).

(d) Any individual whose pay is to be determined in accordance with this subsection shall be paid basic pay at the rate of basic pay he was receiving immediately before he was placed in a position under subsection (b) (1) or reduced in rank or pay under subsection (c) (2), as the case may be, until such time as the rate of basic pay he would receive in the absence of this subsection exceeds such rate of basic pay. The provisions of section 5337 of title 5, United States Code, shall not apply in any case in which this subsection applies.

JUSTICE DEPARTMENT PERSONNEL

SEC. 202. (a) Subsection (c) of section 5108 of title 5, United States Code, is amended by striking out paragraph (8) and inserting in lieu thereof the following new paragraph:

“(8) the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS-16, 17, and 18.”

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

“(109) Commissioner of Immigration and Naturalization, Department of Justice.

“(110) United States attorney for the Northern District of Illinois.

“(111) United States attorney for the Central District of California.

“(112) Director, Bureau of Prisons, Department of Justice.

“(113) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.”

(c) Section 5316 of title 5, United States Code, is amended by—

- (1) striking out paragraph (44);
- (2) striking out paragraph (115);
- (3) striking out paragraph (116);
- (4) striking out paragraph (58); and
- (5) striking out paragraph (134).

TERM OF FBI DIRECTOR

SEC. 203. Section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting “(a)” immediately after “Sec. 1101.” and by adding at the end thereof the following new subsection:

28 USC 532 note.

“(b) Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after June 1, 1973, the term of service of the Director of the Federal Bureau of Investigation shall be ten years. A Director may not serve more than one ten-year term. The provisions of subsections (a) through (c) of section 8335 of title 5, United States Code, shall apply to any individual appointed under this section.”

Effective date.

AUTHORIZING JURISDICTION

SEC. 204. No sums shall be deemed to be authorized to be appropriated for any fiscal year beginning on or after October 1, 1978, for the Department of Justice (including any bureau, agency, or other similar subdivision thereof) except as specifically authorized by Act of Congress with respect to such fiscal year. Neither the creation of a subdivision in the Department of Justice, nor the authorization of an activity of the Department, any subdivision, or officer thereof, shall be deemed in itself to be an authorization of appropriations for the Department of Justice, such subdivision, or activity, with respect to any fiscal year beginning on or after October 1, 1978.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1155 accompanying H.R. 13636 (Comm. on the Judiciary) and No. 94-1723 (Comm. of Conference).

SENATE REPORT No. 94-847 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 22, 23, 26, considered and passed Senate.

Sept. 2, considered and passed House, amended, in lieu of H.R. 13636.

Sept. 30, House and Senate agreed to conference report.

Public Law 94-504
94th Congress

Joint Resolution

Oct. 15, 1976
[H.J. Res. 1118]

To provide that qualified individuals may hear and determine claims for benefits under title IV of the Federal Coal Mine Health and Safety Act of 1969, and to provide for appeal to superior agency authority from any such determination.

Black lung
benefits.
30 USC 932a.
30 USC 901.
30 USC 925.
"Qualified
individual."

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That qualified individuals appointed by the Secretary of Labor may hear and determine claims for benefits under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969 and under section 415 of such Act. For purposes of this Joint Resolution, the term "qualified individual" means such an individual, regardless of whether that individual is a hearing examiner appointed under section 3105 of title 5, United States Code. Nothing in this Joint Resolution shall be deemed to imply that there is or is not in effect any authority for such individuals to hear and determine such claims under any provision of law other than this Joint Resolution.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Oct. 1, considered and passed House and Senate.

Public Law 94-505
94th Congress

An Act

To authorize conveyance of the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation.

Oct. 15, 1976
[H.R. 11347]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is authorized, subject to section 2 of this Act, to convey to the Shriners' Hospitals for Crippled Children, a Colorado corporation, without consideration, all right, title, and interest remaining in the United States in and to the following described land, being a portion of the tract conveyed to Shriners' Hospitals for Crippled Children by deed of July 12, 1946, pursuant to the Act entitled "An Act to authorize the Secretary of War to convey certain lands situated within the Fort Douglas Military Reservation to the Shriners' Hospitals for Crippled Children", approved March 14, 1946 (60 Stat. 55):

Shriners'
Hospitals for
Crippled
Children, Utah.
Conveyance.
Office of
Inspector General
in HEW.
Establishment.

Beginning at a point north 0 degrees 01 minutes 57 seconds west 42.07 feet and south 75 degrees 09 minutes 12 seconds east 34.14 feet from a Salt Lake City monument at the intersection of Eleventh Avenue and Virginia Street, such point being further described as north 529.37 feet and east 268.85 feet from the southwest corner of the northwest quarter of section 33, township 1 north, range 1 east, Salt Lake base and meridian; running thence south 0 degrees 01 minutes 57 seconds east 30.76 feet; thence south 87 degrees 50 minutes 03 seconds east 135.45 feet; thence north 75 degrees 09 minutes 12 seconds west 140.04 feet to the point of beginning.

Description.

SEC. 2. (a) The conveyance to be made under this Act shall be subject to the condition that the transferee, the Shriners' Hospitals for Crippled Children, shall reconvey or dedicate the land specifically described in the first section of this Act to Salt Lake County, Utah, for street construction purposes.

Conditions.

(b) The costs of any surveys necessary as an incident to the conveyance authorized by this Act shall be borne by the Shriners' Hospitals for Crippled Children.

Costs.

TITLE II—OFFICE OF INSPECTOR GENERAL

SEC. 201. In order to create an independent and objective unit—

Establishment.
42 USC 3521.

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Health, Education, and Welfare;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action; there is hereby established in the Department of Health, Education, and Welfare an Office of Inspector General.

OFFICERS

42 USC 3522.

SEC. 202. (a) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the Under Secretary, but shall not be under the control of, or subject to supervision by, any other officer of the Department.

(b) There shall also be in the Office a Deputy Inspector General appointed by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

(c) The Inspector General or the Deputy may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

5 USC 7321.

(d) The Inspector General and the Deputy shall each be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provisions which might otherwise apply.

(e) The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 6(a)(1), and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of the functions, powers, and duties transferred by section 6(a)(2).

DUTIES AND RESPONSIBILITIES

42 USC 3523.

SEC. 203. (a) It shall be the duty and responsibility of the Inspector General—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and non-governmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, or (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the Secretary and the Congress fully and currently informed, by means of the reports required by section 4 and other-

wise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by the Department, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a)(1), the Inspector General shall have authority to approve or disapprove the use of outside auditors or to take other appropriate steps to insure the competence and independence of such auditors.

(c) In carrying out the duties and responsibilities provided by this Act, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

(d) The Inspector General shall establish within his office an appropriate and adequate staff with specific responsibility for devoting their full time and attention to antifraud and antiabuse activities relating to the medicaid, medicare, renal disease, and maternal and child health programs. Such staff shall report to the Deputy.

REPORTS

SEC. 204. (a) The Inspector General shall, not later than March 31 of each year, submit a report to the Secretary and to the Congress summarizing the activities of the Office during the preceding calendar year. Such report shall include, but need not be limited to— 42 USC 3524.

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities;

(2) a description of recommendations for corrective action made by the Office with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1);

(3) an evaluation of progress made in implementing recommendations described in the report or, where appropriate, in previous reports; and

(4) a summary of matters referred to prosecutive authorities and the extent to which prosecutions and convictions have resulted.

(b) The Inspector General shall make reports on a quarterly basis to the Secretary and to the appropriate committees or subcommittees of the Congress identifying any significant problems, abuses, or deficiencies concerning which the Office has made a recommendation for corrective action and on which, in the judgment of the Inspector General, adequate progress is not being made.

(c) The Inspector General shall report immediately to the Secretary, and within seven calendar days thereafter to the appropriate committees or subcommittees of the Congress, whenever the Office becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the Department. The Deputy and Assistant Inspectors General shall have particular responsibility for informing the Inspector General of such problems, abuses, or deficiencies.

(d) The Inspector General (A) may make such additional investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General, necessary or desirable, and (B) shall provide such additional information or documents as may be requested by either House of

Congress or, with respect to matters within their jurisdiction, by any committee or subcommittee thereof.

(e) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval. The Inspector General shall, insofar as feasible, provide copies of the reports required under subsections (a) and (b) to the Secretary sufficiently in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

AUTHORITY; ADMINISTRATION PROVISIONS

42 USC 3525.

SEC. 205. (a) In addition to the authority otherwise provided by this Act, the Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department which relate to programs and operations with respect to which the Inspector General has responsibilities under this Act;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(5) in the event that a budget request for the Office of Inspector General is reduced, before submission to Congress, to an extent which the Inspector General deems seriously detrimental to the adequate performance of the functions mandated by this Act, the Inspector General shall so inform the Congress without delay;

5 USC 101.

5 USC 5101,
5332.

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

5 USC 5332.

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such

payments as may be necessary to carry out the provisions of this Act.

(b) (1) Upon request of the Inspector General for information or assistance under subsection (a) (2), the head of any Federal agency involved shall, insofar as is practicable, and not in contravention of any existing statutory restriction, or regulation of the Federal agency from which the information is requested, furnish to the Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a) (1) or (a) (2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Secretary and to the appropriate committees or subcommittees of the Congress without delay.

Report to
Secretary and
congressional
committees.

(3) In the event any record or other information requested by the Inspector General under subsection (a) (1) or (a) (2) is not considered to be available under the provisions of section 552a(b) (1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

(c) The Secretary shall provide the Inspector General and his staff with appropriate and adequate office space at central and field office locations of the Department, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

(d) (1) The Inspector General shall receive compensation at the rate provided for level IV of the Executive Schedule by section 5315 of title 5, United States Code.

Compensation.

(2) The Deputy shall receive compensation at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code.

TRANSFER OF FUNCTIONS

SEC. 206. (a) There are hereby transferred to the Office of Inspector General the functions, powers, and duties of— 42 USC 3526.

(1) the agency of the Department referred to as the "HEW Audit Agency";

(2) the office of the Department referred to as the "Office of Investigations"; and

(3) such other offices or agencies, or functions, powers, or duties thereof, as the Secretary may, with the consent of the Inspector General, determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act.

except that there shall not be transferred to the Inspector General under clause (3) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

DEFINITIONS

42 USC 3527.

SEC. 207. As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare;

(2) the term "Department" means the Department of Health, Education, and Welfare;

(3) the term "Inspector General" means the Inspector General of the Department;

(4) the term "Deputy" means the Deputy Inspector General of the Department; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1240 (Comm. on Government Operations).

SENATE REPORT No. 94-1324 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 20, considered and passed House.

Sept. 28, considered and passed Senate, amended.

Sept. 29, House agreed to Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 42:

Oct. 15, President statement.

Public Law 94-506
94th Congress

An Act

To designate the "Herman T. Schneebeli Federal Building".

Oct. 15, 1976
[H.R. 11303]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building at West Third Street, Williamsport, Pennsylvania, shall hereafter be known and designated as the "Herman T. Schneebeli Federal Building." Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Herman T. Schneebeli Federal Building.

Herman T.
Schneebeli
Federal Building,
Williamsport, Pa.
Designation.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1618 (Comm. on Public Works and Transportation).
SENATE REPORT No. 94-1386 (Comm. on Public Works).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Sept. 21, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 94-507
94th Congress

An Act

Oct. 15, 1976

[H.R. 14956]

Joe L. Evins
Post Office and
Federal Building,
Smithville, Tenn.
Designation.

To designate the "Joe L. Evins Post Office and Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Post Office and Federal Building at East Main Avenue and South First Street, Smithville, Tennessee, shall hereafter be known and designated as the "Joe L. Evins Post Office and Federal Building." Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Joe L. Evins Post Office and Federal Building.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1592 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-1383 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-508
94th Congress

An Act

To authorize appropriations for construction of facilities on Guam, and for other purposes.

Oct. 15, 1976

[H.R. 15136]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Supplemental
Authorization Act
for Military
Construction on
Guam.

TITLE I—MILITARY CONSTRUCTION

SEC. 101. (a) The Secretary of the Navy and the Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, equipment, and planning and design for the following acquisition and construction:

Naval Complex, Guam, \$59,950,000.

Andersen Air Force Base, Guam, \$23,871,000.

(b) There is authorized to be appropriated for the purpose of this section an amount not to exceed \$83,821,000.

TITLE II—MILITARY FAMILY HOUSING

SEC. 201. In addition to the funds authorized to be appropriated by section 507 and section 602 of Public Law 94-107 for military family housing, there is authorized to be appropriated for use by the Secretary of Defense, or his designee, for military family housing as authorized by law for demolition, construction, improvements, minor construction, and planning of family housing facilities on Guam an amount not to exceed \$30,491,000.

89 Stat. 561,
562.

TITLE III—GENERAL AND MISCELLANEOUS
PROVISIONS

SEC. 301. Authorizations in this Act shall be subject to the authorizations and limitations of the Military Construction Authorization Act, 1976 (Public Law 94-107), in the same manner as if such authorization had been included in that Act.

89 Stat. 546.

SEC. 302. This Act may be cited as the "Supplemental Authorization Act for Military Construction on Guam".

Short title.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1446 (Comm. on Armed Services).

SENATE REPORT No. 94-1309 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 20, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 1, House agreed to Senate amendments.

Public Law 94-509
94th Congress

An Act

Oct. 15, 1976
[S. 726]

To direct the Secretary of the Interior to convey, for fair market value, certain lands to Valley County, Idaho.

Valley County,
Idaho.
Land conveyance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey to Valley County, Idaho, subject to the provisions of section 2 of this Act, all right, title, and interest of the United States, in and to the following described lands:

The northwest quarter of the southwest quarter of section 3, township 15 north, range 4 east, Boise meridian, Valley County, Idaho.

SEC. 2. The conveyance authorized by the first section of this Act shall be made upon payment by Valley County, Idaho, to the Secretary of the Interior of an amount equal to the fair market value of such land, as determined by the Secretary after appraisal.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1634 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-575 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 18, considered and passed Senate.

Vol. 122 (1976): Oct. 1, considered and passed House.

Public Law 94-510
94th Congress

An Act

To designate the Federal office building located in Dover, Delaware, as the
"J. Allen Frear Building".

Oct. 15, 1976

[S. 999]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building located in Dover, Delaware, is designated as the "J. Allen Frear Building", in honor of Senator J. Allen Frear.

J. Allen Frear
Building,
Dover, Del.
Designation.

SEC. 2. Any reference to such building in any law, rule, document, map, or other record of the United States is deemed to be a reference to such building by the name designated for such building by the first section of this Act.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1586 accompanying H.R. 4847 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-484 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 14, considered and passed Senate.

Oct. 1, considered and passed House, in lieu of H.R. 4847.

Public Law 94-511
94th Congress

An Act

Oct. 15, 1976
[H.R. 2177]

To exempt from duty certain aircraft components and materials installed in aircraft previously exported from the United States where the aircraft is returned without having been advanced in value or improved in condition while abroad.

Certain aircraft
components and
materials.
Duty exemption.
19 USC 1202
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the case of any aircraft which—

- (1) was previously exported from the United States,
- (2) was composed, at the time of such exportation in part of components and materials which are products of the United States and which were installed—
 - (A) while such aircraft was within the United States, and
 - (B) after such aircraft was operational,
- (3) is returned to the United States after being so exported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, and
- (4) was entered for consumption before 1970 pursuant to an entry which is unliquidated as of the date of the enactment of this Act,

the rate of duty provided for in item 694.40 of the Tariff Schedules of the United States (19 U.S.C. 1202) on the date of such entry shall, notwithstanding any other provision of law, be assessed upon the full value of such aircraft less the value of such components and materials. For the purposes of this Act, the value of any such component or material is the cost of such component or material at the time of installation in the aircraft plus the cost of such installation.

SEC. 2. No entry may be liquidated as provided for in the first section of this Act unless request therefor is filed with the customs officer concerned on or before the thirtieth day after the date of the enactment of this Act.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1060 (Comm. on Ways and Means).

SENATE REPORT No. 94-1349 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 17, June 8, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-512
94th Congress

An Act

To name a portion of the site of the Anthony J. Celebrezze Federal Building in Cleveland, Ohio, the "George Washington Square".

Oct. 15, 1976
[H.R. 2749]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the portion of the site of the Anthony J. Celebrezze Federal Building in Cleveland, Ohio, lying west of said building, on which has been erected a statue of the First President of the United States, George Washington, shall, from and after the date of enactment of this Act, be known and designated as the "George Washington Square".

George
Washington
Square,
Cleveland, Ohio.
Designation.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1074 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-1385 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 17, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-513
94th Congress

An Act

Oct. 15, 1976
[H.R. 4206]

To designate the new Federal building in Albuquerque, New Mexico, as the
"Senator Dennis Chavez Federal Building".

Senator Dennis
Chavez
Federal Building,
Albuquerque,
N. Mex.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the new Federal building at the corner of Fifth Street and Gold Avenue Southwest, Albuquerque, New Mexico, shall hereafter be known as the Senator Dennis Chavez Federal Building. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Senator Dennis Chavez Federal Building".

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1585 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Oct. 1, considered and passed House and Senate.

Public Law 94-514
94th Congress

An Act

Relating to the deduction of interest on certain corporate indebtedness to acquire
stock or assets of another corporation

Oct. 15, 1976
[H.R. 7929]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (i) of section 279 of the Internal Revenue Code of 1954 (relating to interest on indebtedness incurred by a corporation to acquire stock or assets of another corporation) is amended by striking out the last sentence thereof.

Taxes.
Interest
deduction on
certain corporate
indebtedness.
26 USC 279.
26 USC 279 note.

(b) The amendment made by subsection (a) shall apply to taxable years ending after October 9, 1969. If refund or credit of any overpayment of income tax resulting from the amendment made by subsection (a) is prevented on the date of the enactment of this Act, or at any time within one year after such date, by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year from such date.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1345 (Comm. on Ways and Means).

SENATE REPORT No. 94-1266 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-515
94th Congress

An Act

Oct. 15, 1976
[H.R. 14977]

To name the Federal office building in Athens, Georgia, the "Robert G. Stephens, Jr. Federal Building".

Robert G.
Stephens, Jr.
Federal Building,
Athens, Ga.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building located at 355 East Hancock Avenue, Athens, Georgia, is hereby designated as the "Robert G. Stephens, Jr. Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Robert G. Stephens, Jr. Federal Building".

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1593 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-1382 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-516
94th Congress

An Act

To name the Federal office building in Bluefield, West Virginia, the
“Elizabeth Kee Federal Building”.

Oct. 15, 1976
[H.R. 15582]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building located at 601 Federal Street, Bluefield, West Virginia, is hereby designated as the “Elizabeth Kee Federal Building”. Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the “Elizabeth Kee Federal Building”.

Elizabeth Kee
Federal Building,
Bluefield, W. Va.
Designation.

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1595 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Oct. 1, considered and passed House and Senate.

Public Law 94-517
94th Congress

An Act

Oct. 15, 1976
[H.R. 15059]

To amend the Emergency Livestock Credit Act of 1974.

Emergency
livestock credit.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Emergency Livestock Credit Act of 1974 (88 Stat. 391, as amended; 7 U.S.C. Prec. 1961) is amended to read as follows:

"SEC. 8. The provisions of this Act shall become effective upon enactment, and the authority to make new guarantees shall expire on September 30, 1978."

Approved October 15, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1598 (Comm. on Agriculture).

SENATE REPORT No. 94-1267 accompanying S. 3713 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 29, considered and passed House.

Sept. 30, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 15, Presidential statement.

Public Law 94-518
94th Congress

An Act

To authorize the study of certain areas by the Secretaries of Agriculture and the Interior.

Oct. 17, 1976
[S. 400]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**TITLE I—FREDERICK LAW OLMSTED HOME AND
OFFICE, BROOKLINE, MASSACHUSETTS**

Studies by
Secretaries of
Agriculture and
Interior.
Authorization.

SEC. 101. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the Frederick Law Olmsted Home and Office as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

Study,
transmittal to
congressional
committees.

**TITLE II—SAINT PAUL'S CHURCH, EASTCHESTER,
NEW YORK**

SEC. 201. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of Saint Paul's Church as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

Study,
transmittal to
congressional
committees.

**TITLE III—NATIONAL MUSEUM OF AFRO-AMERICAN
HISTORY AND CULTURE AT OR NEAR WILBERFORCE,
OHIO**

SEC. 301. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study for a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration of such museum.

Study,
transmittal to
congressional
committees.

**TITLE IV—KALAUPAPA SETTLEMENT ON THE ISLAND
OF MOLOKAI, HAWAII**

SEC. 401. (a) The Congress finds:

(1) Since 1866 a colony for the care and treatment of the victims of leprosy, known as the Kalaupapa settlement, has existed on the island of Molokai in the State of Hawaii. On this site Father Joseph Damien de Veuster (1840-1889) worked for sixteen years among those victims

until at last succumbing to their disease. This inspiring work made him a figure of such national acclaim that a statue of him rests in the Nation's Capitol. This work led to proceedings for his beatification by the Catholic Church and to worldwide veneration of this devotion and mission. This respect and admiration served to focus unprecedented attention on the disease of leprosy and stimulated charity and scientific research toward its cure.

(2) The Kalaupapa settlement constitutes a unique and nationally significant cultural, historical, educational, and scenic resource.

(b) The purposes of this title are—

(1) to preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations, and

(2) to provide that the preservation and interpretation of that settlement be managed and performed by native Hawaiians, including patients and former patients of the Kalaupapa settlement, to the extent practical, and that training opportunities be provided such persons in management and interpretation of the settlement's cultural, historical, educational, and scenic resources.

Study.

SEC. 402. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall study the feasibility and desirability of establishing as a part of the National Park System an area (hereinafter referred to as the "proposed park area") comprising all, or a portion of, the lands, waters, and interest in Kalawao County on the island of Molokai.

(b) As a part of such study, the Secretary shall consult with other interested Federal agencies, with other interested State and local bodies and officials, with patients and former patients presently in residence at the Kalaupapa settlement and with the Commission established by section 404, and he shall coordinate the study with other applicable planning activities.

Report, submittal
to President and
Congress.

SEC. 403. (a) The Secretary shall submit to the President and the Congress within two years after the date of the enactment of this title a report of his study. The report of the Secretary shall contain, but not be limited to, findings with respect to the historic, cultural, educational, scenic, and natural values of the resources involved and recommendations for preservation and interpretation of those resources.

Master plan.

(b) The report of the Secretary referred to in subsection (a) shall include a detailed proposed master plan for the development of the proposed park area. Such plan shall include: (1) a schedule of acquisition of the proposed park area, (2) an assessment of planned restorations of historic sites, (3) an estimate of park development and long-term operation costs, (4) a plan for the development of programs (including training programs) for native Hawaiians, including patients and former patients of the Kalaupapa settlement, to manage and perform the preservation and interpretation of the park, (5) provision for the preservation of existing, exclusive hunting and fishing (konohiki) rights of the residents of Kalawao County, and (6) provision to prevent the dislocation or displacement of any patient or former patient presently in residence at the Kalaupapa settlement and to maintain transportation and hospital facilities and other public services as may be necessary for any remaining patients or settlement staff.

Kalaupapa
National
Historical Park
Advisory
Commission.
Establishment.
Membership.

SEC. 404. (a) There is hereby established a Kalaupapa National Historical Park Advisory Commission.

(b) The Commission shall be composed of fifteen members, at least six of whom shall be native Hawaiians, appointed by the Secretary, as follows:

(1) two members, one of whom will be appointed from recommendations made by each of the United States Senators representing the State of Hawaii, respectively;

(2) two members, one of whom will be appointed from recommendations made by each of the United States Representatives for the State of Hawaii, respectively;

(3) five public members, who shall have knowledge and experience in one or more fields as they pertain to Hawaii of history, ethnology, education, medicine, religion, culture, and folklore and including representatives of the Bishop Museum, the University of Hawaii, and organizations active in the State of Hawaii in the conservation of resources, to be appointed from recommendations made by the Governor of the State of Hawaii;

(4) two members to be appointed from recommendations made by local organizations representing the native Hawaiian people;

(5) at least two members representing the patient's organization; and

(6) two members to be appointed from recommendations made by the mayor of the county of Maui.

(c) The term "native Hawaiian", as used in this title means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.

"Native
Hawaiian."

(d) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

Chairman.

(e) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this title on vouchers signed by the Chairman.

Expenses.

(f) The Commission shall cease to exist at the time of submission of the Secretary's report referred to in section 403(a) to the President and the Congress.

Termination.

SEC. 405. During the period commencing with the date of the enactment of this title and ending with submission of the Secretary's report to the President and the Congress and any necessary completion of congressional consideration of recommendations included in that report (1) no department or agency of the United States shall, without prior approval of the Secretary, assist by loan, grant, license, or otherwise in the implementation of any project which, in the determination of the Secretary, would unreasonably diminish the value of cultural, historical, educational, scenic, or natural resources relating to the proposed park area and (2) the Chief of Engineers, Department of the Army, shall not, without prior approval of the Secretary, undertake or assist by license or otherwise the implementation of any project which, in the determination of the Secretary, would diminish the value of natural resources located within one-quarter mile of the proposed park.

TITLE V—SHAWNEE HILLS, ILLINOIS

SEC. 501. The Congress finds that the Shawnee Hills in the State of Illinois contain unique recreational resources; that the Shawnee Hills possess historical, cultural, educational, recreational and natural qualities which offer outstanding opportunities for public enjoyment; and that such opportunities should be utilized and developed to their optimum potential for the full enjoyment of present and future generations.

Study.

SEC. 502. The Secretary of Agriculture is authorized and directed to study the Shawnee Hills in Saline, Pope, Gallatin, and Hardin Counties, Illinois, as depicted on the map entitled, "Shawnee Hills Study Area," dated June 1976, which shall be on file and available for inspection in the Office of the Chief, Forest Service, United States Department of Agriculture. Within three years from the date of enactment of this title, the Secretary shall submit a report to the Congress, including his recommendation as to the desirability and feasibility of establishing a national recreation area within the Shawnee Hills Study Area. Such report shall include the estimated costs of such establishment and proposed legislation to implement any recommendation for the establishment of such area.

Report, submittal to Congress.

TITLE VI—GEORGE W. NORRIS HOME, McCOOK, NEBRASKA

Study, submittal to congressional committees.

SEC. 601. The Secretary of the Interior shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives within two years from the date of enactment of this Act a feasibility/suitability study of the George W. Norris home as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

TITLE VII—MOUNT MITCHELL, NORTH CAROLINA

Study, submittal to congressional committees.

SEC. 701. The Secretary of the Interior, in consultation with the Governor of the State of North Carolina and the Secretary of Agriculture, shall prepare and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within three years from the date of enactment of this Act a feasibility/suitability study of the Black Mountain Range of North Carolina, including the Mount Mitchell State Park, and the nearby federally owned lands adjacent to the Blue Ridge Parkway, including the Craggy Mountains, as a proposed Mount Mitchell National Park. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as any alternatives for the administration and protection of the area.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1610 accompanying H.R. 15558 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1152 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 25, considered and passed Senate.

Sept. 22, considered and passed House, amended, in lieu of H.R. 15558.

Oct. 1, Senate concurred in House amendments with amendments; House concurred in Senate amendments.

Public Law 94-519
94th Congress

An Act

To amend the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property to the States and local organizations for public purposes, and for other purposes.

Oct. 17, 1976

[H.R. 14451]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended as follows:

(1) Subsection (j) is amended to read as follows:

“(j) (1) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to transfer, without cost (except for costs of care and handling), any personal property under the control of any executive agency which has been determined to be surplus property to the State agency in each State designated under State law as the agency responsible for the fair and equitable distribution, through donation, of all property transferred in accordance with the provisions of paragraphs (2) and (3) of this subsection. In determining whether the property is to be transferred for donation under this subsection, no distinction shall be made between property capitalized in a working-capital fund established under section 2208 of title 10, United States Code, or any similar fund, and any other property.

“(2) In the case of surplus personal property under the control of the Department of Defense, the Secretary of Defense shall determine whether such property is usable and necessary for educational activities which are of special interest to the armed services, such as maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools. If the Secretary determines that such property is usable and necessary for said purposes, the Secretary shall allocate it for transfer by the Administrator to the appropriate State agency for distribution, through donation, to such educational activities. If the Secretary determines that such property is not usable and necessary for such purposes, it may be disposed of in accordance with paragraph (3) of this subsection.

“(3) Except for surplus personal property transferred pursuant to paragraph (2) of this subsection, the Administrator shall, pursuant to criteria which are based on need and utilization and established after such consultation with State agencies as is feasible, allocate such property among the States in a fair and equitable basis (taking into account the condition of the property as well as the original acquisition cost thereof), and transfer to the State agency property selected by it for distribution through donation within the State—

“(A) to any public agency for use in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or

“(B) to nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child

Federal surplus
property.
Donation to
States and local
organizations.

26 USC 501.

care centers, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, museums attended by the public, and libraries serving free all residents of a community, district, State, or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, for purposes of education or public health (including research for any such purpose).

The Administrator, in allocating and transferring property under this paragraph, shall give fair consideration, consistently with the established criteria, to expressions of need and interest on the part of public agencies and other eligible institutions within that State, and shall give special consideration to requests by eligible recipients, transmitted through the State agency, for specific items of property.

“(4) (A) Before property may be transferred to any State agency, such State shall develop, according to State law, a detailed plan of operation, developed in conformity with the provisions of this subsection, which shall include adequate assurance that the State agency has the necessary organizational and operational authority and capability, including staff, facilities, means and methods of financing, and procedures with respect to: accountability, internal and external audits, cooperative agreements, compliance and utilization reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups. The chief executive officer shall certify and submit the plan to the Administrator. In the event that a State legislature has not developed, according to State law, a State plan within two hundred and seventy calendar days after the date of enactment of this Act, the chief executive officer of the State shall approve, and submit to the Administrator, a temporary State plan. No such plan, and no major amendment thereof, shall be filed with the Administrator until sixty days after general notice of the proposed plan or amendment has been published and interested persons have been given at least thirty days during which to submit comments. In developing and implementing the State plan, the relative needs and resources of all public agencies and other eligible institutions within the State shall be taken into consideration. The Administrator may consult with interested Federal agencies for purposes of obtaining their views concerning the administration and operation of this subsection.

“(B) The State plan shall provide for the fair and equitable distribution of property within such State based on the relative needs and resources of interested public agencies and other eligible institutions within the State and their abilities to utilize the property.

“(C) (i) The State plan of operation shall require the State agency to utilize a management control system and accounting system for donable property transferred under this section of the same types as are required by State law for State-owned property, except that the State agency, with the approval of the chief executive officer of the State, may elect, in lieu of such systems, to utilize such other management control and accounting systems as are effective to govern the utilization, inventory control, accountability, and disposal of property under this subsection.

“(ii) The State plan of operation shall require the State agency to provide for the return of donable property for further distribution if such property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for such purposes within one year of being placed in use.

“(iii) The State plan shall require the State agency, insofar as practicable, to select property requested by a public agency or other eligible institution within the State and, if so requested by the recipient, to arrange shipment of that property, when acquired, directly to the recipient.

“(D) Where the State agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing such charges shall be set out in the State plan of operation. Such charges shall be fair and equitable and shall be based on services performed by the State agency, including, but not limited to, screening, packing, crating, removal, and transportation.

“(E) The State plan of operation shall provide that the State agency may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under paragraph (3) of this subsection and shall impose such terms, conditions, reservations, and restrictions in the case of any passenger motor vehicle and any item of other property having a unit acquisition cost of \$3,000 or more. If the Administrator finds that an item or items have characteristics that require special handling or use limitations, he may impose appropriate conditions on the donation of such property.

“(F) The State plan of operation shall provide that surplus property which the State agency determines cannot be utilized by eligible recipients shall be disposed of—

“(i) subject to the disapproval of the Administrator within thirty days after notice to him, through transfer by the State agency to another State agency or through abandonment or destruction where the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale; or

“(ii) otherwise pursuant to the provisions of this Act under such terms and conditions and in such manner as may be prescribed by the Administrator.

Notwithstanding sections 204 and 402(c) of this Act, the Administrator, from the proceeds of sale of any such property, may reimburse the State agency for such expenses relating to the care and handling of such property as he shall deem appropriate.

40 USC 485,
512.

“(5) As used in this subsection, (A) the term ‘public agency’ means any State, political subdivision thereof (including any unit of local government or economic development district), or any department, agency, instrumentality thereof (including instrumentalities created by compact or other agreement between States or political subdivisions), or any Indian tribe, band, group, pueblo, or community located on a State reservation and (B) the term ‘State’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Virgin Islands, Guam, and American Samoa.”

“Public agency.”

“State.”

(2) Subsection (k) is amended—

(A) in the first sentence of paragraph (4), immediately following the word “subsection”, by adding “, except with respect to personal property transferred pursuant to subsection (j)”;

(B) in subparagraph (4) (C), by inserting “or” immediately after the semicolon;

(C) in subparagraph (4) (D), immediately following the words “armed forces”, by striking out “; or” and inserting in lieu thereof a period; and

(D) by striking out subparagraph (4) (E).

(3) Subsection (n) is amended to read as follows:

“(n) For the purpose of carrying into effect the provisions of subsection (j), the Administrator or the head of any Federal agency designated by the Administrator, and, with respect to subsection (k) (1), the Secretary of Health, Education, and Welfare or the head of any Federal agency designated by the Secretary, are authorized to enter into cooperative agreements with State surplus property distribution agencies designated in conformity with subsection (j). Such cooperative agreements may provide for utilization by such Federal agency, with or without payment or reimbursement, of the property, facilities, personnel, and services of the State agency in carrying out any such program, and for making available to such State agency, with or without payment or reimbursement, property, facilities, personnel, or services of such Federal agency in connection with such utilization. Payment or reimbursement, if any, from the State agency shall be credited to the fund or appropriation against which charges would be made if no payment or reimbursement were received. In addition, under such cooperative agreements and subject to such other conditions as may be imposed by the Administrator, or with respect to subsection (k) (1) by the Secretary of Health, Education, and Welfare, any surplus property transferred to the State agency for distribution pursuant to subsection (j) (3) may be retained by the State agency for use in performing its functions. Unless otherwise directed by the Administrator, title to property so retained shall vest in the State agency.”

(4) Subsection (o) is amended to read as follows:

Report to
Congress.

“(o) The Administrator with respect to personal property donated under subsection (j), and the head of each executive agency disposing of real property under subsection (k), shall submit during the calendar quarter following the close of each fiscal year a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) showing the acquisition cost of all personal property so donated and of all real property so disposed of during the preceding fiscal year. Such reports shall also show donations and transfers of property according to State, and may include such other information and recommendations as the Administrator or other executive agency head concerned deems appropriate.”

40 USC 484 note.

SEC. 2. Except to the extent that the Administrator of General Services, in the case of specific items or categories of property, has determined otherwise, no term, condition, reservation, or restriction imposed pursuant to subsection (j) (5) of section 203 of the Federal Property and Administrative Services Act of 1949 (as in effect prior to the date of enactment of this Act), on the use of any item of personal property donated pursuant to subsection (j) (3) or (j) (4) of section 203 prior to the effective date of this Act as provided in section 9(a), shall remain in effect beyond the thirtieth day after such effective date. This section shall not be deemed to terminate any civil or criminal liability arising out of a violation of such a term, condition, reservation, or restriction which occurred prior to such effective date if a judicial proceeding to enforce such liability is pending on such effective date, or is commenced within one year after such date.

40 USC 484.

SEC. 3. Section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) is amended by adding the following new subsections:

“(d) Notwithstanding any other provisions of law, Federal agencies are prohibited from obtaining excess personal property for purposes of furnishing such property to grantees of such agencies, except as follows:

“(1) Under such regulations as the Administrator may prescribe, any Federal agency may obtain excess personal property for purposes of furnishing it to any institution or organization which is a public agency or is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1954, and which is conducting a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination made: *Provided, That*—

Regulations.

26 USC 501.

“(A) such property is to be furnished for use in connection with the grant; and

“(B) the sponsoring Federal agency pays an amount equal to 25 per centum of the original acquisition cost (except for costs of care and handling) of the excess property furnished, such funds to be covered into the Treasury as miscellaneous receipts.

Title to excess property obtained under this paragraph shall vest in the grantees and shall be accounted for and disposed of in accordance with procedures governing the accountability of personal property acquired under grant agreements.

“(2) Under such regulations and restrictions as the Administrator may prescribe, the provisions of this subsection shall not apply to the following:

Regulations.

“(A) property furnished under section 608 of the Foreign Assistance Act of 1961, as amended, where and to the extent that the Administrator of General Services determines that the property to be furnished under such Act is not needed for donation pursuant to section 203(j) of this Act;

22 USC 2358.

Ante, p. 2451.

“(B) scientific equipment furnished under section 11(e) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(e));

“(C) property furnished under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a), in connection with the Cooperative Forest Fire Control Program, where title is retained in the United States; or

“(D) property furnished in connection with grants to Indian tribes as defined in section 3(c) of the Indian Financing Act (25 U.S.C. 1452(c)).

This paragraph shall not preclude any Federal agency obtaining property and furnishing it to a grantee of that agency under paragraph (1) of this subsection.

“(e) Each executive agency shall submit during the calendar quarter following the close of each fiscal year a report to the Administrator showing, with respect to personal property—

Report to Administrator.

“(1) obtained as excess property or as personal property determined to be no longer required for the purposes of the appropriation from which it was purchased, and

“(2) furnished in any manner whatsoever within the United States to any recipient other than a Federal agency,

the acquisition cost, categories of equipment, recipient of all such property, and such other information as the Administrator may require. The Administrator shall submit a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) summarizing and analyzing the reports of the executive agencies.”

Report to Congress.

SEC. 4. Section 402(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 512(c)) is amended by striking out

“whenever the head of the executive agency concerned determines that it is in the interest of the United States to do so” and inserting in lieu thereof “, whenever the head of the executive agency concerned, or the Administrator after consultation with such agency head, determines that return of the property to the United States for such handling is in the interest of the United States”.

40 USC 483c.

SEC. 5. Notwithstanding any other provision of law, and except as the Administrator of General Services may otherwise provide on recommendation of the head of an affected Federal agency, excess personal property acquired by a Federal agency pursuant to the authority of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and furnished to and held by a grantee of such agency prior to the effective date of this Act (as provided in section 9(b)) under grants made pursuant to programs established by law shall be regarded as surplus property. The Administrator of General Services upon receipt of a certification by the head of an agency that the property is being used by the grantee for the purposes for which it was furnished shall transfer title to the property to the grantee. The grantor agency shall survey Federal property acquired from excess sources in the possession of its grantees and shall notify the Administrator of General Services, not later than two hundred and forty days from the date of enactment of this Act, of those items of property which are being used by each grantee for the purpose for which it was furnished, and those items which are not being used by each grantee. If the property is not being so used, the Administrator shall transfer such property to an appropriate State agency, upon its request, for distribution in accordance with subsection 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)). Property not so transferred shall be otherwise disposed of pursuant to the provisions of that Act.”.

Repeal.

42 USC 3193.

Transfer of
personnel,
records, etc.
40 USC 484c.

SEC. 6. Section 514 of the Public Works and Economic Development Act of 1965 (88 Stat. 1162) is repealed.

SEC. 7. (a) So much of the personnel, property, records, and unexpended balance of appropriations, allocations, and other funds as are, in the judgment of the Director of the Office of Management and Budget, employed, used, held, available, or to be made available in relation to those personal property functions which the Secretary of Health, Education, and Welfare was authorized to perform under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) immediately prior to the date of enactment of this Act and which under this Act become vested in the Administrator of General Services shall be transferred to the General Services Administration at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget deems necessary to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as the Director shall direct.

SEC. 8. Title VI of the Federal Property and Administrative Services Act of 1949 is amended by adding after section 605 the following new section:

“SEX DISCRIMINATION

40 USC 476.

“SEC. 606. No individual shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision shall be enforced through agency provisions and rules similar to those already estab-

lished with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or remove any other legal remedies available to any individual alleging discrimination.”.

42 USC 2000d.

SEC. 9. The provisions of this Act shall become effective one year after the date of enactment of this Act.

Effective date.

40 USC 484 note.

SEC. 10. Not later than thirty months after the effective date of this Act, and biennially thereafter, the Administrator and the Comptroller General of the United States shall each transmit to the Congress reports which cover the two-year period from such effective date and contain (1) a full and independent evaluation of the operation of this Act, (2) the extent to which the objectives of this Act have been fulfilled, (3) how the needs served by prior Federal personal property distribution programs have been met, (4) an assessment of the degree to which the distribution of surplus property has met the relative needs of the various public agencies and other eligible institutions, and (5) such recommendations as the Administrator and the Comptroller General, respectively, determine to be necessary or desirable.

Reports to
Congress.

40 USC 493.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1429 (Comm. on Government Operations).

SENATE REPORT No. 94-1323 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.

Sept. 28, considered and passed Senate, amended.

Sept. 29, House agreed to Senate amendments.

Public Law 94-520
94th Congress

An Act

Oct. 17, 1976
[S. 2923]

To amend title 28 of the United States Code to provide that full-time United States magistrates shall receive the same compensation as full-time referees in bankruptcy and to adjust the salary of part-time magistrates.

U.S. Magistrates,
full-time.
Compensation.

28 USC 633.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 634(a) of title 28 of the United States Code is amended by changing the first sentence of said subsection to read as follows:

“(a) Officers appointed under this chapter shall receive as full compensation for their services salaries to be fixed by the conference pursuant to section 633 of this title, at rates for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended, except that the salary of a part-time United States magistrate shall not be less than \$100 nor more than one-half the maximum salary payable to a full-time magistrate.”

SEC. 2. Section 631 of title 28 of the United States Code is amended—

(1) in the first sentence of subsection (a), by inserting “and the district court of the Virgin Islands” immediately after “United States district court”;

(2) by inserting immediately after the first sentence of subsection (a) the following: “In the case of a magistrate appointed by the district court of the Virgin Islands, this chapter shall apply as though the court appointing such magistrate were a United States district court.”; and

(3) in subsection (b) (1) (B), by inserting immediately before the semicolon the following: “, and in the Virgin Islands of the United States, a member in good standing of the bar of the district court of the Virgin Islands”.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1607 (Comm. on the Judiciary).

SENATE REPORT No. 94-624 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 5, considered and passed Senate.

Sept. 29, considered and passed House, amended.

Sept. 30, Senate concurred in House amendment.

Public Law 94-521
94th Congress

An Act

To amend title 13, United States Code, to provide for a mid-decade census of population, and for other purposes.

Oct. 17, 1976
[H.R. 11337]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of title 13, United States Code, relating to definitions, is amended to read as follows:

Mid-decade
census of
population.

“§ 1. Definitions

“As used in this title, unless the context requires another meaning or unless it is otherwise provided—

“(1) ‘Bureau’ means the Bureau of the Census;

“(2) ‘Secretary’ means the Secretary of Commerce; and

“(3) ‘respondent’ includes a corporation, company, association, firm, partnership, proprietorship, society, joint stock company, individual, or other organization or entity which reported information, or on behalf of which information was reported, in response to a questionnaire, inquiry, or other request of the Bureau.”

SEC. 2. Section 3 of title 13, United States Code, relating to the seal of the Bureau of the Census, is amended by striking out “affixed to all certificates and attestations that may be required from the Bureau” and inserting in lieu thereof “affixed to all documents authenticated by the Bureau”.

SEC. 3. (a) Section 4 of title 13, United States Code, relating to the functions of the Secretary, is amended to read as follows:

“§ 4. Functions of Secretary; regulations; delegation

“The Secretary shall perform the functions and duties imposed upon him by this title, may issue such rules and regulations as he deems necessary to carry out such functions and duties, and may delegate the performance of such functions and duties and the authority to issue such rules and regulations to such officers and employees of the Department of Commerce as he may designate.”

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

“4. Functions of Secretary; delegation.”

and inserting in lieu thereof—

“4. Functions of Secretary; regulations; delegation.”

SEC. 4. (a) Section 5 of title 13, United States Code, relating to schedules and inquiries, is amended—

(1) in the section heading, by striking out “Schedules” and inserting in lieu thereof “Questionnaires”; and

(2) in the text thereof, by striking out “schedules” and inserting in lieu thereof “questionnaires”.

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

“5. Schedules; number, form, and scope of inquiries.”

and inserting in lieu thereof—

“5. Questionnaires; number, form, and scope of inquiries.”

SEC. 5. (a) Section 6 of title 13, United States Code, relating to requests for information, is amended to read as follows:

“§ 6. Information from other Federal departments and agencies; acquisition of reports from other governmental and private sources

“(a) The Secretary, whenever he considers it advisable, may call upon any other department, agency, or establishment of the Federal Government, or of the government of the District of Columbia, for information pertinent to the work provided for in this title.

“(b) The Secretary may acquire, by purchase or otherwise, from States, counties, cities, or other units of government, or their instrumentalities, or from private persons and agencies, such copies of records, reports, and other material as may be required for the efficient and economical conduct of the censuses and surveys provided for in this title.

“(c) To the maximum extent possible and consistent with the kind, timeliness, quality and scope of the statistics required, the Secretary shall acquire and use information available from any source referred to in subsection (a) or (b) of this section instead of conducting direct inquiries.”

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

“6. Requests to other departments and offices for information, acquisition of reports from governmental and other sources.”

and inserting in lieu thereof—

“6. Information from other Federal departments and agencies; acquisition of reports from other governmental and private sources.”

SEC. 6. (a) So much of section 8 of title 13, United States Code, as precedes subsection (d) thereof is amended to read as follows:

“§ 8. Authenticated transcripts or copies of certain returns; other data; restriction on use; disposition of fees received

“(a) The Secretary may, upon written request, furnish to any respondent, or to the heir, successor, or authorized agent of such respondent, authenticated transcripts or copies of reports (or portions thereof) containing information furnished by, or on behalf of, such respondent in connection with the surveys and census provided for in this title, upon payment of the actual or estimated cost of searching the records and furnishing such transcripts or copies.

“(b) Subject to the limitations contained in sections 6(c) and 9 of this title, the Secretary may furnish copies of tabulations and other statistical materials which do not disclose the information reported by, or on behalf of, any particular respondent, and may make special statistical compilations and surveys, for departments, agencies, and establishments of the Federal Government, the government of the District of Columbia, the government of any possession or area (including political subdivisions thereof) referred to in section 191(a) of this title, State or local agencies, or other public and private persons and agencies, upon payment of the actual or estimated cost of such work. In the case of nonprofit agencies or organizations, the Secretary may engage in joint statistical projects, the purpose of which are otherwise authorized by law, but only if the cost of such projects are shared equitably, as determined by the Secretary.

“(c) In no case shall information furnished under this section be used to the detriment of any respondent or other person to whom such information relates, except in the prosecution of alleged violations of this title.”

Supra.

13 USC 9.

13 USC 191.

(b) The table of sections of chapter 1 of title 13, United States Code, is amended by striking out—

"8. Certified copies of certain returns; other data; restriction on use; disposition of fees received."

and inserting in lieu thereof—

"8. Authenticated transcripts or copies of certain returns; other data; restriction on use; disposition of fees received."

SEC. 7. (a) Section 141 of title 13, United States Code, relating to censuses of population, unemployment, and housing, is amended to read as follows:

§ 141. Population and other census information

"(a) The Secretary shall, in the year 1980 and every 10 years thereafter, take a decennial census of population as of the first day of April of such year, which date shall be known as the 'decennial census date', in such form and content as he may determine, including the use of sampling procedures and special surveys. In connection with any such census, the Secretary is authorized to obtain such other census information as necessary.

Decennial census.

"(b) The tabulation of total population by States under subsection (a) of this section as required for the apportionment of Representatives in Congress among the several States shall be completed within 9 months after the census date and reported by the Secretary to the President of the United States.

Report to President.

"(c) The officers or public bodies having initial responsibility for the legislative apportionment or districting of each State may, not later than 3 years before the decennial census date, submit to the Secretary a plan identifying the geographic areas for which specific tabulations of population are desired. Each such plan shall be developed in accordance with criteria established by the Secretary, which he shall furnish to such officers or public bodies not later than April 1 of the fourth year preceding the decennial census date. Such criteria shall include requirements which assure that such plan shall be developed in a nonpartisan manner. Should the Secretary find that a plan submitted by such officers or public bodies does not meet the criteria established by him, he shall consult to the extent necessary with such officers or public bodies in order to achieve the alterations in such plan that he deems necessary to bring it into accord with such criteria. Any issues with respect to such plan remaining unresolved after such consultation shall be resolved by the Secretary, and in all cases he shall have final authority for determining the geographic format of such plan. Tabulations of population for the areas identified in any plan approved by the Secretary shall be completed by him as expeditiously as possible after the decennial census date and reported to the Governor of the State involved and to the officers or public bodies having responsibility for legislative apportionment or districting of such State, except that such tabulations of population of each State requesting a tabulation plan, and basic tabulations of population of each other State, shall, in any event, be completed, reported, and transmitted to each respective State within one year after the decennial census date.

"(d) Without regard to subsections (a), (b), and (c) of this section, the Secretary, in the year 1985 and every 10 years thereafter, shall conduct a mid-decade census of population in such form and content as he may determine, including the use of sampling procedures and special surveys, taking into account the extent to which information to be obtained from such census will serve in lieu of information

Mid-decade census.

collected annually or less frequently in surveys or other statistical studies. The census shall be taken as of the first day of April of each such year, which date shall be known as the 'mid-decade census date'.

"(e) (1) If—

"(A) in the administration of any program established by or under Federal law which provides benefits to State or local governments or to other recipients, eligibility for or the amount of such benefits would (without regard to this paragraph) be determined by taking into account data obtained in the most recent decennial census, and

"(B) comparable data is obtained in a mid-decade census conducted after such decennial census,

then in the determination of such eligibility or amount of benefits the most recent data available from either the mid-decade or decennial census shall be used.

"(2) Information obtained in any mid-decade census shall not be used for apportionment of Representatives in Congress among the several States, nor shall such information be used in prescribing congressional districts.

Submittal to
congressional
committees.

"(f) With respect to each decennial and mid-decade census conducted under subsection (a) or (d) of this section, the Secretary shall submit to the committees of Congress having legislative jurisdiction over the census—

"(1) not later than 3 years before the appropriate census date, a report containing the Secretary's determination of the subjects proposed to be included, and the types of information to be compiled, in such census;

"(2) not later than 2 years before the appropriate census date, a report containing the Secretary's determination of the questions proposed to be included in such census; and

"(3) after submission of a report under paragraph (1) or (2) of this subsection and before the appropriate census date, if the Secretary finds new circumstances exist which necessitate that the subjects, types of information, or questions contained in reports so submitted be modified, a report containing the Secretary's determination of the subjects, types of information, or questions as proposed to be modified.

"Census of
population."

"(g) As used in this section, 'census of population' means a census of population, housing, and matters relating to population and housing."

(b) The table of sections of chapter 5 of title 13, United States Code, is amended by striking out—

"141. Population, unemployment, and housing."

and inserting in lieu thereof—

"141. Population and other census information."

13 USC 181.

SEC. 8. (a) Subchapter IV of chapter 5 of title 13, United States Code, is amended by striking out section 181 and inserting in lieu thereof the following:

"§ 181. Population

Data production
and publication.
Ante, p. 2461.

"(a) During the intervals between each census of population required under section 141 of this title, the Secretary, to the extent feasible, shall annually produce and publish for each State, county, and local unit of general purpose government which has a population of fifty thousand or more, current data on total population and population characteristics and, to the extent feasible, shall biennially produce and publish for other local units of general purpose government

current data on total population. Such data shall be produced and published for each State, county, and other local unit of general purpose government for which data is compiled in the most recent census of population taken under section 141 of this title. Such data may be produced by means of sampling or other methods, which the Secretary determines will produce current, comprehensive, and reliable data.

Ante, p. 2461.

“(b) If the Secretary is unable to produce and publish current data during any fiscal year on total population for any county and local unit of general purpose government as required by this section, a report shall be submitted by the Secretary to the President of the Senate and to the Speaker of the House of Representatives not later than 90 days before the commencement of the following fiscal year, enumerating each government excluded and giving the reasons for such exclusion.

Report to
President of
Senate and
Speaker of the
House of
Representatives.

“§ 182. Surveys

“The Secretary may make surveys deemed necessary to furnish annual and other interim current data on the subjects covered by the censuses provided for in this title.

13 USC 182.

“§ 183. Use of most recent population data

“(a) Except as provided in subsection (b), for the purpose of administering any law of the United States in which population or other population characteristics are used to determine the amount of benefit received by State, county, or local units of general purpose government, the Secretary shall transmit to the President for use by the appropriate departments and agencies of the executive branch the data most recently produced and published under this title.

13 USC 183.

“(b) This section shall not apply with respect to any law of the United States which, for purposes of determining the amount of benefit received by State, county, or local units of general purpose government, provides that only population or population characteristics data obtained in the most recent decennial census may be used in such determination.

“§ 184. Definitions

“For purposes of this subchapter—

13 USC 184.

“(1) the term ‘local unit of general purpose government’ means the government of a county, municipality, township, Indian tribe, Alaskan native village, or other unit of government (other than a State) which is a unit of general government, and

“(2) the term ‘State’ includes the District of Columbia.”

(b) The table of sections for chapter 5 of title 13, United States Code, is amended by striking out—

“181. Surveys.”

and inserting in lieu thereof—

“181. Population.

“182. Surveys.

“183. Use of most recent population data.

“184. Definitions.”

SEC. 9. Section 191 of title 13, United States Code, relating to geographic scope of censuses, is amended to read as follows:

“§ 191. Geographic scope of censuses

“(a) Each of the censuses authorized by this chapter shall include each State, the District of Columbia, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Commonwealth of Puerto Rico, and as may be determined by the Secretary,

such other possessions and areas over which the United States exercises jurisdiction, control, or sovereignty. Inclusion of other areas over which the United States exercises jurisdiction or control shall be subject to the concurrence of the Secretary of State.

“(b) For censuses taken in the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or any possession or area not specifically designated in subsection (a) of this section, the Secretary may use census information collected by the Governor or highest ranking Federal official, if such information was obtained in accordance with plans prescribed or approved by the Secretary.

“(c) If, pursuant to a determination by the Secretary under subsection (a) of this section, any census is not taken in a possession or area over which the United States exercises jurisdiction, control, or sovereignty, the Secretary may include data obtained from other Federal agencies or government sources in the census report. Any data obtained from foreign governments shall be obtained through the Secretary of State.”

SEC. 10. Section 195 of title 13, United States Code, relating to use of sampling, is amended to read as follows:

“§ 195. Use of sampling

“Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as ‘sampling’ in carrying out the provisions of this title.”

SEC. 11. (a) Subchapter V of chapter 5 of title 13, United States Code, is amended by adding at the end thereof the following new section:

13 USC 196.

“§ 196. Special censuses

“The Secretary may conduct special censuses for the government of any State, or of any county, city, or other political subdivision within a State, for the government of the District of Columbia, and for the government of any possession or area (including political subdivisions thereof) referred to in section 191 (a) of this title, on subjects covered by the censuses provided for in this title, upon payment to the Secretary of the actual or estimated cost of each such special census. The results of each such special census shall be designated ‘Official Census Statistics’. These statistics may be used in the manner provided by applicable law.”

Ante, p. 2463.

(b) The table of sections of subchapter V of chapter 5 of title 13, United States Code, is amended by adding at the end thereof—

“196. Special censuses.”

SEC. 12. (a) Section 214 of title 13, United States Code, relating to wrongful disclosure of information, is amended to read as follows:

“§ 214. Wrongful disclosure of information

“Whoever, being or having been an employee or staff member referred to in subchapter II of chapter 1 of this title, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 9 of this title, publishes or communicates any information, the disclosure of which is prohibited under the provisions of section 9 of this title, and which comes into his possession by reason of his being employed (or otherwise providing services) under the provisions of this title, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.”

13 USC 21.

13 USC 9.

(b) Section 23 of title 13, United States Code, is amended by adding at the end thereof the following new subsection:

“(c) The Secretary may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities, and employees of private organizations to assist the Bureau in performing the work authorized by this title, but only if such temporary staff is sworn to observe the limitations imposed by section 9 of this title.”

Temporary staff.

13 USC 9.

SEC. 13. Section 221 of title 13, United States Code, relating to refusal or neglect to answer questions and to willful false answers, is amended—

(1) by striking out “or imprisoned not more than sixty days, or both” in subsection (a);

(2) by striking out “or imprisoned not more than one year, or both” in subsection (b) thereof; and

(3) by adding at the end thereof the following new subsection:

“(c) Notwithstanding any other provision of this title, no person shall be compelled to disclose information relative to his religious beliefs or to membership in a religious body.”

SEC. 14. Section 224 of title 13, United States Code, relating to failure to answer questions affecting companies, businesses, religious bodies, and other organizations and to willful false answers, is amended—

(1) by striking out “whether such request be made by registered mail, by certified mail, by telegraph, by visiting representative, or by one or more of these methods,”;

(2) by striking out “schedule” and inserting in lieu thereof “schedule or questionnaire”;

(3) by striking out “or imprisoned not more than sixty days, or both”; and

(4) by striking out “or imprisoned not more than one year, or both”.

SEC. 15. (a) Section 225 of title 13, United States Code, relating to applicability of penal provisions in certain cases, is amended—

(1) by inserting “and questionnaires” immediately after “schedules” in subsection (a) (1) thereof; and

(2) by striking out “sections 221, 222 and 224” in subsection

(b) and inserting in lieu thereof “section 222” thereof.

(b) Section 241 of title 13, United States Code, relating to evidence, is amended by striking out “as authorized by section 224 of this title”.

Separability.
13 USC 1 note.

SEC. 16. If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.

Effective date.
13 USC 1 note.

SEC. 17. The amendments made by this Act shall take effect on October 1, 1976, or on the date of the enactment of this Act, whichever date is later.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-944 (Comm. on Post Office and Civil Service) and No. 94-1719 (Comm. of Conference).

SENATE REPORT No. 94-1256 accompanying S. 3688 (Comm. on Post Office and Civil Service).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 7, *considered and passed House.*

Sept. 23, *considered and passed Senate, amended.*

Sept. 30, *Senate agreed to conference report.*

Oct. 1, *House agreed to conference report.*

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 18, *Presidential statement.*

Public Law 94-522
94th Congress

An Act

To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes.

Oct. 17, 1976

[H.R. 13615]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—RETIREMENT FINANCING

SEC. 101. Section 111 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

(a) by striking out “and” at the end of paragraph (2);

(b) by striking out the period at the end of paragraph (3) and inserting a semicolon in lieu thereof; and

(c) by adding the following new paragraphs (4), (5), and (6):

“(4) ‘Fund balance’ means the sum of—

“(a) the investments of the fund calculated at par value; and

“(b) the cash balance of the fund on the books of the Treasury;

“(5) ‘Unfunded liability’ means the estimated excess of the present value of all benefits payable from the fund to participants and former participants, subject to this Act, and to their survivors, over the sum of—

“(a) the present value of deductions to be withheld from the future basic salary of participants currently subject to this Act and of future Agency contributions to be made in their behalf; plus

“(b) the present value of Government payments to the fund under section 261 (b) and (c) of this Act; plus

“(c) the fund balance as of the date the unfunded liability is determined; and

“(6) ‘Normal cost’ means the level percentage of payroll required to be deposited in the fund to meet the cost of benefits payable under the system (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for government employees and less the cost of credit allowed for military service.”.

SEC. 102. Section 261 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by inserting “(a)” after “261.” and by adding the following new paragraphs (b), (c), and (d):

“(b) Any statute which authorizes—

“(1) new or liberalized benefits payable from the fund, including annuity increases other than under section 291 of this Act;

“(2) extension of the coverage of this Act to new groups of employees; or

Central
Intelligence
Agency
Retirement Act of
1964 for Certain
Employees,
amendments.

Definitions.

Infra.

50 USC 403 note.

“(3) increases in salary on which benefits are computed is deemed to authorize appropriations to the fund to finance the unfunded liability created by that statute in thirty equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of coverage, or increase in salary is effective.

“(c) There is hereby authorized to be appropriated to the fund each fiscal year, beginning with fiscal year 1977 such amounts as may be necessary to meet the amount of normal cost for each year which is not met by contributions under section 211(a).

“(d) There is hereby authorized to be appropriated to the fund each fiscal year such sums as may be necessary to provide the amount equivalent to (1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and (2) that portion of disbursement for annuities for that year which the Director estimates is attributable to credit allowed for military service, not to exceed the following percentages of such amounts: 70 per centum for 1977; 80 per centum for 1978; 90 per centum for 1979; and 100 per centum for 1980 and for each fiscal year thereafter.”.

TITLE II—RETIREMENT ACT AMENDMENTS

Annuityants.

SEC. 201. Section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

- (a) by striking “dependent” in subsection (a);
- (b) by striking “Dependent widower” and inserting “Widower” in lieu thereof in subsection (b) (2);
- (c) by inserting a period before the first comma and striking the remainder of the sentence in subsection (b) (2);
- (d) by inserting before the comma in subsection (b) (3) (i) the words: “or a child who lived with and for whom a petition for adoption was filed by a participant and who is adopted by the surviving spouse after the participant’s death.”; and
- (e) by striking out “two years” wherever it appears and inserting in lieu thereof “one year”.

Annuities, computation.

SEC. 202. Section 221(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended to read as follows:

“(b) (1) If a participant dies after having retired and is survived by a spouse to whom he or she was married at the time of retirement, or by a widow or widower whom he or she married after retirement, the spouse, widow, or widower is entitled to an annuity equal to 55 per centum of the amount of the participant’s annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by the participant as the base for such survivor benefits at the time of retirement. The annuity of the participant shall be reduced by 2½ per centum of any amount up to \$3,600 specified by the participant as the base for such survivor benefit plus 10 per centum of any amount over \$3,600 so specified. If at the time of retirement the participant does not desire any surviving spouse to receive an annuity under this paragraph he shall so state in writing to the Director.

“(2) If an annuitant dies after having elected a reduced annuity provided in paragraph (2) of section 221(f) the surviving widow or widower is entitled to an annuity computed as prescribed in paragraph (1) of this subsection. *Infra.*

“(3) A spouse acquired after retirement is entitled to a survivor annuity under this subsection only upon electing this annuity instead of any other survivor benefit to which he or she may be entitled under this or another retirement system for Government employees. The annuity of the spouse, widow, or widower under this subsection commences on the day after the annuitant dies. This annuity and the right thereto terminate on the last day of the month before the spouse, widow, or widower—

“(A) dies; or

“(B) remarries before becoming sixty years of age.

“(4) An annuity which is reduced under this subsection shall, for each full month during which an annuitant is not married, be recomputed and paid as if the annuity had not been so reduced. Upon remarriage of the annuitant, the annuity shall be reduced by the same percentage reductions which were in effect at the time of retirement.”

SEC. 203. Section 221 (f) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended— *Unmarried participant.*

(a) by inserting “(1)” immediately after “(f)”;

(b) by adding at the end thereof the following new paragraph

(2):

“(2) A participant, who is unmarried at the time of retiring and who later marries, may irrevocably elect, in a signed writing received in the Agency within one year after the marriage, a reduced annuity as provided in section 221(b). The reduced annuity is effective the first day of the month after the election is received. The election voids prospectively any election previously made under the provisions of paragraph (1) of this subsection.”

SEC. 204. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by adding at the end thereof the following new subsection:

*Annuities,
monthly rate.*

“(1) (1) Notwithstanding any other provision of this section, the monthly rate of annuity payable under subsection (a) of this section, shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

*42 USC 401 et
seq.*

“(2) Notwithstanding any other provision of this section, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act, or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

“(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.”

Retirement for
disability or
incapacity,
application
submittal.

SEC. 205. Section 231(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees as amended (78 Stat. 1043; U.S.C. 403 note), is amended by adding at the end thereof the following: "Retirement for disability or incapacity may be approved only if the application is submitted before the applicant is separated from the Agency or within one year thereafter. This time limitation may be waived by the Director for a participant or annuitant who at the date of separation from the Agency or within one year thereafter is mentally incompetent, if the application is filed with the Agency within one year from the date of restoration of the participant or annuitant to competency or the appointment of a fiduciary, whichever is earlier."

SEC. 206. Section 231(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; U.S.C. 403 note), is amended—

(a) by inserting the figure "(1)" immediately after the letter "(b)";

(b) by striking the words "six months" in the sixth sentence and substitute "one year"; and

(c) by adding at the end of the section a new paragraph (2) as follows:

Annuity,
termination.

"(2) If the annuitant receiving disability retirement annuity is restored to earning capacity, before becoming sixty years of age, payment of the annuity terminates on reemployment by the Government or one year after the end of the calendar year in which earning capacity is restored whichever is earlier. Earning capacity is restored if in each of two succeeding calendar years the income of the annuitant from wages or self-employment or both equals at least 80 per centum of the current rate of pay of the position occupied at the time of retirement."

SEC. 207. Section 231(c) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

(a) by inserting the figure "(1)" immediately after the letter "(c)";

(b) by inserting immediately after the words "If a recovered" the words: "or restored";

(c) by inserting immediately after the words "shall be considered" the words: "except for service credit";

(d) by inserting immediately after the words "as of the date" the words: "of termination of the disability annuity";

(e) by striking the words: "he was retired for disability";

(f) by striking the period after the last word "provisions" and adding the words: "or he may be placed by the Director in an involuntary retired status if he qualifies under the provisions of section 235(a). Retirement rights under this section shall be based on the provisions of this Act in effect as of the date the disability annuity was discontinued."

Reinstatement.

(g) by adding at the end of the section a new paragraph (2):

"(2) If, based on a current medical examination, the Director determines that a recovered annuitant has, before reaching age sixty-two, again become totally disabled due to recurrence of the disability for which he was originally retired, his terminated disability annuity (same type and rate) is reinstated from the date of such medical examination. If a restored-to-earning-capacity annuitant has not medically recovered from the disability for which retired and establishes to the Director's satisfaction that his income from wages and self-employment in any calendar year before reaching age sixty-two was less than 80 per centum of the pay rate attached to the position from

which he retired, his terminated disability annuity (same type and rate) is reinstated from the first of the next following year. If he has been allowed an involuntary or voluntary retirement annuity in the meantime, his reinstated disability annuity is substituted for it unless he elects to retain the former benefit."

SEC. 208. Section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

Death in service.

(a) by striking "dependent" wherever it occurs; and

(b) by inserting a period after "section 221(g)" and striking the remainder of the section.

SEC. 209. Section 241(b)(1) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended to read as follows:

"(1) To the beneficiary or beneficiaries designated by such participant in a signed and witnessed writing received by the Agency before his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;"

SEC. 210. Section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended—

Length of service, computation.

(a) by striking "the Federal Employees' Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.)" and inserting in lieu thereof "chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based"; and

(b) by adding at the end thereof the following new sentence: "A participant or former participant who returns to Government duty after a period of separation shall have included in his period of service that part of the period of separation in which he was receiving benefits under chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based."

5 USC 8101.

SEC. 211. Section 252 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by striking the period at the end of paragraph (a)(2) thereof and adding the following: "or active and honorable service in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer of the National Oceanic and Atmospheric Administration after June 30, 1961."

Prior service credit.

SEC. 212. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by adding in "PART G—MONEYS" thereof the following new section 264:

"RECOVERY OF PAYMENTS

"SEC. 264. Recovery of payments under this Act may not be made from an individual when in the judgment of the Director, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by this Act on account of a certification or payment made by a former employee of the Central Intelligence Agency in the discharge of his official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee."

SEC. 213. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note), is amended by adding at the end thereof the following new section:

“PART K—CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

“AUTHORITY TO MAINTAIN EXISTING AREAS OF CONFORMITY BETWEEN
CIVIL SERVICE AND CENTRAL INTELLIGENCE AGENCY RETIREMENT
AND DISABILITY SYSTEMS

50 USC 403 note. “SEC. 292. (a) Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, he may, by Executive order, extend to current or former participants in the Central Intelligence Agency Retirement and Disability System, or to their survivors, a provision of law enacted after January 1, 1975, which:

5 USC 8331. “(1) amends subchapter III, chapter 83, title 5, United States Code, and is applicable to civil service employees generally, or

“(2) otherwise affects current or former participants in the Civil Service Retirement and Disability System, or their survivors.

Any such order shall extend such provision of law so that it applies in like manner with respect to such Central Intelligence Agency Retirement and Disability System participants, former participants, or survivors. Any such order shall have the force and effect of law and may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law applicable to employees under the Civil Service Retirement System.

“(b) Any provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

“(1) all provisions of law enacted prior to the effective date of the provision of such Executive order, and

“(2) any prior provision of an Executive order issued under authority of this section.”.

Annuity increase. 50 USC 403 note. SEC. 214. (a) An annuity payable from the Central Intelligence Agency Retirement and Disability Fund to an annuitant which is based on a separation occurring prior to October 20, 1969, is increased by \$240 per annum.

(b) In lieu of any increase based on an increase under subsection (a) of this section, an annuity payable from the Central Intelligence Agency Retirement and Disability Fund to the surviving spouse of an annuitant, which is based on a separation occurring prior to October 20, 1969, shall be increased by \$132 per annum.

Monthly rate. (c) The monthly rate of an annuity resulting from an increase under this section shall be considered as the monthly rate of annuity payable under section 221(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note) for purposes of computing the minimum annuity under new section 221(l) of the Act, as added by section 204 of this Act.

Effective dates. SEC. 215. (a) This Act shall become effective October 1, 1976.

50 USC 403 note. (b) The amendments made by sections 201 (a), (b), (c), and (d), 202, and 208 shall not apply in the case of participants who died before January 8, 1971. The amendments made by section 201(e) shall not apply in the case of participants who died before April 9, 1974. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

(c) The amendment made by section 203 shall apply to a participant who married prior to enactment but only if the election is made within one year after enactment.

(d) The amendment made by section 210 is effective only with respect to annuity accruing for full months beginning after January 8, 1971; but any part of a period of separation referred to in such amendment in which the participant or former participant was receiving benefits under chapter 81 of title 5, United States Code, or any earlier statute on which such chapter is based shall be counted whether the person returns to duty before, on, or after January 8, 1971. With respect to any person retired before such date of enactment, any such part of a period of separation shall be counted only upon application of the retired person.

5 USC 8101.

(e) The amendment in section 211 to credit certain service in the Public Health Service is effective as of April 8, 1960, and the amendment to credit certain service in the National Oceanic and Atmospheric Administration is effective as of September 14, 1961.

(f) The amendment in section 212 is effective as of June 30, 1974.

(g) The amendment to recompute a reduced annuity during periods when not married in section 202 shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to November 1, 1974.

(h) Annuity increases under sections 204 and 214 shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to August 1, 1974, or the date on which the annuity commences, whichever is later.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1152 pt. 1 (Comm. on Armed Services) and No. 94-1152 pt. 2 (Comm. on Appropriations).

SENATE REPORT No. 94-1304 (Select Comm. on Intelligence).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 13, considered and passed House.

Sept. 30, considered and passed Senate.

Public Law 94-523
94th Congress

An Act

Oct. 17, 1976
[H.R. 1073]

To extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional three years, ending September 7, 1978.

War risk
insurance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1203 (a) of the Merchant Marine Act, 1936 (46 U.S.C. 1283(a)), is amended by inserting at the end thereof the following new sentences: "In determining whether to grant such insurance or reinsurance to foreign-flag vessels, the Secretary shall further consider the characteristics, the employment, and the general management of the vessel by the owner or charterer. American- and foreign-flag vessels so insured or reinsured shall be subject to such vessel location reporting requirements as the Secretary may establish by regulation."

Reporting
requirements.

SEC. 2. Section 1203(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1283(b)), is amended by inserting at the end thereof the following new sentence: "For the purposes of this title, the term 'cargo' shall include loaded or empty containers located aboard such vessels."

SEC. 3. Section 1203(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1283(f)), is amended by striking out the word "on" between the words "Statutory" and "contractual" and inserting in lieu thereof "or".

SEC. 4. Section 1209(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1289(b)), is amended by inserting at the end thereof the following new sentence: "The Secretary may charge and collect an annual fee in an amount calculated to cover the expenses of processing applications for insurance, the employment of underwriting agents, and the appointment of experts."

SEC. 5. Section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. 1294), is amended by striking out "September 7, 1975" and inserting in lieu thereof "September 30, 1979."

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-416 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-1332 accompanying S. 3181 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Sept. 9, considered and passed House.

Vol. 122 (1976): Sept. 28, considered and passed Senate, amended.

Oct. 1, House concurred in Senate amendment.

Public Law 94-524
94th Congress

An Act

To establish procedures and regulations for certain protective services provided by the United States Secret Service.

Oct. 17, 1976

[H.R. 1244]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Protection Assistance Act of 1976".

SEC. 2. As used in this Act the term—

(1) "Secret Service" means the United States Secret Service, the Department of the Treasury;

(2) "Director" means the Director of the Secret Service;

(3) "protectee" means any person eligible to receive the protection authorized by section 3056 of title 18, United States Code, or Public Law 90-331 (82 Stat. 170);

(4) "Executive departments" has the same meaning as provided in section 101 of title 5, United States Code;

(5) "Executive agencies" has the same meaning as provided in section 105 of title 5, United States Code;

(6) "Coast Guard" means the United States Coast Guard, Department of Transportation or such other Executive department or Executive agency to which the United States Coast Guard may subsequently be transferred;

(7) "duties" means all responsibilities of an Executive department or Executive agency relating to the protection of any protectee; and

(8) "non-Governmental property" means any property owned, leased, occupied, or otherwise utilized by a protectee which is not owned or controlled by the Government of the United States of America.

SEC. 3. (a) Each protectee may designate one non-governmental property to be fully secured by the Secret Service on a permanent basis.

(b) A protectee may thereafter designate a different non-Governmental property in lieu of the non-Governmental property previously designated under subsection (a) (hereinafter in this Act referred to as the "previously designated property") as the one non-Governmental property to be fully secured by the Secret Service on a permanent basis under subsection (a). Thereafter, any expenditures by the Secret Service to maintain a permanent guard detail or for permanent facilities, equipment, and services to secure the non-Governmental property previously designated under subsection (a) shall be subject to the limitations imposed under section 4.

(c) For the purposes of this section, where two or more protectees share the same domicile, such protectees shall be deemed a single protectee.

SEC. 4. Expenditures by the Secret Service for maintaining a permanent guard detail and for permanent facilities, equipment, and services to secure any non-Governmental property in addition to the one non-Governmental property designated by each protectee under subsection 3(a) or 3(b) may not exceed a cumulative total of \$10,000 at each such additional non-Governmental property, unless expenditures in excess of that amount are specifically approved by resolutions adopted by the Committees on Appropriations of the House and Senate, respectively.

SEC. 5. (a) All improvements and other items acquired by the Federal Government and used for the purpose of securing any non-Governmental property in the performance of the duties of the Secret Service shall be the property of the United States.

Presidential
Protection
Assistance Act of
1976.
Definitions.

18 USC 3056
note.

Non-
governmental
property,
permanent
security.
18 USC 3056
note.

Expenditures,
limitations.
18 USC 3056
note.

(b) Upon termination of Secret Service protection at any non-Governmental property all such improvements and other items shall be removed from the non-Governmental property unless the Director determines that it would not be economically feasible to do so; except that such improvements and other items shall be removed and the non-Governmental property shall be restored to its original state if the owner of such property at the time of termination requests the removal of such improvements or other items. If any such improvements or other items are not removed, the owner of the non-Governmental property at the time of termination shall compensate the United States for the original cost of such improvements or other items or for the amount by which they have increased the fair market value of the property, as determined by the Comptroller General of the United States, as of the date of termination, whichever is less.

(c) In the event that any non-Governmental property becomes a previously designated property and Secret Service protection at that property has not been terminated, all such improvements and other items which the Director determines are not necessary to secure the previously designated property within the limitations imposed under section 4 shall be removed or compensated for in accordance with the procedures set forth under Subsection (b) of this section.

SEC. 6. Executive departments and Executive agencies shall assist the Secret Service in the performance of its duties by providing services, equipment, and facilities on a temporary and reimbursable basis when requested by the Director and on a permanent and reimbursable basis upon advance written request of the Director; except that the Department of Defense and the Coast Guard shall provide such assistance on a temporary basis without reimbursement when assisting the Secret Service in its duties directly related to the protection of the President or the Vice President or other officer immediately next in order of succession to the office of the President.

18 USC 3056
note.

SEC. 7. No services, equipment, or facilities may be ordered, purchased, leased, or otherwise procured for the purposes of carrying out the duties of the Secret Service by persons other than officers or employees of the Federal Government duly authorized by the Director to make such orders, purchases, leases, or procurements.

18 USC 3056
note.

SEC. 8. No funds may be expended or obligated for the purpose of carrying out the purposes of section 3056 of title 18, United States Code, and section 1 of Public Law 90-331 other than funds specifically appropriated to the Secret Service for those purposes with the exception of—

18 USC 3056
note.

(1) expenditures made by the Department of Defense or the Coast Guard from funds appropriated to the Department of Defense or the Coast Guard in providing assistance on a temporary basis to the Secret Service in the performance of its duties directly related to the protection of the President or the Vice President or other officer next in order of succession to the office of the President; and

(2) expenditures made by Executive departments and agencies, in providing assistance at the request of the Secret Service in the performance of its duties, and which will be reimbursed by the Secret Service under section 6 of this Act.

Reports to
congressional
committees.
18 USC 3056
note.

SEC. 9. The Director, the Secretary of Defense, and the Commandant of the Coast Guard shall each transmit a detailed semi-annual report of expenditures made pursuant to this Act during the six-month period immediately preceding such report by the Secret Service, the Department of Defense, and the Coast Guard, respectively, to the

Committees on Appropriations, Committees on the Judiciary, and Committees on Government Operations of the House of Representatives and the Senate, respectively, on March 31 and September 30, of each year.

SEC. 10. Expenditures made pursuant to this Act shall be subject to audit by the Comptroller General and his authorized representatives, who shall have access to all records relating to such expenditures. The Comptroller General shall transmit a report of the results of any such audit to the Committees on Appropriations, Committees on the Judiciary, and Committees on Government Operations of the House of Representatives and the Senate, respectively.

SEC. 11. Section 2 of Public Law 90-331 (82 Stat. 170) is repealed.

Approved October 17, 1976.

Audit.
18 USC 3056
note.

Report to
congressional
committees.

Repeal.
18 USC 3056
note.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-105 pt. I (Comm. on the Judiciary) and No. 94-105 pt. II (Comm. on Government Operations).

SENATE REPORT No. 94-1325 (Committees on the Judiciary and Government Operations).

CONGRESSIONAL RECORD:

Vol. 121 (1975): May 5, considered and passed House.

Vol. 122 (1976): Sept. 28, considered and passed Senate, amended.

Sept. 29, House agreed to Senate amendment.

Public Law 94-525
94th Congress

An Act

Oct. 17, 1976

[H.R. 1607]

To amend title 18 and title 39 of the United States Code to make parallel the exemption from lottery prohibitions granted to newspapers and to radio and television.

Lottery
prohibitions.
Media, parallel
exemptions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1307(a) (1) of title 18 of the United States Code is amended by inserting "or in an adjacent State which conducts such a lottery" immediately after "State".

SEC. 2. The first sentence of subsection (d) of section 3005 of title 39, United States Code, is amended by striking the words "a newspaper of general circulation published in a State containing advertisements, lists of prizes, or information concerning a lottery conducted by that State acting under authority of State law," and inserting the words, "a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery," in lieu thereof.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-236 (Comm. on the Judiciary).

SENATE REPORT No. 94-618 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 16, considered and passed House.

Vol. 122 (1976): Feb. 4, considered and passed Senate.

Feb. 5, motion to reconsider entered in Senate.

Oct. 1, motion to reconsider withdrawn.

Public Law 94-526
94th Congress

An Act

To amend the Act establishing a code of law for the District of Columbia to prohibit the unauthorized use of a motor vehicle obtained under a written rental or other agreement.

Oct. 17, 1976

[H.R. 10826]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 826b of the Act entitled “An Act to establish a code of law for the District of Columbia”, approved March 3, 1901 (D.C. Code, sec. 22-2204), is amended to read as follows:

D.C.
Motor vehicles,
unauthorized use.

“SEC. 826b. UNAUTHORIZED USE OF A VEHICLE.—(a) Any person who, without the consent of the owner, shall take, use, operate, or remove or cause to be taken, used, operated, or removed, from a garage, stable, or other building, or from any place or locality on a public or private highway, park, parkway, street, lot, field, enclosure, or space, a motor vehicle, and operate or drive or cause the same to be operated or driven for his own profit, use, or purpose shall be punished by a fine not exceeding \$1,000 or imprisoned not exceeding five years, or both such fine and imprisonment.

“(b) (1) It shall be a violation of this subsection for any person, after renting, leasing, or using a motor vehicle under a written agreement which provides for the return of the vehicle to a particular place at a specified time, to knowingly fail to return the vehicle to such place (or to any authorized agent of the party from whom the vehicle was obtained under the agreement), within eighteen days after written demand is made for its return, if the conditions set forth in paragraph (2) are met. Any person who violates this subsection shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

“(2) The conditions referred to in paragraph (1) are as follows:

“(A) The written agreement under which the motor vehicle is obtained contains the following statement: ‘WARNING—failure to return this vehicle in accordance with the terms of this rental agreement may result in a criminal penalty of up to three years in jail’. Such statement shall be clearly and conspicuously printed in a contrasting color, set off in a box, and signed by the person obtaining the motor vehicle in a space specially provided.

“(B) There is clearly and conspicuously displayed on the dashboard of the motor vehicle the following notice: ‘NOTICE—failure to return this vehicle on time may result in serious criminal penalties.’

“(C) The party from whom the motor vehicle was obtained under the agreement makes a written demand for the return of the vehicle, either by actual delivery to the person who obtained the vehicle, or by deposit in the United States mails of a postpaid registered or certified letter, return receipt requested, addressed to such person at each address set forth in the written agreement or otherwise provided by such person. Such written demand shall clearly state that failure to return the vehicle may result in prosecution for violation of the criminal law of the District of Columbia punishable by up to three years in jail. Such written demand shall not be made prior to the date specified in the agreement for

the return of the vehicle, except that, if the parties or their authorized agents have mutually agreed to some other date for the return of the vehicle, then such written demand shall not be made prior to such other date.

“(3) This subsection shall not apply in the case of a motor vehicle obtained under a retail installment contract as defined in paragraph (9) of the first section of the Act of April 22, 1960 (D.C. Code, sec. 40-901(9)).

“(4) It shall be a defense in any criminal proceeding brought under this subsection that a person failed to return a motor vehicle for causes beyond his control. The burden of raising and going forward with the evidence with respect to such defense shall be on the person asserting it. In any case in which such defense is raised, evidence that the person obtained the vehicle by reason of any false statement or representation of a material fact, including a false statement or representation regarding his name, residence, employment, or operator's license, shall be admissible to determine whether the failure to return such vehicle was for causes beyond his control.

“Motor vehicle.”

“(c) For the purposes of this section the terms ‘motor vehicle’ and ‘vehicle’ mean any automobile, self-propelled mobile home, motorcycle, truck, truck tractor, truck tractor with semi or full trailer, or bus.”.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-898 (Comm. on the District of Columbia).
SENATE REPORT No. 94-1344 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Apr. 12, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 94-527
94th Congress

An Act

To amend the National Trails System Act (82 Stat. 919), and for other purposes.

Oct. 17, 1976

[S. 2112]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241 et seq.) is amended as follows:

National scenic trails.

In section 5(c), add the following new paragraphs;

16 USC 1244.

“(15) Bartram Trail, extending through the States of Georgia, North Carolina, South Carolina, Alabama, Florida, Louisiana, Mississippi, and Tennessee.

“(16) Daniel Boone Trail, extending from the vicinity of Statesville, North Carolina, to Fort Boonesborough State Park, Kentucky.

“(17) Desert Trail, extending from the Canadian border through parts of Idaho, Washington, Oregon, Nevada, California, and Arizona, to the Mexican border.

“(18) Dominguez-Escalante Trail, extending approximately two thousand miles along the route of the 1776 expedition led by Father Francisco Atanasio Dominguez and Father Silvestre Velez de Escalante, originating in Santa Fe, New Mexico; proceeding northwest along the San Juan, Dolores, Gunnison, and White Rivers in Colorado; thence westerly to Utah Lake; thence southward to Arizona and returning to Santa Fe.

“(19) Florida Trail, extending north from Everglades National Park, including the Big Cypress Swamp, the Kissimmee Prairie, the Withlacoochee State Forest, Ocala National Forest, Osceola National Forest, and Black Water River State Forest, said completed trail to be approximately one thousand three hundred miles long, of which over four hundred miles of trail have already been built.

“(20) Indian Nations Trail, extending from the Red River in Oklahoma approximately two hundred miles northward through the former Indian nations to the Oklahoma-Kansas boundary line.

“(21) Nez Perce Trail extending from the vicinity of Wallowa Lake, Oregon, to Bear Paw Mountain, Montana.

“(22) Pacific Northwest Trail, extending approximately one thousand miles from the Continental Divide in Glacier National Park,

Montana, to the Pacific Ocean beach of Olympic National Park, Washington, by way of—

“(A) Flathead National Forest and Kootenai National Forest in the State of Montana;

“(B) Kaniksu National Forest in the State of Idaho; and

“(C) Colville National Forest, Okanogan National Forest, Pasayten Wilderness Area, Ross Lake National Recreation Area, North Cascades National Park, Mount Baker, the Skagit River, Deception Pass, Whidbey Island, Olympic National Forest, and Olympic National Park in the State of Washington.”

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1683 accompanying H.R. 15122 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1143 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed Senate.

Sept. 27, considered and passed House, amended, in lieu of H.R. 15122.

Oct. 1, Senate concurred in House amendments.

Public Law 94-528
94th Congress

An Act

To amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care fund, to modify the effective dates of certain provision of the Tax Reform Act of 1976, and for other purposes.

Oct. 17, 1976
[H.R. 1142]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 642 of the Internal Revenue Code of 1954 (relating to special rules for credits and deductions of estates and trusts) is amended by redesignating subsection (j) as subsection (k) and by adding after subsection (i) the following new subsection:

Taxes.
Cemetery
perpetual care
funds.
26 USC 642.

“(j) CERTAIN DISTRIBUTIONS BY CEMETERY PERPETUAL CARE FUNDS.—In the case of a cemetery perpetual care fund which—

“(1) was created pursuant to local law by a taxable cemetery corporation for the care and maintenance of cemetery property, and

“(2) is treated for the taxable year as a trust for purposes of this subchapter,

any amount distributed by such fund for the care and maintenance of gravesites which have been purchased from the cemetery corporation before the beginning of the taxable year of the trust and with respect to which there is an obligation to furnish care and maintenance shall be considered to be a distribution solely for purposes of sections 651 and 661, but only to the extent that the aggregate amount so distributed during the taxable year does not exceed \$5 multiplied by the aggregate number of such gravesites.”

26 USC 651,
661.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1977, and shall apply to amounts distributed during taxable years ending after December 31, 1963.

26 USC 642 note.

SEC. 2. (a) Subsection (d) of section 1204 of the Tax Reform Act of 1976 (relating to jeopardy and termination assessments) is amended by striking out “December 31, 1976” and inserting in lieu thereof “February 28, 1977”.

Ante, p. 1695.

(b) Subsection (c) of section 1205 of the Tax Reform Act of 1976 (relating to administrative summons) is amended by striking out “December 31, 1976” and inserting in lieu thereof “February 28, 1977”.

Ante, p. 1699.

(c) Subsection (e) of section 1209 of the Tax Reform Act of 1976 (relating to minimum exemption from levy for wages, salary, and other income) is amended by striking out “December 31, 1976” and inserting in lieu thereof “February 28, 1977”.

Ante, p. 1709.

(d) Subsection (c) of section 7809 of the Internal Revenue Code of 1954 (relating to deposit of collections) is amended—

26 USC 7809.

(1) by striking out “and” at the end of paragraph (2) thereof;
(2) by striking out the comma at the end of paragraph (3) thereof and inserting in lieu thereof a semicolon and “and”; and
(3) by adding at the end of paragraph (3) thereof the following new paragraph:

26 USC 6110.

“(4) work or services performed (including materials supplied) pursuant to section 6110 (relating to public inspection of written determinations),”

Effective date.

Ante, p. 1520.

(e) The amendments made by this section shall take effect on the date of the enactment of the Tax Reform Act of 1976.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1344 (Comm. on Ways and Means).

SENATE REPORT No. 94-1317 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.

Oct. 1, considered and passed Senate, amended;

House concurred in Senate amendments.

Public Law 94-529
94th Congress

An Act

To amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer).

Oct. 17, 1976

[H.R. 3605]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 5051 of the Internal Revenue Code of 1954 (imposing a tax of \$9 a barrel on beer produced or imported into the United States) is amended to read as follows:

Beer.
Small business
tax reduction.
26 USC 5051.

“(a) RATE OF TAX.—

“(1) IN GENERAL.—A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be \$9 for every barrel containing not more than 31 gallons and at a like rate for any other quantity or for fractional parts of a barrel.

“(2) REDUCED RATE FOR CERTAIN DOMESTIC PRODUCTION.—

“(A) \$7 A BARREL RATE.—In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section shall be \$7 on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

“(B) CONTROLLED GROUPS.—In the case of a controlled group, the 2,000,000 barrel quantity specified in subparagraph (A) shall be applied to the controlled group, and the 60,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary or his delegate shall by regulations prescribed. For purposes of the preceding sentence, the term ‘controlled group’ has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase ‘more than 50 percent’ shall be substituted for the phrase ‘at least 80 percent’ in each place it appears in such subsection. Under regulations prescribed by the Secretary or his delegate, principles similar to the principles of the preceding two sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

“Controlled
group.”
26 USC 1563.

“(3) TOLERANCES.—Where the Secretary or his delegate finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.”.

Effective date.
26 USC 5051
note.

SEC. 2. The amendment made by the first section of this Act shall take effect on the first day of the first calendar year which begins after the date of the enactment of this Act.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1346 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 13, considered and passed House.

Sept. 30, considered and passed Senate.

Public Law 94-530
94th Congress

An Act

To amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes.

Oct. 17, 1976
[H.R. 10101]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4041 of the Internal Revenue Code of 1954 (relating to tax on special fuels) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

Taxes.
Certain aircraft museums, fuel tax exemption.
26 USC 4041.

“(h) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—

Regulations.

“(1) EXEMPTION.—Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under this section on any liquid sold for use or used by an aircraft museum in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2) (C).

“(2) DEFINITION OF AIRCRAFT MUSEUM.—For purposes of this subsection, the term ‘aircraft’ means an organization—

“(A) described in section 501(c) (3) which is exempt from income tax under section 501(a),

26 USC 501.

“(B) operated as a museum under charter by a State or the District of Columbia, and

“(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.”

(b) Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended by redesignating subsections (d) through (h) as subsections (e) through (i), respectively, and by inserting after subsection (c) the following new subsection:

26 USC 6427.

“(d) USE BY CERTAIN AIRCRAFT MUSEUMS.—Except as provided in subsection (g), if—

“(1) any gasoline on which tax was imposed by section 4081, or

“(2) any fuel on the sale of which tax was imposed under section 4041,

is used by an aircraft museum (as defined in section 4041(h) (2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h) (2) (C), the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.”

Supra.

(c) (1) Subsections (a) (4) and (c) of section 39 of such Code are each amended by striking out “6427(f)” and inserting in lieu thereof “6427(g)”.

26 USC 39.

(2) Subsections (a), (b) (1), and (c) of section 6427 of such Code are each amended by striking out “(f)” and inserting in lieu thereof “(g)”.

(3) Subsection (e) (1) of such section 6427, as redesignated, is amended by striking out “(a), (b), or (c)” and inserting in lieu thereof “(a), (b), (c), or (d)”.

(4) Subsection (e) (2) of such section 6427, as redesignated, is amended by striking out “(a) and (b)” and inserting in lieu thereof “(a), (b), and (d)”.

- 26 USC 6427. (5) Subsection (g)(2) of such section 6427, as redesignated, is amended by striking out “(d)(2)” and inserting in lieu thereof “(e)(2)”.
- 26 USC 7210, 7603, 7604, 7605. (6) Sections 7210, 7603, 7604(b), and 7605(a) of such Code are each amended by striking out “6427(e)(2)” each place it appears and inserting in lieu thereof “6427(f)(2)”.
- Effective date. (d) The amendments made by this section shall take effect on October 1, 1976.
- 26 USC 4492. SEC. 2. (a) Subsection (a) of section 4492 of the Internal Revenue Code of 1954 (defining taxable civil aircraft for purposes of the tax on the use of civil aircraft) is amended by adding at the end thereof the following new sentence: “Such term does not include any aircraft owned by an aircraft museum (as defined in section 4041(h)(2)) and used exclusively for purposes set forth in section 4041(h)(2)(C).”
- Ante*, p. 2487. (b) The amendment made by subsection (a) shall take effect on July 1, 1976.
- Effective date.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1359 (Comm. on Ways and Means).

SENATE REPORT No. 94-1321 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 2, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-531
94th Congress

An Act

To amend the Federal Boat Safety Act of 1971.

Oct. 17, 1976

[H.R. 13585]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451 et seq.) is amended as follows:

(1) Section 4 is amended by adding a new subsection to read as follows:

“(d) Until such time as there is a final judicial determination that they are navigable waters of the United States, the following waters lying entirely within the State of New Hampshire, to wit: Lake Winnisquam, Lake Winnepesaukee, portions of the Merrimack River, and their tributary and connecting waters, are declared not to be waters subject to the jurisdiction of the United States, within the meaning of this section.”.

Federal Boat
Safety Act of
1971,
amendments.
46 USC 1453.

New Hampshire,
navigable waters.

(2) Section 5 is amended by striking the word “eighteen” in paragraph (1) of subsection (b) thereof, and by inserting in lieu thereof “twenty-four”.

46 USC 1454.

(3) Section 8 is amended by inserting, immediately after “8.”, the subsection designation “(a)”, and adding a new subsection to read as follows:

46 USC 1457.

“(b) The Secretary may conduct research, testing, and development as necessary to carry out the purposes of this Act, including the procurement (by negotiation or otherwise) of experimental and other boats or associated equipment for research and testing purposes, and the subsequent sale thereof.”.

Research and
testing.

(4) Section 15 is amended, in subsection (a), by striking, at the end thereof, “defect.”, and by inserting in lieu thereof “defect: *Provided*, That the manufacturer’s duty of notification under subsection (b)(1) and subsection (b)(2) of this section applies only to defects or failures of compliance discovered by the manufacturer within one of the following periods, as appropriate:

Repair or
replacement of
defects.
46 USC 1464.

“(1) in the case of a boat or associated equipment required by regulation to have a date of certification affixed, five years from date of certification, or

“(2) in the case of a boat or associated equipment not required by regulation to have a date of certification affixed, five years from date of manufacture.”.

(5) Section 15 is amended, in subsection (e), by striking, at the beginning of the third sentence thereof the word “Upon”, and by inserting in lieu thereof “If the manufacturer receives notice from the Secretary within the time in which he would be required to make notification under subsection (a), upon”.

(6) Section 15 is amended, in subsection (g), by striking “this section.”, and by inserting in lieu thereof “this section, including, but not limited to, procedures to be followed by dealers and distributors to assist manufacturers in obtaining the information required by this section: *Provided*, That a regulation promulgated hereunder may not relieve a manufacturer of any obligation imposed on him by this section.”.

Standard
numbering
system.

46 USC 1467.

(7) Section 18 is amended, in subsection (a), by inserting, following the second sentence thereof, a new sentence to read as follows: "In implementing and administering its numbering system, a State shall adopt any definitions of relevant terms, including, but not limited to, 'model year' and 'date of manufacture' established by the Secretary by regulation."

46 USC 1469.

(8) Section 20 is amended, in subsection (a), by striking, in the second sentence the words "twenty-four hours", and by inserting in lieu thereof the words "seven days".

46 USC 1472.

(9) Section 23 is amended by inserting at the end of the first sentence a new sentence to read as follows: "The fees established pursuant to authority granted by this section shall apply equally to residents and nonresidents of the State."

46 USC 1476.

(10) Section 27 is amended, in subsection (a), by striking "July 1", and by inserting in lieu thereof "October 1".

46 USC 1477.

(11) Section 28 is amended, in subsection (a), by striking the first sentence thereof and by inserting, in lieu thereof, the following: "Notwithstanding the allocation ratios prescribed in section 27, the Federal funds allocated to any State in any fiscal year may not exceed fifty per centum of the total cost of that State's boating safety program in that year."

(12) Section 28 is further amended by adding a new subsection to read as follows:

"(d) For the purposes of this section, the transition period of July 1, 1976, to September 30, 1976, shall be treated as a fiscal year."

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1578 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 20, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 1, House agreed to Senate amendments.

Public Law 94-532
94th Congress

An Act

To study and provide enhanced protection for whales, and for other purposes.

Oct. 17, 1976
[H.R. 15445]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Whale Conservation and Protection Study Act".

Whale
Conservation and
Protection Study
Act.
16 USC 917 note.
16 USC 917.

FINDINGS

SEC. 2. The Congress finds that—

(1) whales are a unique resource of great aesthetic and scientific interest to mankind and are a vital part of the marine ecosystem;

(2) whales have been overexploited by man for many years, severely reducing several species and endangering others;

(3) the United States has extended its authority and responsibility to conserve and protect all marine mammals, including whales, out to a two hundred nautical mile limit by enactment of the Fishery Conservation and Management Act of 1976 (Public Law 94-265);

(4) the conservation and protection of certain species of whales, including the California gray, bowhead, sperm, and killer whale, are of particular interest to citizens of the United States;

(5) increased ocean activity of all types may threaten the whale stocks found within the two hundred-mile jurisdiction of the United States and added protection of such stocks may be necessary;

(6) there is inadequate knowledge of the ecology, habitat requirements, and population levels and dynamics of all whales found in waters subject to the jurisdiction of the United States; and

(7) further study of such matters is required in order for the United States to carry out its responsibilities for the conservation and protection of marine mammals.

Ante, p. 331.
16 USC 1801
note.

STUDY BY THE SECRETARY OF COMMERCE

SEC. 3. The Secretary of Commerce, in consultation with the Marine Mammal Commission and the coastal States, shall undertake comprehensive studies of all whales found in waters subject to the jurisdiction of the United States, including the fishery conservation zone as defined in section (3)(8) of the Fishery Conservation and Management Act (16 U.S.C. 1802(8)). Such studies shall take into consideration all relevant factors regarding (1) the conservation and protection of all such whales, (2) the distribution, migration patterns, and population dynamics of these mammals, and (3) the effects on all such whales of habitat destruction, disease, pesticides and other chemicals, disruption of migration patterns, and food shortages for the purpose of developing adequate and effective measures, including appropriate laws and regulations, to conserve and protect such mammals. The Secretary of Commerce shall report on such studies, together with such recommendations as he deems appropriate, including suggested legislation, to the Congress no later than January 1, 1980.

16 USC 917a.

Report to
Congress.

COOPERATION OF OTHER FEDERAL AGENCIES

- 16 USC 917b. SEC. 4. All Federal agencies shall cooperate, to the fullest extent possible, with the Secretary of Commerce in preparing the study and recommendations required by section 3.

INTERNATIONAL NEGOTIATIONS

- 16 USC 917c. SEC. 5. The Secretary of Commerce, through the Secretary of State, shall immediately initiate negotiations for the purpose of developing appropriate bilateral agreements with Mexico and Canada for the protection and conservation of whales.

AUTHORIZATION OF APPROPRIATIONS

- 16 USC 917d. SEC. 6. For the purpose of carrying out the provisions of this Act, there is hereby authorized to be appropriated a sum not to exceed \$1,000,000 for fiscal years 1978 and 1979.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1574 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 20, considered and passed House.

Sept. 28, considered and passed Senate, amended.

Oct. 1, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 18, Presidential statement.

Public Law 94-533
94th Congress

An Act

To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same cost-of-living adjustments in the basic compensation of officers and members of the United States Park Police force as are given to Federal employees under the General Schedule and to require submittal of a report on the feasibility and desirability of codifying the laws relating to the United States Park Police force.

Oct. 17, 1976

[H.R. 15276]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE

SECTION 1. The purpose of this Act is to insure that officers and members of the United States Park Police force are entitled to adjustments in basic compensation in the same overall percentage as are other Federal employees within the General Schedule under the Federal pay comparability system.

D.C.
U.S. Park Police,
compensation,
cost-of-living
adjustment.
D.C. Code 4-833
note.
5 USC 5332 note.

ADJUSTMENTS IN BASIC COMPENSATION OF OFFICERS AND MEMBERS OF
THE PARK POLICE FORCE

SEC. 2. Section 501 of the District of Columbia Police and Firemen's Salary Act of 1958 (D.C. Code, sec. 4-833) is amended—

(1) by striking out "The rates" and inserting in lieu thereof
"(a) Except as provided in subsections (b) and (c), the rates" in
lieu thereof, and

(2) by adding at the end thereof the following new subsections:

"(b) (1) Effective at the beginning at the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of title 5, United States Code, in the rates of pay under General Schedule, the annual rate of basic compensation of officers and members of the United States Park Police force shall be adjusted by the Secretary of the Interior by an amount (rounded to the next highest multiple of \$5) equal to the percentage of such annual rate of pay which corresponds to the overall percentage (as set forth in the applicable report transmitted to the Congress under such section 5305) of the adjustment made in the rates of pay under the General Schedule.

"(2) No adjustment in the annual rate of basic compensation of such officers and members may be made except in accordance with paragraph (1).

"(c) Any reference in any law to the salary schedule in section 101 of this Act with respect to officers and members of the United States Park Police force shall be considered to be a reference to such schedule as adjusted in accordance with subsection (b)."

D.C. Code 4-823.

REPORT ON THE FEASIBILITY OF CODIFYING LAWS RELATING TO THE
PARK POLICE

Report to
Congress.
D.C. Code 4-833
note; 16 USC 1
note.

SEC. 3. The Secretary of the Interior shall submit to Congress not later than one year after the date of enactment of this Act a report on the feasibility and desirability of enacting as a part of the United States Code those provisions concerning the powers, duties, functions, salaries, and benefits of officers and members of the United States Park Police force which presently are contained in several statutes and are compiled in the District of Columbia Code.

EFFECTIVE DATE

D.C. Code 4-833
note.

SEC. 4. The amendments made by this Act shall take effect on October 1, 1976.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1473 (Comm. on the District of Columbia).
SENATE REPORT No. 94-1342 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 122 (1976):
 Sept. 13, considered and passed House.
 Oct. 1, considered and passed Senate.

Public Law 94-534
94th Congress

An Act

To amend the Act of June 3, 1976, relating to the Commission on Security and Cooperation in Europe.

Oct. 17, 1976
[H.R. 15813]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 of the Act entitled “An Act to establish a Commission on Security and Cooperation in Europe”, approved June 3, 1976 (Public Law 94-304), is amended—

Commission on
Security and
Cooperation in
Europe.

Ante, p. 662.
22 USC 3007.

(1) by inserting “(a)” immediately after “SEC. 7.”; and

(2) by adding at the end thereof the following new subsection:

22 USC 1754.

“(b) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use funds in accordance with such sections.”.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 30, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-535
94th Congress

An Act

Oct. 17, 1976

[H.R. 13326]

To extend until November 1, 1983, the existing exemption of the steamboat Delta Queen from certain vessel laws.

Delta Queen.
Certain vessel
laws, exemption.
46 USC 369 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the primary purpose of the amendment made by section 2 of this Act is to assure the continuity of operation of the overnight riverboat, the steamboat Delta Queen, by extending her existing exemption from the safety at sea laws. In order to assure the preservation of this historic and traditional piece of American folklore and life, such amendment will provide for the continued operation of the present steamboat Delta Queen.

SEC. 2. The penultimate sentence of section 5(b) of the Act of May 27, 1936 (49 Stat. 1384, 46 U.S.C. 369(b)), as amended, is amended by striking out "November 1, 1978," and inserting in lieu thereof "November 1, 1983,".

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1340 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-1340 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 19, considered and passed House.

Oct. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 18, Presidential statement.

Public Law 94-536
94th Congress

An Act

To permit the steamship *United States* to be used as a floating hotel, and for other purposes.

Oct. 17, 1976
[H.R. 13218]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 2 of Public Law 92-296 (86 Stat. 140) is amended by striking out the period at the end thereof and inserting the following: "or for use as a floating hotel in or on the navigable waters of the United States. Whenever the conditions set forth in section 902, the Merchant Marine Act of 1936, exist, the vessel may be requisitioned or purchased by the United States and just compensation for title or use, as the case may be, shall be paid in accordance with section 902 of the Merchant Marine Act, as amended (46 U.S.C. 1242).".

SS *United States*.
Floating hotel.
46 USC 1160
note.

46 USC 1242.

Approved October 17, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1339 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 122 (1976):

July 19, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 94-537
94th Congress

An Act

Oct. 18, 1976
[S. 3557]

To authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

Treaty of
Friendship and
Cooperation
between the
United States and
Spain.
Appropriation
authorization.

Ante, p. 765.
22 USC 2151
note.

22 USC 2311.

22 USC 2346.

Ante, p. 732.
22 USC 2347.
Ante, p. 734;
22 USC 2764.

22 USC 2370.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to carry out the programs and activities provided for in the Treaty of Friendship and Cooperation between the United States of America and Spain, signed at Madrid on January 24, 1976, including its Supplementary Agreements and the exchange of notes related to those Supplementary Agreements (hereafter in this Act referred to as the "treaty"), of the amounts authorized to be appropriated for fiscal year 1977 under section 507 of the International Security Assistance and Arms Export Control Act of 1976, not to exceed the following amounts shall be available for obligation and expenditure to carry out the treaty:

(1) For military assistance under chapter 2 of part II of the Foreign Assistance Act of 1961, \$15,000,000.

(2) For security supporting assistance under chapter 4 of part II of such Act, \$7,000,000.

(3) For international military education and training under chapter 5 of part II of such Act, \$2,000,000.

(4) For guaranties under section 24 of the Arms Export Control Act, \$12,000,000.

(b) Subsection (b) of section 507 of the International Security Assistance and Arms Export Control Act of 1976 shall not apply with respect to the obligation or expenditure of funds appropriated under such section to carry out the treaty.

SEC. 2. (a) Except as provided in subsection (b), foreign assistance and military sales activities carried out pursuant to the treaty shall be conducted in accordance with provisions of law applicable to foreign assistance and military sales programs of the United States.

(b) Section 620(m) of the Foreign Assistance Act of 1961 shall not apply with respect to the programs and activities described in subsection (a).

(c) In carrying out the provisions of article VI of Supplementary Agreement Number 7 (relating to modernizing, semiautomating, and maintaining the aircraft control and warning network in Spain), the United States contribution of not to exceed \$50,000,000 shall be financed from Department of Defense appropriations available for that purpose.

(d) This Act satisfies the requirements of section 7307 of title 10 of the United States Code with respect to the transfer of naval vessels pursuant to Supplementary Agreement Number 7.

(e) In order to carry out the provisions of article X of Supplementary Agreement Number 7 (relating to lease and purchase of aircraft), the proceeds from the lease of aircraft to Spain under that article shall be available only for appropriation for the purchase of aircraft by the United States for the purposes of that article.

SEC. 3. The authorities contained in this Act shall become effective Effective date.
only upon such date as the treaty enters into force and shall continue in effect only so long as the treaty remains in force.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1393 accompanying H.R. 14940 (Comm. on International Relations) and No. 94-1704 (Comm. of Conference).

SENATE REPORT No. 94-941 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 18, considered and passed Senate.

Sept. 14, considered and passed House, amended, in lieu of H.R. 14940.

Sept. 30, House agreed to conference report.

Oct. 1, Senate agreed to conference report.

Public Law 94-538
94th Congress

An Act

Oct. 18, 1976

[S. 2533]

To provide that the lake formed by the lock and dam referred to as the "Jones Bluff lock and dam" on the Alabama River, Alabama, shall hereafter be known as the R. E. "Bob" Woodruff Lake.

R.E. "Bob"
Woodruff Lake,
Ala.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in honor of late Probate Judge R. E. "Bob" Woodruff, of Lowndes County, Alabama, and in recognition of his long and outstanding service to his county, State, and Nation, the lake formed by the Jones Bluff lock and dam on the Alabama River, Alabama, shall hereafter be known and designated as the R. E. "Bob" Woodruff Lake. Any law, regulation, map, or record of the United States in which such lake is referred to shall be held and considered to refer to such lake by the name of the R. E. "Bob" Woodruff Lake.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1697 accompanying H.R. 10811 (Comm. on Public Works and Transportation).

SENATE REPORT No. 94-483 (Comm. on Public Works).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 1, considered and passed Senate.

Vol. 122 (1976): Oct. 1, considered and passed House.

Public Law 94-539
94th Congress

An Act

To authorize the establishment of the Eugene O'Neill National Historic Site, to provide for a cooperative agreement in the operation of the Cherokee Strip Living Museum and for other purposes.

Oct. 18, 1976

[S. 2398]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to accept the donation of, or purchase with funds donated for the acquisition of, all or any part of the property (comprising approximately fourteen acres) and improvements thereon at Danville, California, formerly owned by Eugene O'Neill. Such property is hereby designated as the Eugene O'Neill National Historic Site in commemoration of the contribution of Eugene O'Neill to American literature and drama.

Eugene O'Neill
 National Historic
 Site, Calif.
 Designation.
 16 USC 461 note.

SEC. 2. The national historic site established pursuant to this Act if acquired by the Secretary of the Interior shall be administered by him in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended, as a memorial to Eugene O'Neill and a park for the performing arts and related educational programs. Whether acquired or not, the Secretary of the Interior is authorized directly or by means of cooperative agreements with the Eugene O'Neill Foundation, Tao House, to preserve, interpret, restore, program, adapt for public use and/or provide technical assistance for the Eugene O'Neill National Historic Site in accordance with the provisions of this Act: *Provided*, That prior to entering into any cooperative agreement the Secretary shall transmit a copy of the proposed agreement together with a report explaining the reasons for the agreement to the Committees on Interior and Insular Affairs of the Senate and House of Representatives.

43 USC 1457.
 16 USC 1.

Cooperative
 agreement and
 report,
 transmittal to
 congressional
 committees.

TITLE II

SEC. 201. The Secretary of the Interior is authorized to accept, subject to the consummation of the cooperative agreement referred to in Section 202, the donation of the Cherokee Strip Living Museum in Arkansas City, Kansas, and may administer such museum in accordance with such authorities as are available to him.

Cherokee Strip
 Living Museum,
 Kans.

SEC. 202. The Secretary may enter into a cooperative agreement with any responsible and competent organization satisfactory to him for

Cooperative
 agreement.

the management and operation of the museum, and is authorized to render such technical advice and operating assistance as he may deem appropriate, the conditions of which are to be provided for in the cooperative agreement.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1681 accompanying H.R. 9126 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-809 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122(1976):

May 13, considered and passed Senate.

Sept. 27, considered and passed House, amended, in lieu of H.R. 9126.

Oct. 1, Senate agreed to House amendments with an amendment; House agreed to Senate amendment with an amendment; Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 19, Presidential statement.

Public Law 94-540
94th Congress

An Act

To provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, and for other purposes.

Oct. 18, 1976

[S. 1659]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, together with any interest thereon, after payment of attorney fees and litigation expenses and such expenses as may be necessary in effecting the provisions of this Act, shall be distributed as provided herein.

Grand River
Band of Ottawa
Indians.
Judgment funds.

SEC. 2. The Secretary of the Interior shall prepare a roll of all persons of Grand River Band of Ottawa Indian blood who meet the following requirements for eligibility: (a) they were born on or prior to and were living on the date of this Act; and (b) their name or the name of a lineal ancestor from whom they claim eligibility appears as a Grand River Ottawa on the Ottawa and Chippewa Tribe of Michigan, Durant Roll of 1908, approved by the Secretary of the Interior, February 18, 1910, or on any available census rolls or other records acceptable to the Secretary of the Interior; (c) who possess Grand River Ottawa Indian blood of the degree of one-fourth or more; and (d) are citizens of the United States.

Requirements.

SEC. 3. Applications for enrollment must be filed with the Great Lakes Agency of the Bureau of Indian Affairs at Ashland, Wisconsin, in the manner and within the time limits prescribed for that purpose. The determination of the Secretary of the Interior regarding the eligibility of an applicant shall be final.

Applications.

SEC. 4. The judgment funds shall be distributed per capita to the persons whose names appear on the roll prepared in accordance with section 2 of this Act.

Distribution.

SEC. 5. Sums payable to adult living enrollees or to adult heirs or legatees of deceased enrollees shall be paid directly to such persons. Sums payable to enrollees or their heirs or legatees who are less than eighteen years of age or who are under legal disability shall be paid in accordance with such procedures, including the establishment of trustees, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

Income tax,
exemption.

SEC. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, nor shall such funds or their availability be considered as income or other resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

Rules and
regulations.

SEC. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-577 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 19, considered and passed Senate.

Vol. 122 (1976): Oct. 1, considered and passed House.

Public Law 94-541
94th Congress

An Act

To amend the Public Buildings Act of 1959 in order to preserve buildings of historical or architectural significance through their use for Federal public building purposes, and to amend the Act of August 12, 1968, relating to the accessibility of certain buildings to the physically handicapped.

Oct. 18, 1976
[S. 865]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. This title may be cited as the "Public Buildings Cooperative Use Act of 1976".

SEC. 102. (a) In order to carry out his duties under this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities within public buildings;

(3) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for cultural, educational, and recreational activities.

(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968, and chief executive officers of those units of general local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.

SEC. 103. The Public Buildings Act of 1959 is amended—

(1) by striking out at the end of section 7(a)(3) the word "buildings;" and inserting in lieu thereof "buildings, especially such of those buildings as enhance the architectural, historical, social, cultural, and economic environment of the locality;"

(2) by striking out "and" at the end of section 7(a)(4), by redesignating section 7(a)(5) as section 7(a)(6), and by inserting the following new section 7(a)(5):

Public buildings.
Historical and
architectural
preservation.
Public Buildings
Cooperative Use
Act of 1976.
40 USC 601 note.
40 USC 601a.

42 USC 3331.
42 USC 4231.

40 USC 606.

40 USC 611.

“(5) a statement by the Administrator of the economic and other justifications for not acquiring or purchasing a building or buildings identified to the Administrator pursuant to section 12(c) of this Act as suitable for the public building needs of the Federal Government; and”; and

(3) by redesignating section 12(c) and section 12(d) and all references thereto as section 12(d) and section 12(e), respectively, and by inserting after section 12(b) the following new section 12(c):

Post, p. 2507.

“(c) Whenever the Administrator undertakes a survey of the public buildings needs of the Federal Government within a geographical area, he shall request that, within sixty days, the Advisory Council on Historic Preservation established by title II of the Act of October 15, 1966 (16 U.S.C. 470i), identify any existing buildings within such geographical area that (1) are of historic, architectural, or cultural significance (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976) and (2) would be suitable, whether or not in need of repair, alteration, or addition, for acquisition or purchase to meet the public buildings needs of the Federal Government.”.

40 USC 490.

SEC. 104. (a) Section 210(a) of the Federal Property and Administrative Services Act of 1949 is amended by striking out “and” at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon, and by adding after such paragraph the following new paragraphs:

“(16) to enter into leases of space on major pedestrian access levels and courtyards and rooftops of any public building with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976). The Administrator shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building. Such leases may be negotiated without competitive bids, but shall contain such terms and conditions and be negotiated pursuant to such procedures as the Administrator deems necessary to promote competition and to protect the public interest;

“(17) to make available, on occasion, or to lease at such rates and on such other terms and conditions as the Administrator deems to be in the public interest, auditoriums, meeting rooms, courtyards, rooftops, and lobbies of public buildings to persons, firms, or organizations engaged in cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976) that will not disrupt the operation of the building;

“(18) to deposit into the fund established by subsection (f) of this section all sums received under leases or rentals executed pursuant to paragraphs (16) and (17) of this subsection, and each sum shall be credited to the appropriation made for such fund applicable to the operation of such building; and

“(19) to furnish utilities, maintenance, repair, and other services to persons, firms, or organizations leasing space pursuant to paragraphs (16) and (17) of this subsection. Such services may be provided during and outside of regular working hours of Federal agencies.”.

(b) The Federal Property and Administrative Services Act of 1949 is amended by adding at the end of section 210(e) the following: “The Administrator shall, where practicable, give priority in the assignment of space on any major pedestrian access level not leased under the

terms of subsection (a) (16) or (a) (17) of this section in such buildings to Federal activities requiring regular contact with members of the public. To the extent such space is unavailable, the Administrator shall provide space with maximum ease of access to building entrances.”.

SEC. 105. As used in this title and in the amendments made by this title—

Definitions.
40 USC 612a.

(1) The term “Administrator” means the Administrator of General Services.

(2) The terms “public building” and “Federal agency” have the same meaning as is given them in the Public Buildings Act of 1959.

(3) The term “unit of general local government” means any city, county, town, parish, village, or other general purpose political subdivision of a State.

(4) The term “historical, architectural, or cultural significance” includes, but is not limited to, buildings listed or eligible to be listed on the National Register established under section 101 of the Act of October 15, 1966 (16 U.S.C. 470a).

(5) The term “commercial activities” includes, but is not limited to, the operations of restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

(6) The term “cultural activities” includes, but is not limited to, film, dramatic, dance, and musical presentations, and fine art exhibits, whether or not such activities are intended to make a profit.

(7) The term “educational activities” includes, but is not limited to, the operations of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(8) The term “recreational activities” includes, but is not limited to, the operations of gymnasiums and related facilities.

TITLE II

SEC. 201. The Act entitled “An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (42 U.S.C. 4151–4156), is amended as follows:

(1) The first section is amended by inserting after “structure” the following: “not leased by the Government for subsidized housing programs”; and by striking out in paragraph (2) the following: “after construction or alteration in accordance with plans and specifications of the United States”. 42 USC 4151.

(2) Section 2 is amended—

42 USC 4152.

(A) by striking out “is authorized to prescribe such” and inserting in lieu thereof “shall prescribe”;

(B) by striking out “as may be necessary to insure” and inserting in lieu thereof “to insure whenever possible”; and

(C) by inserting immediately after “Department of Defense” the following: “and of the United States Postal Service”.

(3) Section 3 is amended—

42 USC 4153.

(A) by striking out “is authorized to prescribe such” and inserting in lieu thereof “shall prescribe”; and

(B) by striking out “as may be necessary to insure” and inserting in lieu thereof “to insure whenever possible”.

(4) Section 4 is amended—

42 USC 4154.

(A) by striking out “is authorized to prescribe such” and inserting in lieu thereof “shall prescribe”; and

(B) by striking out “as may be necessary to insure” and inserting in lieu thereof “to insure whenever possible”.

- (5) Immediately after section 4 insert the following new section:
 42 USC 4154a. "SEC. 4a. The United States Postal Service, in consultation with the Secretary of Health, Education, and Welfare, shall prescribe such standards for the design, construction, and alteration of its buildings to insure whenever possible that physically handicapped persons will have ready access to, and use of, such buildings."
- 42 USC 4156. (6) Section 6 is amended—
 (A) by inserting immediately after "section 4 of this Act," the following: "and the United States Postal Service with respect to standards issued under section 4a of this Act";
 (B) by striking out "is authorized";
 (C) by inserting immediately after "(1)" the following: "is authorized"; and
 (D) by striking out all that follows "(2)" and inserting in lieu thereof "shall establish a system of continuing surveys and investigations to insure compliance with such standards."
- Report to Congress.
 42 USC 4157. (7) By adding at the end thereof the following new section:
 "SEC. 7. (a) The Administrator of General Services shall report to Congress during the first week of January of each year on his activities and those of other departments, agencies, and instrumentalities of the Federal Government under this Act during the preceding fiscal year including, but not limited to, standards issued, revised, amended, or repealed under this Act and all case-by-case modifications, and waivers of such standards during such year.
 "(b) The Architectural and Transportation Barriers Compliance Board established by section 502 of the Rehabilitation Act of 1973 (Public Law 93-112) shall report to the Public Works and Transportation Committee of the House of Representatives and the Public Works Committee of the Senate during the first week of January of each year on its activities and actions to insure compliance with the standards prescribed under this Act."
- Report to congressional committees.
 29 USC 792. SEC. 202. The amendment made by paragraph (1) of section 201 of this Act shall not apply to any lease entered into before January 1, 1977. It shall apply to every lease entered into on or after January 1, 1977, including any renewal of a lease entered into before such date which renewal is on or after such date.
- 42 USC 4151 note. SEC. 203. Section 410(b) of title 39, United States Code, is amended by adding at the end thereof the following:
 "(8) The provisions of the Act of August 12, 1968 (42 U.S.C. 4151-4156)."

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1584, pt. 1 (Comm. on Public Works and Transportation) and No. 94-1584, pt. 2 accompanying H.R. 15134 (Comm. on Government Operations).

SENATE REPORT No. 94-349 (Comm. on Public Works).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Aug. 1, considered and passed Senate.

Vol. 122 (1976): Sept. 29, considered and passed House, amended, in lieu of H.R. 15134.

Oct. 1, Senate concurred in House amendment.

Public Law 94-542
94th Congress

An Act

To amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic.

Oct. 18, 1976
[S. 3621]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Claims Settlement Act of 1949, as amended, is amended by adding at the end thereof the following new title:

International
Claims
Settlement Act of
1949,
amendments.

“TITLE VI

“PURPOSE OF TITLE

“SEC. 600. It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property interests of nationals of the United States. This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

22 USC 1644.

“DEFINITIONS

“SEC. 601. As used in this title—

22 USC 1644a.

“(1) The term ‘national of the United States’ means—

“(a) a natural person who is a citizen of the United States;

“(b) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

“(2) The term ‘Commission’ means the Foreign Claims Settlement Commission of the United States.

“(3) The term ‘property’ means any property, right, or interest, including any leasehold interest, and debts owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic for which no restoration or no adequate compensation has been made to the former owners of such property.

“(4) The term ‘German Democratic Republic’ includes the government of any political subdivision, agency, or instrumentality thereof or under its control.

“(5) The term ‘Claims Fund’ is the special fund established in the Treasury of the United States composed of such sums as may be paid to the United States by the German Democratic Republic pursuant to the terms of any agreement settling such claims that may be entered into by the Governments of the United States and the German Democratic Republic.

"RECEIPT AND DETERMINATION OF CLAIMS

22 USC 1644b.

Publication in
Federal Register.

"SEC. 602. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

"OWNERSHIP OF CLAIMS

22 USC 1644c.

"SEC. 603. A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

"CORPORATE CLAIMS

22 USC 1644d.

"SEC. 604. (a) A claim under section 602 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States, shall not be considered. A claim under section 602 of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, or taken by the German Democratic Republic.

"(b) A claim under section 602 of this title based upon a direct ownership interest in a corporation, association, or other entity for loss, shall be considered subject to the provisions of this title, if such corporation, association or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

"(c) A claim under section 602 of this title for losses based upon an indirect ownership interest in a corporation, association, or other entity, shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States.

"(d) The amount of any claim covered by subsections (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

"OFFSETS

"SEC. 605. In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 202(a) of the War Claims Act of 1948, as amended, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this title.

22 USC 1644e.

50 USC app.
2017a.

"CONSOLIDATED AWARDS

"SEC. 606. With respect to any claim under section 602 of this title which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

22 USC 1644f.

"CLAIMS FUND

"SEC. 607. (a) The Secretary of the Treasury is hereby authorized to establish in the Treasury of the United States a fund to be designated the Claims Fund as defined under section 601(5) for the payment of unsatisfied claims of nationals of the United States against the German Democratic Republic as authorized in this title.

Establishment.
22 USC 1644g.

"(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund, an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

"AWARD PAYMENT PROCEDURES

"SEC. 608. (a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 602 of this title.

22 USC 1644h.

"(b) Upon certification of such award, the Secretary of the Treasury is authorized and directed, out of the sums covered into the Claims Fund, to make payments on account of such awards as follows, and in the following order of priority:

"(1) payment in full of the principal amount of each award of \$1,000 or less;

"(2) payment in the amount of \$1,000 on account of the principal amount of each award of more than \$1,000 in principal amount;

"(3) thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the fund available for distribution at the time such payments are made;

"(4) after payment has been made in full of the principal amounts of all awards, pro rata payments may be made on account of any interest that may be allowed on such awards;

“(5) payments or applications for payments shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

“SETTLEMENT PERIOD

22 USC 1644i. “SEC. 609. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years following the final date for the filing of claims as provided in section 602 of this title.

“TRANSFER OF RECORDS

22 USC 1644j. “SEC. 610. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

“APPROPRIATIONS

22 USC 1644k. “SEC. 611. There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department of pay their respective administrative expenses incurred in carrying out their functions under this title.

“FEES FOR SERVICES

22 USC 1644l. “SEC. 612. No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this title, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claims. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

“APPLICATION OF OTHER LAWS

22 USC 1644m. “SEC. 613. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of the Act shall be applicable to this title: subsections (b), (c), (d), (e), (h), and (j) of section 4; subsections (c), (d), (e), and (f) of section 7.

22 USC 1623, 1626.

“SEPARABILITY

22 USC 1644 note. “SEC. 614. If any provisions of this Act or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected.

“PROTESTS

22 USC 1623 note.
50 USC app. 2017i, 2017j.
50 USC app. 2001 note.
5 USC app. II, 22 USC 1622 note.

“SEC. 615. Notwithstanding the provision of sections 210 and 211 of the War Claims Act of 1948 (Act of July 3, 1948), as amended by Public Law 87-846, the Foreign Claims Settlement Commission established by Reorganization Plan No. 1 of 1954 (68 Stat. 1279) is authorized and directed to receive and consider protests relating to awards made by the Commission during the ten calendar days immediately

preceding the expiration of the Commission's mandate to make such awards on May 17, 1967. Any such protests must be filed within ninety days after notice of the enactment of this provision is filed with and published in the Federal Register, which shall take place within thirty days of enactment. Such protests may include the submission of new evidence not previously before the Commission, and shall be acted upon within thirty days after receipt by the Commission. The Commission may modify awards made during the subject period in accordance with the procedures established by the War Claims Act of 1948, and any increases in awards determined to be appropriated by the Commission shall be certified to and paid by the Secretary of the Treasury out of funds which are now or may hereafter become available in the War Claims Fund in accordance with section 213 of the Act."

Publication in
Federal Register.

50 USC app.
2001 note.

50 USC app.
2017l.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-1188 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 17, considered and passed Senate.

Sept. 30, considered and passed House.

Public Law 94-543
94th Congress

An Act

Oct. 18, 1976

[S. 3063]

Designating Ozark Lock and Dam on the Arkansas River as the "Ozark-Jeta Taylor Lock and Dam".

Ozark-Jeta Taylor
Lock and Dam,
Ark.
Designation.
60 Stat. 634.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Ozark Lock and Dam, Arkansas River, Arkansas, authorized by the Rivers and Harbors Act of 1946 approved July 24, 1946, shall hereafter be known as the Ozark-Jeta Taylor Lock and Dam, and any law, regulation, document, or record of the United States in which such project is designated or referred to shall be held to refer to such project under and by the name of "Ozark-Jeta Taylor Lock and Dam".

Approved October 18, 1976.

LEGISLATIVE HISTORY:

SENATE REPORT No. 94-921 (Comm. on Public Works).
CONGRESSIONAL RECORD, Vol. 122 (1976):

June 10, considered and passed Senate.
Oct. 1, considered and passed House.

Public Law 94-544
94th Congress

An Act

To designate certain lands in the Point Reyes National Seashore, California, as wilderness, amending the Act of September 13, 1962 (76 Stat. 538), as amended (16 U.S.C. 459c-6a), and for other purposes.

Oct. 18, 1976
[H.R. 8002]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in furtherance of the purposes of the Point Reyes National Seashore Act (76 Stat. 538; 16 U.S.C. 459c), and of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131-36), and in accordance with section 3(c) of the Wilderness Act, the following lands within the Point Reyes National Seashore are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act: those lands comprising twenty-five thousand three hundred and seventy acres, and potential wilderness additions comprising eight thousand and three acres, depicted on a map entitled "Wilderness Plan, Point Reyes National Seashore", numbered 612-90,000-B and dated September 1976, to be known as the Point Reyes Wilderness.

Point Reyes
National
Seashore, Calif.
Certain lands
designated as
wilderness areas.
16 USC 1132
note.
16 USC 1132.
16 USC 1131
note.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map of the wilderness area and a description of its boundaries with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and descriptions may be made.

Map and
description, filing
with
congressional
committees.

SEC. 3. The area designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture, shall be deemed to be a reference to the Secretary of the Interior.

Administration.

SEC. 4. (a) Amend the Act of September 13, 1962 (76 Stat. 538), as amended (16 U.S.C. 459c-6a), as follows:

16 USC 459c-6.

In section 6(a) insert immediately after the words "shall be administered by the Secretary," the words "without impairment of its natural values, in a manner which provides for such recreational, educational, historic preservation, interpretation, and scientific research opportunities as are consistent with, based upon, and supportive of the maximum protection, restoration, and preservation of the natural environment within the area,".

(b) Add the following new section 7 and redesignate the existing section 7 as section 8:

16 USC 459c-7.
The Clem Miller
Environmental
Education Center,
designation.
16 USC 459c-6a.

"SEC. 7. The Secretary shall designate the principal environmental education center within the seashore as 'The Clem Miller Environ-

mental Education Center', in commemoration of the vision and leadership which the late Representative Clem Miller gave to the creation and protection of Point Reyes National Seashore."

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1680 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 29, considered and passed House.

Oct. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 19, Presidential statement.

Public Law 94-545
94th Congress

An Act

To authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes.

Oct. 18, 1976
[H.R. 11891]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and protect for the education, inspiration, and enjoyment of present and future generations an outstanding example of a near-virgin southern hardwood forest situated in the Congaree River floodplain in Richland County, South Carolina, there is hereby established the Congaree Swamp National Monument (hereinafter referred to as the "monument"). The monument shall consist of the area within the boundary as generally depicted on the map entitled "Congaree Swamp National Monument", numbered CS-80, 001-B, and dated August 1976 (generally known as the Beidler Tract), which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of his intention to do so, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions of the boundary of the monument by publication of a revised map or other boundary description in the Federal Register, but the total area may not exceed fifteen thousand, two hundred acres.

Congaree Swamp
National
Monument, S.C.
Establishment.
16 USC 431 note.

Notice to
congressional
committees.
Publication in
Federal Register.

SEC. 2. (a) Within the monument the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests therein owned by the State of South Carolina or any political subdivision thereof may be acquired only by donation.

Land
acquisition.
16 USC 431 note.

(b) With respect to any lands acquired under the provisions of this Act which at the time of acquisition are leased for hunting purposes, such acquisition shall permit the continued exercise of such lease in accordance with its provisions for its unexpired term, or for a period of five years, whichever is less: *Provided*, That no provision of such lease may be exercised which, in the opinion of the Secretary, is incompatible with the preservation objectives of this Act, or which is inconsistent with applicable Federal and State game laws, whichever is more restrictive.

SEC. 3. (a) The Secretary shall administer property acquired for the monument in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of this Act.

Administration.
16 USC 431 note.

(b) The Secretary shall permit sport fishing on lands and waters under his jurisdiction within the monument in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when no fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations promulgated under this subsection shall be placed in effect only after consultation with the appropriate fish and game agency of the State of South Carolina.

Sport fishing.

Report to
President.
16 USC 431 note.

SEC. 4. Within three years from the effective date of this Act, the Secretary shall review the area within the monument and shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendation as to the suitability or unsuitability of any area within the monument for preservation as wilderness, and any designation of any such area as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

16 USC 431 note.

SEC. 5. (a) The Secretary may not expend more than \$35,500,000 from the Land and Water Conservation Fund for land acquisition nor more than \$500,000 for the development of essential facilities.

General
management
plan, report to
congressional
committees.

(b) Within three years from the effective date of this Act the Secretary shall, after consulting with the Governor of the State of South Carolina, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan for the use and development of the monument consistent with the purposes of this Act, indicating:

(1) the lands and interests in lands adjacent or related to the monument which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act, and the estimated cost thereof;

(2) the number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1570 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1311 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Sept. 28, considered and passed Senate, amended.

Sept. 29, House agreed to Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 19, Presidential statement.

Public Law 94-546
94th Congress

An Act

To amend certain laws affecting personnel of the Coast Guard, and for other purposes.

Oct. 18, 1976
[H.R. 12939]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 14, United States Code, is amended as follows:

U.S. Coast Guard
personnel.

(1) In section 1 by striking in the second sentence the words "Treasury Department" and inserting in lieu thereof the words "Department of Transportation".

14 USC 1.

(2) In section 3 by striking in the first sentence—

14 USC 3.

(a) the word "executive" and inserting in lieu thereof the word "Executive"; and

(b) the words "Treasury Department" and inserting in lieu thereof the words "Department of Transportation".

(3) In section 81 by striking in clause (3) (c) the word "Agency" and inserting in lieu thereof the word "Administration".

14 USC 81.

(4) In section 82 by striking in the first sentence the word "Agency" in both places where it appears and inserting in lieu thereof the word "Administration".

14 USC 82.

(5) In item (section) 82 in the analysis of chapter 5 and in the catchline of the section by striking the word "Agency" and inserting in lieu thereof the word "Administration".

(6) Section 87 is repealed.

Repeal.

(7) Item (section) 87 in the analysis to chapter 5 and the catchline of the section are repealed.

14 USC 87.

(8) In section 90 by striking in subsection (b) the word "Agency" wherever it appears and inserting in lieu thereof the word "Administration".

14 USC 90.

(9) In section 93 by striking in subsection (n) the words "covered into" and inserting in lieu thereof the words "deposited in".

14 USC 93.

(10) In section 144—

14 USC 144.

(a) by striking in subsection (a) the words "of the Treasury"; and

(b) by striking in subsection (c) the words "Chief of Ordnance" and inserting in lieu thereof the words "Secretary of the Army".

(11) In section 145—

14 USC 145.

(a) by striking in subsection (a) the words "of the Treasury"; and

(b) by striking in subsection (c)—

(i) in the first sentence the words "Treasury Department" and inserting in lieu thereof the words "Department of Transportation"; and

(ii) in the second sentence the words "the Treasury" and inserting in lieu thereof the word "Transportation".

(12) In item (section) 146 in the analysis of chapter 7 and in the catchline of the section by striking the words "Post Office Department" and inserting in lieu thereof the words "United States Postal Service".

14 USC 146.

- 14 USC 147. (13) In section 147—
 (a) by striking the words “Weather Bureau” between the words “the” and “of” and inserting in lieu thereof the words “National Oceanic and Atmospheric Administration”; and
 (b) by striking the words “Chief of the Weather Bureau” wherever they appear and inserting in lieu thereof the words “Administrator, National Oceanic and Atmospheric Administration”.
- Civilian teaching staff, regulations.
 14 USC 186. (14) In section 186 by striking in subsection (a) the third sentence in its entirety and inserting in lieu thereof the following “Leaves of absence and hours of work for civilian faculty members shall be governed by regulations promulgated by the Secretary, without regard to the provisions of title 5.”.
- 14 USC 188. (15) In section 188 by striking in the last sentence the word “rank” between the words “the” and “in” and inserting in lieu thereof the word “grade”.
- 14 USC 193. (16) In section 193—
 (a) by striking in the fourth sentence the word “Chairman” and inserting in lieu thereof the word “chairman”; and
 (b) by striking the last sentence in its entirety and inserting in lieu thereof the following “Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with the provisions of chapter 57 of title 5.”.
- (17) By adding after section 256 the following new catchline and section:
- 14 USC 256a. **“§ 256a. Promotion year; defined**
 “For the purposes of this chapter, ‘promotion year’ means the period which commences on July 1 of each year and ends on June 30 of the following year.”.
- (18) By inserting in the analysis of chapter 11 following item (section) 256, the following new item (section):
- “256a. Promotion year; defined.”.
- 14 USC 257. (19) In section 257—
 (a) by striking in subsection (a) the word “fiscal” and inserting in lieu thereof the word “promotion”; and
 (b) in subsection (d)—
 (i) by inserting the word “and” following the semicolon in clause (1);
 (ii) by striking the word “; and” at the end of clause (2) and inserting in lieu thereof a period; and
 (iii) by striking clause (3).
- 14 USC 273. (20) In section 273 by striking in subsection (b) the figures “16” and inserting in lieu thereof the figures “3331”.
- 14 USC 282. (21) In section 282 by striking in clause (1) the word “fiscal” and inserting in lieu thereof the word “promotion”.
- 14 USC 283. (22) In section 283 by striking in clause (1) of subsection (a) the word “fiscal” and inserting in lieu thereof the word “promotion”.
- 14 USC 284. (23) In section 284 by striking in clause (1) of subsection (a) the word “fiscal” and inserting in lieu thereof the word “promotion”.

- (24) In section 285 by striking in clause (1) the word "fiscal" and inserting in lieu thereof the word "promotion". 14 USC 285.
- (25) In section 288 by striking in the first sentence of subsection (a) the word "fiscal" and inserting in lieu thereof the word "promotion". 14 USC 288.
- (26) In section 289— 14 USC 289.
 (a) by striking in subsection (a) the word "fiscal" wherever it appears and inserting in lieu thereof the word "promotion"; and
 (b) by striking in subsection (g) the word "fiscal" and inserting in lieu thereof the word "promotion".
- (27) In section 290— 14 USC 290.
 (a) by striking in the last sentence of subsection (a) the word "fiscal" and inserting in lieu thereof the word "promotion";
 (b) by striking in subsection (e) the word "fiscal" and inserting in lieu thereof the word "promotion";
 (c) by striking in subsection (f) the word "fiscal" and inserting in lieu thereof the word "promotion"; and
 (d) by striking in subsection (g) the word "fiscal" wherever it appears and inserting in lieu thereof the word "promotion".
- (28) In section 373 by striking in subsection (a) the figures "6023(b)" and inserting in lieu thereof the figures "2003". 14 USC 373.
- (29) In section 461 by striking the words "of the Treasury". 14 USC 461.
- (30) In section 475— 14 USC 475.
 (a) by striking in subsection (a) the phrase "of the Department in which the Coast Guard is operating" wherever it appears; and
 (b) by striking in subsection (f) the phrase "of the Department in which the Coast Guard is operating", and the phrase "commencing April 1, 1973".
- (31) In section 500 by striking in subsection (a) the words "of the Treasury". 14 USC 500.
- (32) In section 511 by striking the phrase "head of the department in which the Coast Guard is operating" and inserting in lieu thereof the word "Secretary". 14 USC 511.
- (33) In section 631— 14 USC 631.
 (a) by striking the words "of the Treasury" wherever they appear; and
 (b) by striking the phrase "of the Coast Guard" between the words "Commandant" and "any".
- (34) In section 647— 14 USC 647.
 (a) by striking preceding the first sentence the subsection designation "(a)";
 (b) by striking the words "of the Treasury" wherever they appear;
 (c) by striking in the third sentence the words "covered into" and inserting in lieu thereof the words "deposited in"; and
 (d) by striking in the last sentence the word "title" and inserting in lieu thereof the word "section".
- (35) In section 650 by striking in subsection (b) the words "Bureau of the Budget" and inserting in lieu thereof the words "Office of Management and Budget". 14 USC 650.

- 14 USC 651. (36) In section 651 by striking the word "January" and inserting in lieu thereof the word "April".
- 14 USC 655. (37) In section 655 by striking the words "United States".
- 14 USC 829. (38) In section 829 by striking the words "chapter 5 of Title 47" and inserting in lieu thereof the words "Section 305 of the Communications Act of 1934 (47 U.S.C. 305)".

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1337 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-1333 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 19, considered and passed House.

Sept. 28, considered and passed Senate, amended.

Oct. 1, House agreed to Senate amendment.

Public Law 94-547
94th Congress

An Act

To amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes.

Oct. 18, 1976

[H.R. 14041]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 204(a) of Public Law 93-445 is amended—

(1) By striking out paragraph (1) and inserting in lieu thereof the following:

“(1) that portion of the individual’s annuity as is provided under section 3(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to (A) the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such individual’s annuity as computed under the provisions of section 3(a), and that part of section 3(e) which preceded the first proviso, of the Railroad Retirement Act of 1937 or (B), if less in a case where such individual is not entitled to an annuity amount provided under paragraph (3) of this subsection, the amount of the annuity under section 2(a) of the Railroad Retirement Act of 1937 (before any reduction on account of age and without regard to section 2(d) of such Act) which such individual would have received for the month of January 1975 if this Act had not been enacted: *Provided, however*, That such annuity amount shall be subject to reduction in accordance with the provisions of section 3(m) of the Railroad Retirement Act of 1974 in the same manner as other annuity amounts provided under section 3(a) of the Railroad Retirement Act of 1974;” and

(2) By inserting “no greater than” after “paragraph shall be” in the proviso to paragraph (2).

(b) Section 204 of Public Law 93-445 is further amended by adding at the end thereof the following new subsection:

“(d) The annuity amount provided an individual by paragraph (1) of this subsection as increased from time to time shall be deemed to be the primary insurance amount of such individual for purposes of computing the annuity of the spouse of such individual under section 4(a) of the Railroad Retirement Act of 1974.”

(c) Section 206 of Public Law 93-445 is amended by striking out paragraph (1) and inserting in lieu thereof the following:

“(1) that portion of the spouse’s annuity as is provided under section 4(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to (A) the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such spouse’s annuity as computed under the provisions of section 2 of the Railroad Retirement Act of 1937 or (B), if less in a case where such spouse is not entitled to an annuity amount provided by paragraph (3) of this section, the amount of the annuity under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 (before any reduction on account of age and without regard to section 2(d) of such Act) which such spouse would

Railroad
Retirement Act of
1974,
amendment.
Annuity amounts.
45 USC 231 note.
45 USC 231b.

45 USC 228c.

45 USC 228c.

45 USC 231 note.

45 USC 231c.

45 USC 231 note.

45 USC 402. have received for the month of January 1975 if this Act had not been enacted: *Provided, however*, That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act, other than a reduction on account of age, in the same manner as any wife's insurance benefit or husband's insurance benefit payable under section 202 of the Social Security Act and shall also be subject to reduction in accordance with the provisions of section 4(i) of the Railroad Retirement Act of 1974;".

45 USC 231c.

Effective date.

45 USC 231 note.

(d) The amendments made by this section shall be effective January 1, 1975: *Provided, however*, That the increases in annuities effective June 1, 1975, and June 1, 1976, shall be in the amount which would have been provided if this Act had not been enacted.

Survivor

annuities.

45 USC 231c.

SEC. 2. (a) Section 4(g) of the Railroad Retirement Act of 1974 is amended—

(1) By striking out "subsections (a) and (b) of this section" each time it appears therein and inserting in lieu thereof "subsections (a), (b), and (e) (3) of this section"; and

45 USC 231a.

(2) By inserting immediately after "*Provided, however*," the following: "That if a widow or widower of a deceased employee is entitled to an annuity under section 2(a) (1) of this Act and if either such widow or widower or such deceased employee will have completed ten years of service prior to January 1, 1975, the amount of the annuity of such widow or widower under the preceding provisions of this subsection shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(a) (1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d) (1) of this Act began to accrue, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to subsection (i) (2) of this section but before any deductions on account of work) under the preceding provisions of this subsection and subsection (f) of this section as of the later of the date on which such widow's or widower's annuity under section 2(a) (1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d) (1) of this Act began to accrue: *Provided further*,".

45 USC 231d.

45 USC 231b.

(b) Section 4 of such Act is further amended by striking out subsection (h) and all that appears therein and inserting in lieu thereof the following:

"(h) The amount of the annuity of the widow or widower of a deceased employee determined under subsections (f) and (g) of this section, if such deceased employee will have completed ten years of service prior to January 1, 1975, and such widow or widower will have been permanently insured under the Social Security Act of December 31, 1974, shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to

which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue or the date beginning the first month for which such widow or widower is entitled to an old age insurance benefit or disability insurance benefit under the Social Security Act, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act but before any deductions on account of work) under subsections (f) and (g) of this section as to the later of the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue or the date beginning the first month for which such widow or widower is entitled to an old-age insurance benefit or disability insurance benefit under the Social Security Act: *Provided, however*, That, if a widow or widower was entitled (or would have been entitled except for the provisions of section 2(e) or 2(f) of this Act) to an annuity amount under subdivision (1) or (2) of subsection (e) of this section in the month preceding the employee's death, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act but before any deductions on account of work) under subsections (f) and (g) of this section and the preceding provisions of this subsection as of the date such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue to equal (B) the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of section 2(e) or 2(f) of this Act) as a spouse under subsections (a), (b), and (e) of this section (after any reductions on account of age) in the month preceding the employee's death."

42 USC 402.

45 USC 231a.

42 USC 1305.

(c) The amendments made by this section shall be effective with respect to annuities accruing for months after the month in which this Act is enacted: *Provided, however*, That the amendments made by subsection (b) of this section shall not operate to decrease any annuity amounts awarded under section 4(h) of the Railroad Retirement Act of 1974 prior to the date on which these amendments become effective.

Effective date.
45 USC 231c
note.

45 USC 231c.

SEC. 3. (a) Section 15(c) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new sentences: "Whenever the Board finds at any time that the balance in the Railroad Retirement Supplemental Account will be insufficient to pay the supplemental annuities which it estimates are due, or will become due, under section 2(b) of this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of such supplemental annuities, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the Railroad Retirement

45 USC 231n.

Transfer of
moneys.

Supplemental Account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such supplemental annuities, it shall request the Secretary of the Treasury to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such supplemental annuities, plus interest at an annual rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer."

Effective date.
45 USC 231n
note.
45 USC 231.

(b) The amendment made by this section shall be effective on the enactment date of this Act.

SEC. 4. (a) Section 1(h) (6) of the Railroad Retirement Act of 1974 is amended by striking out the word "and" after paragraph (iv), by changing the period at the end of paragraph (v) to a semicolon, and by adding the following new paragraphs after paragraph (v):

"(vi) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability; and

"(vii) an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment."

26 USC 3231.

(b) Section 3231(e) of the Internal Revenue Code of 1954 is amended by striking out the second sentence and inserting in lieu thereof the following: "Such term does not include (i) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability, (ii) tips (except as is provided under paragraph (3)), (iii) the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 3201, or (iv) an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment."

(c) (1) The amendments made by subsection (a) of this section shall be effective January 1, 1975.

Effective dates.
45 USC 231 note.
26 USC 3231
note.

(2) The amendments made by subsection (b) of this section shall apply with respect to taxable years ending after December 31, 1953: *Provided, however,* That any taxes paid under the Railroad Retirement Tax Act prior to the date on which this Act is enacted shall not be affected or adjusted by reason of the amendments made by such subsection (b) except to the extent that the applicable period of limitation for the assessment of tax and the filing of a claim for credit or refund has not expired prior to the date on which this Act is enacted. If the applicable period of limitation for the filing of a claim for credit or refund would expire within the six-month period following the date on which this Act is enacted, the applicable period for the filing of such a claim for credit or refund shall be extended to include such six-month period.

Extension.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1465, Pt. 1 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 20, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-548
94th Congress

An Act

Oct. 18, 1976
[H.R. 5682]

To extend the boundary of the Tinicum National Environmental Center, and for other purposes.

Tinicum National
Environmental
Center, Pa.
Boundary
extension.
86 Stat. 391.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 30, 1972, entitled "An Act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes" (Public Law 92-326) is amended—

(1) by striking out "and Prospect Park Boroughs, exclusive of the portion of marshland which has been filled by the Folcroft Landfill Corporation." in the last sentence of section 2 and inserting in lieu thereof "Prospect Park Boroughs, and the Delaware County incinerator numbered 2."; and

(2) by amending section 7 to read as follows:

Appropriation
authorization.

"SEC. 7. (a) There are authorized to be appropriated \$2,250,000 to carry out the provisions of this Act.

"(b) Beginning with fiscal year 1978, there are authorized to be appropriated, in addition to the authorization appropriated under subsection (a), \$1,600,000 to carry out the purposes of this Act."

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1139 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 18, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 1, House agreed to Senate amendment with an amendment; Senate agreed to House amendment.

Public Law 94-549
94th Congress

An Act

To amend the Act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes.

Oct. 18, 1976
[H.R. 11455]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled “An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes”, approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

Indiana Dunes
National
Lakeshore.
Expansion.

(1) The last sentence of the first section of such Act is amended by striking out “‘A Proposed Indiana Dunes National Lakeshore’, dated September 1966, and bearing the number ‘LNPNE-1008-ID’” and inserting in lieu thereof “‘Boundary Map, Indiana Dunes National Lakeshore’, dated September 1976 and bearing the number ‘626-91007’”.

(2) Section 3 of such Act is amended by inserting the following at the end of the first sentence: “By no later than October 1, 1977, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the lakeshore and shall from time to time so publish any additional boundary changes as may occur.”.

16 USC 460u-2.
Publication in
Federal Register.

(3) (a) Subsection 4(a) of such Act is repealed, subsection 4(b) is redesignated as section 4, and the following sentence is added to new section 4: “All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.”.

Repeal.
16 USC 460u-3.

(b) The first sentence of section 4 of such Act is amended by inserting immediately after “was begun before” the following: “February 1, 1973, or, in the case of improved property located within the boundaries delineated on a map identified as ‘A Proposed Indiana Dunes National Lakeshore’, dated September 1966, and bearing the number ‘LNPNE-1008-ID’, which map is on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, before”.

(4) (a) Section 6(a) of such Act is amended by revising the first sentence thereof to read as follows: “Except for owners of property within the area on the map referred to in the first section of this Act as area II-B, any owner or owners, having attained the age of majority, of improved property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the rights of use and occupancy of the improved property for noncommercial residential purposes for a term of twenty years, or for such lesser term as the owner or owners may elect at the time of acquisition by the Secretary”.

16 USC 460u-5.
Right of use and
occupancy.

(b) Section 6(b) of such Act is amended to read as follows:

“(b) Upon his determination that the property, or any portion thereof, has ceased to be used in accordance with the applicable terms and conditions, the Secretary may terminate a right of use and occupancy. Nonpayment of property taxes, validly assessed, on any retained right of use and occupancy shall also be grounds for termination of such right by the Secretary. In the event the Secretary terminates a right of use and occupancy under this subsection he shall

Termination.

pay to the owners of the retained right so terminated an amount equal to the fair market value of the portion of said right which remained unexpired on the date of termination. With respect to any right of use and occupancy in existence on the effective date of this sentence, standards for retention of such rights in effect at the time such rights were reserved shall constitute the terms and conditions referred to in section 4.”

16 USC 460u-3.
Indiana Dunes
National
Lakeshore
Advisory
Commission,
membership.
16 USC 460u-7.

(5) Section 8(b) of such Act is amended (a) by striking out “seven members” and inserting in lieu thereof “eleven members”, and (b) by striking out “and” immediately after “State of Indiana;”, and (c) by striking out “Portage,” immediately after “Dune Acres.”, and (d) by inserting immediately after “designated by the Secretary” the following: “; (7) one member who is a year-round resident of the city of Gary to be appointed from recommendations made by the mayor of such city; (8) one member to be appointed from recommendations made by a regional planning agency established under the authority of the laws of the State of Indiana and composed of representatives of local and county governments in northwestern Indiana; (9) one member who is a year-round resident of the city of Portage to be appointed from recommendations made by the mayor of such city; and (10) one member who holds a reservation of use and occupancy and is a year-round resident within the lakeshore to be designated by the Secretary.”.

(6) Section 8 of such Act is further amended by inserting the following new subsection (f):

Coal-fired
powerplant,
Porter County,
Ind.

“(f) The Advisory Commission is authorized to assist with the identification of economically and environmentally acceptable areas, outside of the boundaries of the lakeshore, for the handling and disposal of industrial solid wastes produced by the coal-fired powerplant in Porter County, Indiana, section 21, township 37 north, range 6 west.”.

Appropriation
authorization.
16 USC 460u-9.
General
management
plan, submittal to
congressional
committees.

(7) Section 10 of such Act is amended to read as follows: “The Secretary may not expend more than \$60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than \$8,500,000 for development. By October 1, 1979, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan detailing the development of the national lakeshore consistent with the preservation objectives of this Act, indicating:

“(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

“(2) the location and estimated costs of all facilities, together with a review of the consistency of the master plan with State, areawide, and local governmental development plans;

“(3) the projected need for any additional facilities within the national lakeshore; and

“(4) specific opportunities for citizen participation in the planning and development of proposed facilities and in the implementation of the general management plan generally.”.

(8) Such Act is amended by adding at the end thereof the following:

Rights-of-way or
easements.
16 USC
460u-10.

“SEC. 11. Nothing in this Act shall diminish any existing (as of March 1, 1975) rights-of-way or easements which are necessary for high voltage electrical transmission, pipelines, water mains, or line-haul railroad operations and maintenance.

"SEC. 12. (a) Nothing in the Act shall be construed as prohibiting any otherwise legal cooling, process, or surface drainage into the part of the Little Calumet River located within the lakeshore: *Provided*, That this subsection shall not affect nor in any way limit the Secretary's authority and responsibility to protect park resources.

Little Calumet
River.
16 USC
460u-11.

"(b) The authorization of lands to be added to the lakeshore by the Ninety-fourth Congress and the administration of such lands as part of the lakeshore shall in and of itself in no way operate to render more restrictive the application of Federal, State, or local air and water pollution standards to the uses of property outside the boundaries of the lakeshore, nor shall it be construed to augment the control of water and air pollution sources in the State of Indiana beyond that required pursuant to applicable Federal, State, or local law.

"SEC. 13. The Secretary shall acquire the area on the map referred to in the first section of this Act as area III-B within two years from the effective date of this section only if such area can be acquired for not more than \$800,000, exclusive of administrative costs of acquisition, as adjusted by the Consumer Price Index: *Provided*, That the Secretary may not acquire such area by any means after two years from the effective date of this section.

Land acquisition.
16 USC
460u-12.

"SEC. 14. The Secretary may acquire that portion of area I-C which is shaded on the map referred to in the first section of this Act only with the consent of the owner unless the present owner attempts to sell or otherwise dispose of such area.

16 USC
460u-13.

"SEC. 15. Within one year after the date of the enactment of this section, the Secretary shall submit, in writing, to the Committees on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

Plan, submittal to
congressional
committees.
16 USC
460u-14.

"(1) the lands which he has previously acquired by purchase, donation, exchange, or transfer for administration for the purpose of the lakeshore; and

"(2) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

"SEC. 16. The Secretary may acquire only such interest in the right-of-way designated 'Crossing A' on map numbered 626-91007 as he determines to be necessary to assure public access to the banks of the Little Calumet River within fifty feet north and south of the centerline of said river.

"Crossing A"
right-of-way.
16 USC
460u-15.

"SEC. 17. The Secretary shall enter into a cooperative agreement with the landowner of those lands north of the Little Calumet River between the Penn Central Railroad bridge within area II-E and 'Crossing A' within area IV-C. Such agreement shall provide that any roadway constructed by the landowner south of United States Route 12 within such vicinity shall include grading, landscaping, and plantings of vegetation designed to prevent soil erosion and to minimize the aural and visual impacts of said construction, and of traffic on such roadway, as perceived from the Little Calumet River.

16 USC
460u-16.

"SEC. 18. (a) The Secretary may not acquire such lands within the western section of area I-E, as designated on map numbered 626-91007, which have been used for solid waste disposal until he has received a commitment, in accordance with a plan acceptable to him, to reclaim such lands at no expense to the Federal Government.

16 USC
460u-17.

"(b) With respect to the property identified as area I-E on map numbered 626-91007, the Secretary may enter into a cooperative agree-

Study,
transmittal to
congressional
committees.
16 USC
460u-18.

ment whereby the State of Indiana or any political subdivision thereof may undertake to develop, manage, and interpret such area in a manner consistent with the purposes of this Act.

"SEC. 19. By July 1, 1977, the Secretary shall prepare and transmit to the Committees on Interior and Insular Affairs of the United States Congress a study of areas III-A, III-C, and II-A, as designated on map numbered 626-91007. The Secretary shall make reasonable provision for the timely participation of the State of Indiana, local public officials, affected property owners, and the general public in the formulation of said study, including, but not limited to, the opportunity to testify at a public hearing. The record of such hearing shall accompany said study. With respect to areas III-A and III-C, the study shall (a) address the desirability of acquisition of any or all of the area from the standpoint of resource management, protection, and public access; (b) develop alternatives for the control of beach erosion if desirable, including recommendations, if control is necessary, of assessing the costs of such control against those agencies responsible for such erosion; (c) consider and propose options to guarantee public access to and use of the beach area, including the location of necessary facilities for transportation, health, and safety; (d) detail the recreational potential of the area and all available alternatives for achieving such potential; (e) review the environmental impact upon the lakeshore resulting from the potential development and improvement of said areas; and (f) assess the cost to the United States from both the acquisition of said areas together with the potential savings from the retention of rights of use and occupancy and from the retention of the boundaries of the lakeshore, as designated on map numbered 626-91007, including the costs of additional administrative responsibilities necessary for the management of the lakeshore, including the maintenance of public services in the town of Beverly Shores, Indiana. With respect to area II-A, the Secretary shall study and report concerning the following objectives: (a) preservation of the remaining dunes, wetlands, native vegetation, and animal life within the area; (b) preservation and restoration of the watersheds of Cowles Bog and its associated wetlands; (c) appropriate public access to and use of lands within the area; (d) protection of the area and the adjacent lakeshore from degradation caused by all forms of construction, pollution, or other adverse impacts including, but not limited to, the discharge of wastes and any excessive subsurface migration of water; and (e) the economic consequences to the utility and its customers of acquisition of such area.

Land acquisition,
notice to
congressional
committees;
publication in
Federal Register.
16 USC
460u-19.

"SEC. 20. After notifying the Committees on Interior and Insular Affairs of the United States Congress, in writing, of his intentions to do so and of the reasons therefor, the Secretary may, if he finds that such lands would make a significant contribution to the purposes for which the lakeshore was established, accept title to any lands, or interests in lands, located outside the present boundaries of the lakeshore but contiguous thereto or to lands acquired under this section, such lands the State of Indiana or its political subdivisions may acquire and offer to donate to the United States or which any private person, organization, or public or private corporation may offer to donate to the United States and he shall administer such lands as a part of the lakeshore after publishing notice to that effect in the Federal Register."

(9) Section 5 of such Act is hereby repealed, and the succeeding sections are redesignated accordingly. Repeal.
16 USC 460u-4.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-818 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1189 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 17, considered and passed House.

Sept. 24, considered and passed Senate, amended.

Sept. 29, House agreed to Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 19, Presidential statement.

Public Law 94-550
94th Congress

An Act

Oct. 18, 1976
[H.R. 15531]

Federal
proceedings.
Use of unsworn
declarations.
28 USC 1746.

To permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 115 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“§ 1746. Unsworn declarations under penalty of perjury

“Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

“(1) If executed without the United States: ‘I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).

(Signature)’.”

“(2) If executed within the United States, its territories, possessions, or commonwealths: ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)’.”

(b) The table of sections for chapter 115 of title 28, United States Code, is amended by adding at the end the following new item:

“1746. Unsworn declarations under penalty of perjury.”.

SEC. 2. Section 1621 of title 18, United States Code, is amended to read as follows:

“§ 1621. Perjury generally

“Whoever—

“(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

“(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.”.

SEC. 3. Section 931 of title 10, United States Code, is amended to read as follows:

“§ 931. Art. 131. Perjury

“Any person subject to this chapter who in a judicial proceeding or in a course of justice willfully and corruptly—

“(1) upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or

“(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, subscribes any false statement material to the issue or matter of inquiry;

is guilty of perjury and shall be punished as a court-martial may direct.”.

SEC. 4. Section 152 of title 18, United States Code, is amended by inserting immediately after the second paragraph the following new paragraph:

“Whoever knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty or perjury as permitted under section 1746 of title 28, United States Code, in or in relation to any bankruptcy proceeding; or”.

SEC. 5. The fourth paragraph of section 1546 of title 18, United States Code, is amended by inserting immediately after “under oath” the following: “, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true.”.

SEC. 6. Section 1623(a) of title 18, United States Code, is amended by inserting immediately after “under oath” the following: “(or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)”.

SEC. 7. Section 287(b) of the Immigration and Nationality Act (8 U.S.C. 1357(b)) is amended—

(1) by inserting immediately after “to whom such oath has been administered” the following: “(or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)”; and

(2) by inserting immediately after “give false evidence or swear” the following: “(or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code)”.

SEC. 8. Section 5 of the Act entitled “An Act to provide for the licensing of marine radiotelegraph operators as ship radio officers, and for other purposes”, approved May 12, 1948 (46 U.S.C. 229e), is amended by inserting in the third paragraph immediately after “oath

or affirmation" the following: "(or to the truth of any unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)".

SEC. 9. Section 4445 of the Revised Statutes of the United States (46 U.S.C. 231) is amended by inserting in the third paragraph immediately after "oath or affirmation" the following: "(or to the truth of any unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)".

SEC. 10. Section 26 of the Act entitled "An Act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1920", approved June 30, 1919 (25 U.S.C. 399), is amended by inserting in the tenth paragraph immediately after "under oath" the following: "or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code,".

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1616 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 27, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-551
94th Congress

Joint Resolution

To provide for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler.

Oct. 18, 1976

[H.J. Res. 1107]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there shall be printed and bound as a public document two thousand sets of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler (hereinafter in this joint resolution referred to as the "Precedents") in accordance with the provisions of the Legislative Branch Appropriation Act, 1966 (Public Law 89-90; 79 Stat. 265).

Precedents of the House of Representatives. Printing and distribution. 2 USC 28b.

(b) The number of sets authorized to be printed and bound by or pursuant to this joint resolution shall be in lieu of the usual number of copies for binding and distribution required by section 701 of title 44, United States Code.

SEC. 2. (a) The Public Printer shall deliver one set of the Precedents to each Senator or Representative in, or Delegate or Resident Commissioner to, the Ninety-fifth Congress. The name of the Member to whom the set is delivered shall be legibly stamped on the front cover of each volume of the set.

2 USC 28c.

(b) Each Senator or Representative in, or Delegate or Resident Commissioner to, each Congress following the Ninety-fifth Congress who has not theretofore received a set of the Precedents shall be entitled to receive one set of the Precedents, upon transmitting a written request for such set to the Superintendent of Documents.

(c) The Public Printer shall make the following distribution of sets of the Precedents:

(1) to the office of the Vice President, to the office of the speaker of the House of Representatives, and to the office of the President pro tempore of the Senate, each, five sets;

(2) to the office of the majority leader of the House of Representatives and to the office of the minority leader of the House of Representatives, each, three sets;

(3) to the Parliamentarian of the House of Representatives, sixty sets;

(4) to the Parliamentarian of the Senate, five sets;

(5) to the Clerk of the House of Representatives, to the Sergeant at Arms of the House of Representatives, and to the Doorkeeper of the House of Representatives, each, two sets;

(6) to the Secretary of the Senate and to the Sergeant at Arms of the Senate, each, two sets;

(7) to the superintendent of the House document room, two sets;

(8) to the superintendent of the Senate document room, two sets;

(9) to the Library of Congress, for international exchange and for official use in Washington, District of Columbia, one hundred and fifty sets;

(10) to the National Archives, three sets;

(11) to the government of the District of Columbia, twelve sets;

(12) to the Smithsonian Institute, two sets;

(13) to the library of each legislative branch of each State, territory, and possession of the United States, one set; and

(14) to the Superintendent of Documents, eight hundred and sixteen sets for distribution to the depository library system.

2 USC 28d.

SEC. 3. (a) The Public Printer shall make the following distribution of sets of the Precedents;

(1) to each standing or joint committee of the Congress which is in existence on the date of the enactment of this joint resolution or which is established after such date of enactment, four sets;

(2) to the office of the Legislative Counsel of the House of Representatives, five sets;

(3) to the office of the Legislative Counsel of the Senate, five sets;

(4) to the library of the House of Representatives, four sets;

(5) to the library of the Senate, two sets;

(6) to the library of the Supreme Court of the United States, nine sets;

(7) to the office of the Official Reporter of Debates of the House of Representatives, three sets; and

(8) to the office of the Official Reporter of Debates of the Senate, three sets.

(b) Each set of Precedents distributed by the Public Printer under subsection (a) of this section shall be for official use. Each such set shall be legibly stamped on the front cover "Property of the United States Government." Each such set, upon delivery, shall become and remain the property of the United States, and may not be removed from the building in which is located the designated library or office, as the case may be.

2 USC 28e.

SEC. 4. (a) Any set of the Precedents printed and bound pursuant to subsection (a) of the first section of this joint resolution, not needed to carry out the distributions required by this joint resolution, shall be distributed under the direction of the Joint Committee on Printing.

(b) The Joint Committee on Printing may from time to time authorize and direct that additional sets of the Precedents, be printed, bound, and distributed in such manner as the Joint Committee determines will best carry out the purposes of this joint resolution.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1730 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 122(1976):

Sept. 30, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-552
94th Congress

An Act

Oct. 18, 1976

[H.R. 12961]

To amend the Social Security Act to repeal the requirement that a State's plan for medical assistance under title XIX of such Act include a provision giving consent of the State to certain suits brought with respect to payment for inpatient hospital services.

Repeal.

42 USC 1396a.

42 USC 1396b.

Effective date.

42 USC 1396a

note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 1902 of the Social Security Act and subsection (1) of section 1903 of such Act are repealed.

SEC. 2. The amendments made by the first section shall take effect as of January 1, 1976.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1122 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-1240 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 12, considered and passed House.

Sept. 20, considered and passed Senate, amended.

Oct. 1, House disagreed to Senate amendments; Senate receded from its amendments.

Public Law 94-553

94th Congress

An Act

For the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes.

Oct. 19, 1976
[S. 22]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Title 17, USC, copyrights.

TITLE I—GENERAL REVISION OF COPYRIGHT LAW

SEC. 101. Title 17 of the United States Code, entitled “Copyrights”, is hereby amended in its entirety to read as follows:

TITLE 17—COPYRIGHTS

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Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

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101. Definitions.
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103. Subject matter of copyright: Compilations and derivative works.
104. Subject matter of copyright: National origin.
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110. Limitations on exclusive rights: Exemption of certain performances and displays.
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113. Scope of exclusive rights in pictorial, graphic, and sculptural works.
114. Scope of exclusive rights in sound recordings.
115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords.
116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players.
117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.
118. Scope of exclusive rights: Use of certain works in connection with non-commercial broadcasting.

§ 101. Definitions

17 USC 101.

As used in this title, the following terms and their variant forms mean the following:

An “anonymous work” is a work on the copies or phonorecords of which no natural person is identified as author.

“Audiovisual works” are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless

of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are that person's immediate offspring, whether legitimate or not, and any children legally adopted by that person.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner", with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work".

A "device", "machine", or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

A "pseudonymous work" is a work on the copies or phonorecords of which the author is identified under a fictitious name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means—

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an Act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States", when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article".

The author's "widow" or "widower" is the author's surviving spouse under the law of the author's domicile at the time of his or her death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of that person's official duties.

A "work made for hire" is—

(1) a work prepared by an employee within the scope of his or her employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the foregoing sentence, a "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expres-

sion, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

Works of
authorship.

- (1) literary works;
- (2) musical works, including any accompanying words;
- (3) dramatic works, including any accompanying music;
- (4) pantomimes and choreographic works;
- (5) pictorial, graphic, and sculptural works;
- (6) motion pictures and other audiovisual works; and
- (7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 103. Subject matter of copyright: Compilations and derivative works 17 USC 103.

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing preexisting material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.

§ 104. Subject matter of copyright: National origin 17 USC 104.

(a) **UNPUBLISHED WORKS.**—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) **PUBLISHED WORKS.**—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person, wherever that person may be domiciled; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, the President may by proclamation extend protection under this title to works of which one or more

of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

17 USC 105. **§ 105. Subject matter of copyright: United States Government works**

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

17 USC 106. **§ 106. Exclusive rights in copyrighted works**

Subject to sections 107 through 118, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

- (1) to reproduce the copyrighted work in copies or phonorecords;
- (2) to prepare derivative works based upon the copyrighted work;
- (3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- (4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and
- (5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

17 USC 107. **§ 107. Limitations on exclusive rights: Fair use**

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

17 USC 108. **§ 108. Limitations on exclusive rights: Reproduction by libraries and archives**

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such copy or phonorecord, under the conditions specified by this section, if—

- (1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

(3) the reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises: *Provided*, That such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy or phonorecord under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy or phonorecord, if it exceeds fair use as provided by section 107;

(3) shall be construed to limit the reproduction and distribution by lending of a limited number of copies and excerpts by a library or archives of an audiovisual news program, subject to clauses (1), (2), and (3) of subsection (a); or

(4) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections.

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee—

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d): *Provided*, That nothing in this clause prevents a library or archives from participating in interlibrary arrangements that do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work.

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c), or with respect to pictorial or graphic works published as illustrations, diagrams, or similar adjuncts to works of which copies are reproduced or distributed in accordance with subsections (d) and (e).

(i) Five years from the effective date of this Act, and at five-year intervals thereafter, the Register of Copyrights, after consulting with representatives of authors, book and periodical publishers, and other owners of copyrighted materials, and with representatives of library users and librarians, shall submit to the Congress a report setting forth the extent to which this section has achieved the intended statutory balancing of the rights of creators, and the needs of users. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

Report to
Congress.

17 USC 109.

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

Sale or disposal.

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

Public display.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays 17 USC 110.

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if—

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for—

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatic-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if—

(A) there is no direct or indirect admission charge; or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of objection to the performance under the following conditions;

(i) the notice shall be in writing and signed by the copyright owner or such owner's duly authorized agent; and

(ii) the notice shall be served on the person responsible for the performance at least seven days before the date of the performance, and shall state the reasons for the objection; and

Notice of
objection to
performance.

Regulation.

- (iii) the notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;
- (5) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless—
 - (A) a direct charge is made to see or hear the transmission;
 - or
 - (B) the transmission thus received is further transmitted to the public;
- (6) performance of a nondramatic musical work by a governmental body or a nonprofit agricultural or horticultural organization, in the course of an annual agricultural or horticultural fair or exhibition conducted by such body or organization; the exemption provided by this clause shall extend to any liability for copyright infringement that would otherwise be imposed on such body or organization, under doctrines of vicarious liability or related infringement, for a performance by a concessionnaire, business establishment, or other person at such fair or exhibition, but shall not excuse any such person from liability for the performance;
- (7) performance of a nondramatic musical work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work, and the performance is not transmitted beyond the place where the establishment is located and is within the immediate area where the sale is occurring;
- (8) performance of a nondramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, or deaf or other handicapped persons who are unable to hear the aural signals accompanying a transmission of visual signals, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of: (i) a governmental body; or (ii) a noncommercial educational broadcast station (as defined in section 397 of title 47); or (iii) a radio subcarrier authorization (as defined in 47 CFR 73.293-73.295 and 73.593-73.595); or (iv) a cable system (as defined in section 111(f)).
- (9) performance on a single occasion of a dramatic literary work published at least ten years before the date of the performance, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of a radio subcarrier authorization referred to in clause (8)(iii), *Provided*, That the provisions of this clause shall not be applicable to more than one performance of the same work by the same performers or under the auspices of the same organization.

17 USC 111.

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) **CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.**—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if—

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmissions; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) **SECONDARY TRANSMISSION OF PRIMARY TRANSMISSION TO CONTROLLED GROUP.**—Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public: *Provided*, however, That such secondary transmission is not actionable as an act of infringement if—

(1) the primary transmission is made by a broadcast station licensed by the Federal Communications Commission; and

(2) the carriage of the signals comprising the secondary transmission is required under the rules, regulations, or authorizations of the Federal Communications Commission; and

(3) the signal of the primary transmitter is not altered or changed in any way by the secondary transmitter.

(c) **SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.**—

(1) Subject to the provisions of clauses (2), (3), and (4) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a

broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, in the following cases:

(A) where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations, or authorizations of the Federal Communications Commission; or

(B) where the cable system has not recorded the notice specified by subsection (d) and deposited the statement of account and royalty fee required by subsection (d).

Alteration,
deletion, or
substitution.

(3) Notwithstanding the provisions of clause (1) of this subsection and subject to the provisions of subsection (e) of this section, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcements transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the cable system through changes, deletions, or additions, except for the alteration, deletion, or substitution of commercial advertisements performed by those engaged in television commercial advertising market research: *Provided*, That the research company has obtained the prior consent of the advertiser who has purchased the original commercial advertisement, the television station broadcasting that commercial advertisement, and the cable system performing the secondary transmission: *And provided further*, That such commercial alteration, deletion, or substitution is not performed for the purpose of deriving income from the sale of that commercial time.

Prior consent of
advertiser.

(4) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and section 509, if (A) with respect to Canadian signals, the community of the cable system is located more than 150 miles from the United States-Canadian border and is also located south of the forty-second parallel of latitude, or (B) with respect to Mexican signals, the secondary transmission is made by a cable system which received the primary transmission by means other than direct interception of a free space radio wave emitted by such broadcast television station, unless prior to April 15, 1976, such cable system was actually carrying, or was specifically authorized to carry, the signal of such foreign station on the system pursuant to the rules, regulations, or authorizations of the Federal Communications Commission.

(d) COMPULSORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall, at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after the enactment of this Act, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system, and thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause.

Notice.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), prescribe by regulation—

(A) a statement of account, covering the six months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers, the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), from time to time prescribe by regulation. Such statement shall also include a special statement of account covering any nonnetwork television programming that was carried by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage; and

Statement of account.

Nonnetwork television programming.

(B) except in the case of a cable system whose royalty is specified in subclause (C) or (D), a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

Total royalty fee.

(i) 0.675 of 1 per centum of such gross receipts for the privilege of further transmitting any nonnetwork programming of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to paragraphs (ii) through (iv);

(ii) 0.675 of 1 per centum of such gross receipts for the first distant signal equivalent;

(iii) 0.425 of 1 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalents;

(iv) 0.2 of 1 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter; and

in computing the amounts payable under paragraph (ii) through (iv), above, any fraction of a distant signal equivalent shall be computed at its fractional value and, in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located without the local service area of such primary transmitter; and

(C) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters total \$80,000 or less, gross receipts of the cable system for the purpose of this subclause shall be computed by subtracting from such actual gross receipts the amount by which \$80,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than \$3,000. The royalty fee payable under this subclause shall be 0.5 of 1 per centum, regardless of the number of distant signal equivalents, if any; and

(D) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters, are more than \$80,000 but less than \$160,000, the royalty fee payable under this subclause shall be (i) 0.5 of 1 per centum of any gross receipts up to \$80,000; and (ii) 1 per centum of any gross receipts in excess of \$80,000 but less than \$160,000, regardless of the number of distant signal equivalents, if any.

(3) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on a semi-annual basis, a compilation of all statements of account covering the relevant six-month period provided by clause (2) of this subsection.

(4) The royalty fees thus deposited shall, in accordance with the procedures provided by clause (5), be distributed to those among the following copyright owners who claim that their works were the subject of secondary transmissions by cable systems during the relevant semiannual period:

(A) any such owner whose work was included in a secondary transmission made by a cable system of a nonnetwork television program in whole or in part beyond the local service area of the primary transmitter; and

Statements of
account,
submittal to
Copyright
Royalty Tribunal.

Royalty fees,
distribution.

(B) any such owner whose work was included in a secondary transmission identified in a special statement of account deposited under clause (2)(A); and

(C) any such owner whose work was included in nonnetwork programming consisting exclusively of aural signals carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programs.

(5) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

Royalty fees,
distribution
procedures.

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws, for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

Post, p. 2594.

(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) NONSIMULTANEOUS SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

(1) Notwithstanding those provisions of the second paragraph of subsection (f) relating to nonsimultaneous secondary transmissions by a cable system, any such transmissions are actionable as an act of infringement under section 501, and are fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, unless—

(A) the program on the videotape is transmitted no more than one time to the cable system's subscribers; and

(B) the copyrighted program, episode, or motion picture videotape, including the commercials contained within such program, episode, or picture, is transmitted without deletion or editing; and

(C) an owner or officer of the cable system (i) prevents the duplication of the videotape while in the possession of the system, (ii) prevents unauthorized duplication while in the possession of the facility making the videotape for the system if the system owns or controls the facility, or takes reasonable precautions to prevent such duplication if it does

not own or control the facility, (iii) takes adequate precautions to prevent duplication while the tape is being transported, and (iv) subject to clause (2), erases or destroys, or causes the erasure or destruction of, the videotape; and

(D) within forty-five days after the end of each calendar quarter, an owner or officer of the cable system executes an affidavit attesting (i) to the steps and precautions taken to prevent duplication of the videotape, and (ii) subject to clause (2), to the erasure or destruction of all videotapes made or used during such quarter; and

(E) such owner or officer places or causes each such affidavit, and affidavits received pursuant to clause (2)(C), to be placed in a file, open to public inspection, at such system's main office in the community where the transmission is made or in the nearest community where such system maintains an office; and

(F) the nonsimultaneous transmission is one that the cable system would be authorized to transmit under the rules, regulations, and authorizations of the Federal Communications Commission in effect at the time of the nonsimultaneous transmission if the transmission had been made simultaneously, except that this subclause shall not apply to inadvertent or accidental transmissions.

(2) If a cable system transfers to any person a videotape of a program nonsimultaneously transmitted by it, such transfer is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, except that, pursuant to a written, nonprofit contract providing for the equitable sharing of the costs of such videotape and its transfer, a videotape nonsimultaneously transmitted by it, in accordance with clause (1), may be transferred by one cable system in Alaska to another system in Alaska, by one cable system in Hawaii permitted to make such nonsimultaneous transmissions to another such cable system in Hawaii, or by one cable system in Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, to another cable system in any of those three territories, if—

(A) each such contract is available for public inspection in the offices of the cable systems involved, and a copy of such contract is filed, within thirty days after such contract is entered into, with the Copyright Office (which Office shall make each such contract available for public inspection); and

(B) the cable system to which the videotape is transferred complies with clause (1)(A), (B), (C)(i), (iii), and (iv), and (D) through (F); and

(C) such system provides a copy of the affidavit required to be made in accordance with clause (1)(D) to each cable system making a previous nonsimultaneous transmission of the same videotape.

(3) This subsection shall not be construed to supersede the exclusivity protection provisions of any existing agreement, or any such agreement hereafter entered into, between a cable system and a television broadcast station in the area in which the cable system is located, or a network with which such station is affiliated.

(4) As used in this subsection, the term "videotape", and each of its variant forms, means the reproduction of the images and

"Videotape."

sounds of a program or programs broadcast by a television broadcast station licensed by the Federal Communications Commission, regardless of the nature of the material objects, such as tapes or films, in which the reproduction is embodied.

(f) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

A “primary transmission” is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A “secondary transmission” is the further transmitting of a primary transmission simultaneously with the primary transmission, or nonsimultaneously with the primary transmission if by a “cable system” not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico: *Provided, however*, That a nonsimultaneous further transmission by a cable system located in Hawaii of a primary transmission shall be deemed to be a secondary transmission if the carriage of the television broadcast signal comprising such further transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

A “cable system” is a facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d) (2), two or more cable systems in contiguous communities under common ownership or control or operating from one head-end shall be considered as one system.

The “local service area of a primary transmitter”, in the case of a television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations. The “local service area of a primary transmitter”, in the case of a radio broadcast station, comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.

A “distant signal equivalent” is the value assigned to the secondary transmission of any nonnetwork television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming. It is computed by assigning a value of one to each independent station and a value of one-quarter to each network station and noncommercial educational station for the nonnetwork programming so carried pursuant to the rules, regulations, and authorizations of the Federal Communications Commission. The foregoing values for independent, network, and noncommercial

educational stations are subject, however, to the following exceptions and limitations. Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of enactment of this Act permit a cable system, at its election, to effect such deletion and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program; where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of enactment of this Act permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year. In the case of a station carried pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or a station carried on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth above, as the case may be, shall be multiplied by a fraction which is equal to the ratio of the broadcast hours of such station carried by the cable system to the total broadcast hours of the station.

A "network station" is a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of that station's typical broadcast day.

An "independent station" is a commercial television broadcast station other than a network station.

A "noncommercial educational station" is a television station that is a noncommercial educational broadcast station as defined in section 397 of title 47.

47 USC 397.

17 USC 112.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord, for each transmitting organization specified in clause (2) of this subsection, of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance of a work under section 110(8) to make no more than ten copies or phonorecords embodying the performance, or to permit the use of any such copy or phonorecord by any governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8), if—

(1) any such copy or phonorecord is retained and used solely by the organization that made it, or by a governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8), and no further copies or phonorecords are reproduced from it; and

(2) any such copy or phonorecord is used solely for transmissions authorized under section 110(8), or for purposes of archival preservation or security; and

(3) the governmental body or nonprofit organization permitting any use of any such copy or phonorecord by any governmental body or nonprofit organization under this subsection does not make any charge for such use.

(e) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative

work under this title except with the express consent of the owners of copyright in the preexisting works employed in the program.

17 USC 113.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of subsections (b) and (c) of this section, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

17 USC 1 *et seq.*

(b) This title does not afford, to the owner of copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

17 USC 114.

§ 114. Scope of exclusive rights in sound recordings

(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (2), and (3) of section 106, and do not include any right of performance under section 106(4).

(b) The exclusive right of the owner of copyright in a sound recording under clause (1) of section 106 is limited to the right to duplicate the sound recording in the form of phonorecords, or of copies of motion pictures and other audiovisual works, that directly or indirectly recapture the actual sounds fixed in the recording. The exclusive right of the owner of copyright in a sound recording under clause (2) of section 106 is limited to the right to prepare a derivative work in which the actual sounds fixed in the sound recording are rearranged, remixed, or otherwise altered in sequence or quality. The exclusive rights of the owner of copyright in a sound recording under clauses (1) and (2) of section 106 do not extend to the making or duplication of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording. The exclusive rights of the owner of copyright in a sound recording under clauses (1), (2), and (3) of section 106 do not apply to sound recordings included in educational television and radio programs (as defined in section 397 of title 47) distributed or transmitted by or through public broadcasting entities (as defined by section 118(g)): *Provided*, That copies or phonorecords of said programs are not commercially distributed by or through public broadcasting entities to the general public.

47 USC 397.

(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).

Report to Congress.

(d) On January 3, 1978, the Register of Copyrights, after consulting with representatives of owners of copyrighted materials, representatives of the broadcasting, recording, motion picture, entertainment industries, and arts organizations, representatives of organized labor and performers of copyrighted materials, shall submit to the Congress a report setting forth recommendations as to whether this section should be amended to provide for performers and copyright owners of

copyrighted material any performance rights in such material. The report should describe the status of such rights in foreign countries, the views of major interested parties, and specific legislative or other recommendations, if any.

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords 17 USC 115.

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) AVAILABILITY AND SCOPE OF COMPULSORY LICENSE.—

(1) When phonorecords of a nondramatic musical work have been distributed to the public in the United States under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his or her primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the making of phonorecords duplicating a sound recording fixed by another, unless: (i) such sound recording was fixed lawfully; and (ii) the making of the phonorecords was authorized by the owner of copyright in the sound recording or, if the sound recording was fixed before February 15, 1972, by any person who fixed the sound recording pursuant to an express license from the owner of the copyright in the musical work or pursuant to a valid compulsory license for use of such work in a sound recording.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(b) NOTICE OF INTENTION TO OBTAIN COMPULSORY LICENSE.—

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) Failure to serve or file the notice required by clause (1) forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribution of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

Failure to serve
or file notice,
penalty.

(c) ROYALTY PAYABLE UNDER COMPULSORY LICENSE.—

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords made and distributed after

being so identified, but is not entitled to recover for any phonorecords previously made and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord made and distributed in accordance with the license. For this purpose, a phonorecord is considered "distributed" if the person exercising the compulsory license has voluntarily and permanently parted with its possession. With respect to each work embodied in the phonorecord, the royalty shall be either two and three-fourths cents, or one-half of one cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.

(4) If the copyright owner does not receive the monthly payment and the monthly and annual statements of account when due, the owner may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders either the making or the distribution, or both, of all phonorecords for which the royalty has not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

Royalty
payments.
Regulations.

17 USC 116.

§ 116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players

(a) **LIMITATION ON EXCLUSIVE RIGHT.**—In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless—

(A) such proprietor is the operator of the phonorecord player; or

(B) such proprietor refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by clause (1)(C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) **RECORDATION OF COIN-OPERATED PHONORECORD PLAYER, AFFIXATION OF CERTIFICATE, AND ROYALTY PAYABLE UNDER COMPULSORY LICENSE.**—

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, the operator shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and deposit with the Register of Copyrights a royalty fee for the current calendar year of \$8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be \$4.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by such operator under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate, or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(c) DISTRIBUTION OF ROYALTIES.—

(1) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on an annual basis, a detailed statement of account covering all fees received for the relevant period provided by subsection (b).

(2) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-month period shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Such claim shall include an agreement to accept as final,

Statements of
account,
submittal to
Copyright
Royalty Tribunal.
Claims.

Post, p. 2598.

except as provided in section 810 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b) (1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws, for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(3) After the first day of October of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b) (1). If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If it finds that such a controversy exists, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

Post, p. 2594.

Distribution
procedures.

(4) The fees to be distributed shall be divided as follows:

(A) to every copyright owner not affiliated with a performing rights society, the pro rata share of the fees to be distributed to which such copyright owner proves entitlement.

(B) to the performing rights societies, the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove entitlement.

(C) during the pendency of any proceeding under this section, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

Regulations.

(5) The Copyright Royalty Tribunal shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he or she has been denied the access permitted under the regulations prescribed by the Copyright Royalty Tribunal may bring an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

Civil action.

(d) CRIMINAL PENALTIES.—Any person who knowingly makes a false representation of a material fact in an application filed under clause (1) (A) of subsection (b), or who knowingly alters a certificate issued under clause (1) (B) of subsection (b) or knowingly affixes

such a certificate to a phonorecord player other than the one it covers, shall be fined not more than \$2,500.

(e) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

(1) A “coin-operated phonorecord player” is a machine or device that—

(A) is employed solely for the performance of non-dramatic musical works by means of phonorecords upon being activated by insertion of coins, currency, tokens, or other monetary units or their equivalent;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An “operator” is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.

(3) A “performing rights society” is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems 17 USC 117.

Notwithstanding the provisions of sections 106 through 116 and 118, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

§ 118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting 17 USC 118.

(a) The exclusive rights provided by section 106 shall, with respect to the works specified by subsection (b) and the activities specified by subsection (d), be subject to the conditions and limitations prescribed by this section.

(b) Not later than thirty days after the Copyright Royalty Tribunal has been constituted in accordance with section 802, the Chairman of the Tribunal shall cause notice to be published in the Federal Register of the initiation of proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subsection (d) with respect to published nondramatic

Publication in
Federal Register.

musical works and published pictorial, graphic, and sculptural works during a period beginning as provided in clause (3) of this subsection and ending on December 31, 1982. Copyright owners and public broadcasting entities shall negotiate in good faith and cooperate fully with the Tribunal in an effort to reach reasonable and expeditious results. Notwithstanding any provision of the antitrust laws, any owners of copyright in works specified by this subsection and any public broadcasting entities, respectively, may negotiate and agree upon the terms and rates of royalty payments and the proportionate division of fees paid among various copyright owners, and may designate common agents to negotiate, agree to, pay, or receive payments.

(1) Any owner of copyright in a work specified in this subsection or any public broadcasting entity may, within one hundred and twenty days after publication of the notice specified in this subsection, submit to the Copyright Royalty Tribunal proposed licenses covering such activities with respect to such works. The Copyright Royalty Tribunal shall proceed on the basis of the proposals submitted to it as well as any other relevant information. The Copyright Royalty Tribunal shall permit any interested party to submit information relevant to such proceedings.

(2) License agreements voluntarily negotiated at any time between one or more copyright owners and one or more public broadcasting entities shall be given effect in lieu of any determination by the Tribunal: *Provided*, That copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register of Copyrights shall prescribe.

(3) Within six months, but not earlier than one hundred and twenty days, from the date of publication of the notice specified in this subsection the Copyright Royalty Tribunal shall make a determination and publish in the Federal Register a schedule of rates and terms which, subject to clause (2) of this subsection, shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether or not such copyright owners and public broadcasting entities have submitted proposals to the Tribunal. In establishing such rates and terms the Copyright Royalty Tribunal may consider the rates for comparable circumstances under voluntary license agreements negotiated as provided in clause (2) of this subsection. The Copyright Royalty Tribunal shall also establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept by public broadcasting entities.

(4) With respect to the period beginning on the effective date of this title and ending on the date of publication of such rates and terms, this title shall not afford to owners of copyright or public broadcasting entities any greater or lesser rights with respect to the activities specified in subsection (d) as applied to works specified in this subsection than those afforded under the law in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) The initial procedure specified in subsection (b) shall be repeated and concluded between June 30 and December 31, 1982, and at five-year intervals thereafter, in accordance with regulations that the Copyright Royalty Tribunal shall prescribe.

Rates and terms,
publication in
Federal Register.

(d) Subject to the transitional provisions of subsection (b) (4), and to the terms of any voluntary license agreements that have been negotiated as provided by subsection (b) (2), a public broadcasting entity may, upon compliance with the provisions of this section, including the rates and terms established by the Copyright Royalty Tribunal under subsection (b) (3), engage in the following activities with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works:

(1) performance or display of a work by or in the course of a transmission made by a noncommercial educational broadcast station referred to in subsection (g); and

(2) production of a transmission program, reproduction of copies or phonorecords of such a transmission program, and distribution of such copies or phonorecords, where such production, reproduction, or distribution is made by a nonprofit institution or organization solely for the purpose of transmissions specified in clause (1); and

(3) the making of reproductions by a governmental body or a nonprofit institution of a transmission program simultaneously with its transmission as specified in clause (1), and the performance or display of the contents of such program under the conditions specified by clause (1) of section 110, but only if the reproductions are used for performances or displays for a period of no more than seven days from the date of the transmission specified in clause (1), and are destroyed before or at the end of such period. No person supplying, in accordance with clause (2), a reproduction of a transmission program to governmental bodies or nonprofit institutions under this clause shall have any liability as a result of failure of such body or institution to destroy such reproduction: *Provided*, That it shall have notified such body or institution of the requirement for such destruction pursuant to this clause: *And provided further*, That if such body or institution itself fails to destroy such reproduction it shall be deemed to have infringed.

(e) Except as expressly provided in this subsection, this section shall have no applicability to works other than those specified in subsection (b).

(1) Owners of copyright in nondramatic literary works and public broadcasting entities may, during the course of voluntary negotiations, agree among themselves, respectively, as to the terms and rates of royalty payments without liability under the anti-trust laws. Any such terms and rates of royalty payments shall be effective upon filing in the Copyright Office, in accordance with regulations that the Register of Copyrights shall prescribe.

(2) On January 3, 1980, the Register of Copyrights, after consulting with authors and other owners of copyright in nondramatic literary works and their representatives, and with public broadcasting entities and their representatives, shall submit to the Congress a report setting forth the extent to which voluntary licensing arrangements have been reached with respect to the use of nondramatic literary works by such broadcast stations. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

(f) Nothing in this section shall be construed to permit, beyond the limits of fair use as provided by section 107, the unauthorized dramatization of a nondramatic musical work, the production of a transmission program drawn to any substantial extent from a published

Report to
Congress.

“Public
broadcasting
entity.”
47 USC 397.

compilation of pictorial, graphic, or sculptural works, or the unauthorized use of any portion of an audiovisual work.

(g) As used in this section, the term “public broadcasting entity” means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in clause (2) of subsection (d).

Chapter 2.—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.

201. Ownership of copyright.

202. Ownership of copyright as distinct from ownership of material object.

203. Termination of transfers and licenses granted by the author.

204. Execution of transfers of copyright ownership.

205. Recordation of transfers and other documents.

17 USC 201.

§ 201. Ownership of copyright

(a) **INITIAL OWNERSHIP.**—Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a joint work are coowners of copyright in the work.

(b) **WORKS MADE FOR HIRE.**—In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) **CONTRIBUTIONS TO COLLECTIVE WORKS.**—Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) **TRANSFER OF OWNERSHIP.**—

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) **INVOLUNTARY TRANSFER.**—When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by that individual author, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title.

17 USC 202.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of

ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

§ 203. Termination of transfers and licenses granted by the author 17 USC 203.

(a) **CONDITIONS FOR TERMINATION.**—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if the author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, the termination interest of any such author may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or the grantee's successor in title. Notice.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) **EFFECT OF TERMINATION.**—Upon the effective date of termination, all rights under this title that were covered by the terminated grants revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

Limitations.

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grants that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

17 USC 204.

§ 204. Execution of transfers of copyright ownership

(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent.

(b) A certificate of acknowledgement is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if—

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is proved by a certificate of such an officer.

§ 205. Recordation of transfers and other documents

17 USC 205.

(a) **CONDITIONS FOR RECORDATION.**—Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document.

(b) **CERTIFICATE OF RECORDATION.**—The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) **RECORDATION AS CONSTRUCTIVE NOTICE.**—Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if—

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) **RECORDATION AS PREREQUISITE TO INFRINGEMENT SUIT.**—No person claiming by virtue of a transfer to be the owner of copyright or of any exclusive right under a copyright is entitled to institute an infringement action under this title until the instrument of transfer under which such person claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) **PRIORITY BETWEEN CONFLICTING TRANSFERS.**—As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c), within one month after its execution in the United States or within two months after its execution outside the United States, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) **PRIORITY BETWEEN CONFLICTING TRANSFER OF OWNERSHIP AND NONEXCLUSIVE LICENSE.**—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or such owner's duly authorized agent, and if—

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

Chapter 3.—DURATION OF COPYRIGHT

- Sec.
 301. Preemption with respect to other laws.
 302. Duration of copyright: Works created on or after January 1, 1978.
 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978.
 304. Duration of copyright: Subsisting copyrights.
 305. Duration of copyright: Terminal date.

17 USC 301.

§ 301. Preemption with respect to other laws

(a) On and after January 1, 1978, all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

(1) subject matter that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression; or

(2) any cause of action arising from undertakings commenced before January 1, 1978; or

(3) activities violating legal or equitable rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106.

(c) With respect to sound recordings fixed before February 15, 1972, any rights or remedies under the common law or statutes of any State shall not be annulled or limited by this title until February 15, 2047. The preemptive provisions of subsection (a) shall apply to any such rights and remedies pertaining to any cause of action arising from undertakings commenced on and after February 15, 2047. Notwithstanding the provisions of section 303, no sound recording fixed before February 15, 1972, shall be subject to copyright under this title before, on, or after February 15, 2047.

(d) Nothing in this title annuls or limits any rights or remedies under any other Federal statute.

17 USC 302.

§ 302. Duration of copyright: Works created on or after January 1, 1978

(a) **IN GENERAL.**—Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after the author's death.

(b) **JOINT WORKS.**—In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

(c) **ANONYMOUS WORKS, PSEUDONYMOUS WORKS, AND WORKS MADE FOR HIRE.**—In the case of an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in the records provided by this subsection,

the copyright in the work endures for the term specified by subsection (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of that person's interest, the source of the information recorded, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) **RECORDS RELATING TO DEATH OF AUTHORS.**—Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of that person's interest, and the source of the information recorded, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent the Register considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

Recordkeeping.

(e) **PRESUMPTION AS TO AUTHOR'S DEATH.**—After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefit of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978 17 USC 303.

Copyright in a work created before January 1, 1978, but not theretofore in the public domain or copyrighted, subsists from January 1, 1978, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2002; and, if the work is published on or before December 31, 2002, the term of copyright shall not expire before December 31, 2027.

§ 304. Duration of copyright: Subsisting copyrights 17 USC 304.

(a) **COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.**—Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for twenty-eight years from the date it was originally secured: *Provided*, That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in the case of any other

copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his or her next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) **COPYRIGHTS IN THEIR RENEWAL TERM OR REGISTERED FOR RENEWAL BEFORE JANUARY 1, 1978.**—The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1976, and December 31, 1977, inclusive, or for which renewal registration is made between December 31, 1976, and December 31, 1977, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.

(c) **TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.**—In the case of any copyright subsisting in either its first or renewal term on January 1, 1978, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1978, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or his or her duly authorized agent or, if that author is dead, by the number and proportion of the owners of his or her termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

Advance notice.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if that author is dead, to the persons owning his or her termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

Reversion.

Limitations.

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where the author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with

respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this subclause.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this subsection, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

17 USC 305.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.

- 401. Notice of copyright: Visually perceptible copies.
- 402. Notice of copyright: Phonorecords of sound recordings.
- 403. Notice of copyright: Publications incorporating United States Government works.
- 404. Notice of copyright: Contributions to collective works.
- 405. Notice of copyright: Omission of notice.
- 406. Notice of copyright: Error in name or date.
- 407. Deposit of copies or phonorecords for Library of Congress.
- 408. Copyright registration in general.
- 409. Application for copyright registration.
- 410. Registration of claim and issuance of certificate.
- 411. Registration as prerequisite to infringement suit.
- 412. Registration as prerequisite to certain remedies for infringement.

17 USC 401.

§ 401. Notice of copyright: Visually perceptible copies

(a) **GENERAL REQUIREMENT.**—Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) **FORM OF NOTICE.**—The notice appearing on the copies shall consist of the following three elements:

- (1) the symbol © (the letter C in a circle), or the word "Copyright", or the abbreviation "Copr."; and

(2) the year of first publication of the work; in the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles; and

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) **POSITION OF NOTICE.**—The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

§ 402. Notice of copyright: Phonorecords of sound recordings 17 USC 402.

(a) **GENERAL REQUIREMENT.**—Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) **FORM OF NOTICE.**—The notice appearing on the phonorecords shall consist of the following three elements:

- (1) the symbol © (the letter P in a circle) ; and
- (2) the year of first publication of the sound recording; and
- (3) the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, the producer's name shall be considered a part of the notice.

(c) **POSITION OF NOTICE.**—The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

§ 403. Notice of copyright: Publications incorporating United States Government works 17 USC 403.

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by sections 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

§ 404. Notice of copyright: Contributions to collective works 17 USC 404.

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate

contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

17 USC 405.

§ 405. Notice of copyright: Omission of notice

(a) **EFFECT OF OMISSION ON COPYRIGHT.**—The omission of the copyright notice prescribed by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if—

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) **EFFECT OF OMISSION ON INNOCENT INFRINGERS.**—Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work has been made under section 408, if such person proves that he or she was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition or permitting the continuation of the infringing undertaking, that the infringer pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) **REMOVAL OF NOTICE.**—Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies or phonorecords.

17 USC 406.

§ 406. Notice of copyright: Error in name or date

(a) **ERROR IN NAME.**—Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if such person proves that he or she was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun—

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded. The person named in the notice is liable to account to the copyright owner for all receipts from transfers or licenses purportedly made under the copyright by the person named in the notice.

(b) **ERROR IN DATE.**—When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period

computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) **OMISSION OF NAME OR DATE.**—Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

§ 407. Deposit of copies or phonorecords for Library of Congress 17 USC 407.

(a) Except as provided by subsection (c), and subject to the provisions of subsection (e), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication—

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords. Neither the deposit requirements of this subsection nor the acquisition provisions of subsection (e) are conditions of copyright protection.

(b) The required copies or phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories. Such regulations shall provide either for complete exemption from the deposit requirements of this section, or for alternative forms of deposit aimed at providing a satisfactory archival record of a work without imposing practical or financial hardships on the depositor, where the individual author is the owner of copyright in a pictorial, graphic, or sculptural work and (i) less than five copies of the work have been published, or (ii) the work has been published in a limited edition consisting of numbered copies, the monetary value of which would make the mandatory deposit of two copies of the best edition of the work burdensome, unfair, or unreasonable. Exemption.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable— Penalties.

(1) to a fine of not more than \$250 for each work; and

(2) to pay into a specially designated fund in the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no retail price has been fixed, the reasonable cost of the Library of Congress of acquiring them; and

(3) to pay a fine of \$2,500, in addition to any fine or liability imposed under clauses (1) and (2), if such person willfully or repeatedly fails or refuses to comply with such a demand.

(e) With respect to transmission programs that have been fixed and transmitted to the public in the United States but have not been published, the Register of Copyrights shall, after consulting with the Librarian of Congress and other interested organizations and officials, Regulations.

establish regulations governing the acquisition, through deposit or otherwise, of copies or phonorecords of such programs for the collections of the Library of Congress.

(1) The Librarian of Congress shall be permitted, under the standards and conditions set forth in such regulations, to make a fixation of a transmission program directly from a transmission to the public, and to reproduce one copy or phonorecord from such fixation for archival purposes.

(2) Such regulations shall also provide standards and procedures by which the Register of Copyrights may make written demand, upon the owner of the right of transmission in the United States, for the deposit of a copy or phonorecord of a specific transmission program. Such deposit may, at the option of the owner of the right of transmission in the United States, be accomplished by gift, by loan for purposes of reproduction, or by sale at a price not to exceed the cost of reproducing and supplying the copy or phonorecord. The regulations established under this clause shall provide reasonable periods of not less than three months for compliance with a demand, and shall allow for extensions of such periods and adjustments in the scope of the demand or the methods for fulfilling it, as reasonably warranted by the circumstances. Willful failure or refusal to comply with the conditions prescribed by such regulations shall subject the owner of the right of transmission in the United States to liability for an amount, not to exceed the cost of reproducing and supplying the copy or phonorecord in question, to be paid into a specially designated fund in the Library of Congress.

(3) Nothing in this subsection shall be construed to require the making or retention, for purposes of deposit, of any copy or phonorecord of an unpublished transmission program, the transmission of which occurs before the receipt of a specific written demand as provided by clause (2).

(4) No activity undertaken in compliance with regulations prescribed under clauses (1) or (2) of this subsection shall result in liability if intended solely to assist in the acquisition of copies or phonorecords under this subsection.

17 USC 408.

§ 408. Copyright registration in general

(a) **REGISTRATION PERMISSIVE.**—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) **DEPOSIT FOR COPYRIGHT REGISTRATION.**—Except as provided by subsection (c), the material deposited for registration shall include—

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published outside the United States, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section,

if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require. The Register shall also prescribe regulations establishing requirements under which copies or phonorecords acquired for the Library of Congress under subsection (e) of section 407, otherwise than by deposit, may be used to satisfy the deposit provisions of this section.

Regulations.

(c) ADMINISTRATIVE CLASSIFICATION AND OPTIONAL DEPOSIT.—

(1) The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

Regulations.

(2) Without prejudice to the general authority provided under clause (1), the Register of Copyrights shall establish regulations specifically permitting a single registration for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, within a twelve-month period, on the basis of a single deposit, application, and registration fee, under all of the following conditions—

(A) if each of the works as first published bore a separate copyright notice, and the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner was the same in each notice; and

(B) if the deposit consists of one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published; and

(C) if the application identifies each work separately, including the periodical containing it and its date of first publication.

(3) As an alternative to separate renewal registrations under subsection (a) of section 304, a single renewal registration may be made for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, upon the filing of a single application and fee, under all of the following conditions:

(A) the renewal claimant or claimants, and the basis of claim or claims under section 304(a), is the same for each of the works; and

(B) the works were all copyrighted upon their first publication, either through separate copyright notice and registration or by virtue of a general copyright notice in the periodical issue as a whole; and

(C) the renewal application and fee are received not more than twenty-eight or less than twenty-seven years after the thirty-first day of December of the calendar year in which all of the works were first published; and

(D) the renewal application identifies each work separately, including the periodical containing it and its date of first publication.

(d) **CORRECTIONS AND AMPLIFICATIONS.**—The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) **PUBLISHED EDITION OF PREVIOUSLY REGISTERED WORK.**—Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

17 USC 409.

§ 409. Application for copyright registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include—

- (1) the name and address of the copyright claimant;
- (2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors, and, if one or more of the authors is dead, the dates of their deaths;
- (3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;
- (4) in the case of a work made for hire, a statement to this effect;
- (5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;
- (6) the title of the work, together with any previous or alternative titles under which the work can be identified;
- (7) the year in which creation of the work was completed;
- (8) if the work has been published, the date and nation of its first publication;
- (9) in the case of a compilation or derivative work, an identification of any preexisting work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;
- (10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and
- (11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

17 USC 410.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that

the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court. Prima facie evidence.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office. Effective date.

§ 411. Registration as prerequisite to infringement suit

17 USC 411.

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service, but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may, either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

§ 412. Registration as prerequisite to certain remedies for infringement

17 USC 412.

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for—

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after the first publication of the work.

Chapter 5.—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.

501. Infringement of copyright.

502. Remedies for infringement: Injunctions.

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17 USC 501.

§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 118, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205(d) and 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. The court may require such owner to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

(d) For any secondary transmission by a cable system that is actionable as an act of infringement pursuant to section 111(c)(3), the following shall also have standing to sue: (i) the primary transmitter whose transmission has been altered by the cable system; and (ii) any broadcast station within whose local service area the secondary transmission occurs.

17 USC 502.

§ 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in such clerk's office.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles 17 USC 503.

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

§ 504. Remedies for infringement: Damages and profits 17 USC 504.

(a) IN GENERAL.—Except as otherwise provided by this title, an infringer of copyright is liable for either—

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) ACTUAL DAMAGES AND PROFITS.—The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) STATUTORY DAMAGES.—

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than \$250 or more than \$10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than \$50,000. In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than \$100. The court shall remit statutory damages in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under section 107, if the infringer was: (i) an employee or agent of a nonprofit educational institution, library, or archives acting within the scope of his or her employment who, or such institution, library, or archives itself, which infringed by reproducing the work in copies or phonorecords; or (ii) a public broadcasting entity which or a person who, as a regular part of the nonprofit activities of a public

broadcasting entity (as defined in subsection (g) of section 118) infringed by performing a published nondramatic literary work or by reproducing a transmission program embodying a performance of such a work.

17 USC 505.

§ 505. Remedies for infringement: Costs and attorney's fees

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

17 USC 506.

§ 506. Criminal offenses

(a) **CRIMINAL INFRINGEMENT.**—Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than \$10,000 or imprisoned for not more than one year, or both: *Provided, however,* That any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsections (1), (3), or (4) of section 106 shall be fined not more than \$25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than \$50,000 or imprisoned for not more than two years, or both, for any subsequent offense.

(b) **FORFEITURE AND DESTRUCTION.**—When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices, or equipment used in the manufacture of such infringing copies or phonorecords.

(c) **FRAUDULENT COPYRIGHT NOTICE.**—Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be fined not more than \$2,500.

(d) **FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.**—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than \$2,500.

(e) **FALSE REPRESENTATION.**—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

17 USC 507.

§ 507. Limitations on actions

(a) **CRIMINAL PROCEEDINGS.**—No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) **CIVIL ACTIONS.**—No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

17 USC 508.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is

shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

§ 509. Seizure and forfeiture

17 USC 509.

(a) All copies or phonorecords manufactured, reproduced, distributed, sold, or otherwise used, intended for use, or possessed with intent to use in violation of section 506(a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing, or assembling such copies or phonorecords may be seized and forfeited to the United States.

(b) The applicable procedures relating to (i) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, (ii) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (iii) the remission or mitigation of such forfeiture, (iv) the compromise of claims, and (v) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon any officer or employee of the Treasury Department or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise; and baggage under the provisions of the customs laws contained in title 19 shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

19 USC 1 et seq.

§ 510. Remedies for alteration of programing by cable systems

17 USC 510.

(a) In any action filed pursuant to section 111(c)(3), the following remedies shall be available:

(1) Where an action is brought by a party identified in subsections (b) or (c) of section 501, the remedies provided by sections 502 through 505, and the remedy provided by subsection (b) of this section; and

(2) When an action is brought by a party identified in subsection (d) of section 501, the remedies provided by sections 502 and 505, together with any actual damages suffered by such party as a result of the infringement, and the remedy provided by subsection (b) of this section.

(b) In any action filed pursuant to section 111(c)(3), the court may decree that, for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a compulsory license for one or more distant signals carried by such cable system.

Chapter 6.—MANUFACTURING REQUIREMENTS AND IMPORTATION

Sec.

601. Manufacture, importation, and public distribution of certain copies.

602. Infringing importation of copies or phonorecords.

603. Importation prohibitions: Enforcement and disposition of excluded articles.

17 USC 601.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Prior to July 1, 1982, and except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply—

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if such author is a national of the United States, he or she has been domiciled outside the United States for a continuous period of at least one year immediately preceding that date; in the case of a work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the United States Customs Service is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by such owner at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the Government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought—

(A) by any person with respect to no more than one copy of any work at any one time;

(B) by any person arriving from outside the United States, with respect to copies forming part of such person's personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind; or

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States; or

(7) where, on the date when importation is sought or public distribution in the United States is made—

(A) the author of any substantial part of such material is an individual and receives compensation for the transfer or license of the right to distribute the work in the United States; and

(B) the first publication of the work has previously taken place outside the United States under a transfer or license granted by such author to a transferee or licensee who was not a national or domiciliary of the United States or a domestic corporation or enterprise; and

(C) there has been no publication of an authorized edition of the work of which the copies were manufactured in the United States; and

(D) the copies were reproduced under a transfer or license granted by such author or by the transferee or licensee of the right of first publication as mentioned in subclause (B), and the transferee or the licensee of the right of reproduction was not a national or domiciliary of the United States or a domestic corporation or enterprise.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if—

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the non-dramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if the infringer proves—

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

§ 602. Infringing importation of copies or phonorecords

17 USC 602.

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under

section 106, actionable under section 501. This subsection does not apply to—

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State, but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from outside the United States with respect to copies or phonorecords forming part of such person's personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes, unless the importation of such copies or phonorecords is part of an activity consisting of systematic reproduction or distribution, engaged in by such organization in violation of the provisions of section 108(g)(2).

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the United States Customs Service has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Customs Service of the importation of articles that appear to be copies or phonorecords of the work.

Regulations.

17 USC 603.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

Regulations.

(a) The Secretary of the Treasury and the United States Postal Service shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602—

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

Surety bond.

(2) that the person seeking exclusion furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which such person claims an interest is valid and that the importation would violate the prohibition in section 602; the person seeking exclusion may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of law.

Chapter 7.—COPYRIGHT OFFICE

Sec.

701. The Copyright Office: General responsibilities and organization.

702. Copyright Office regulations.

703. Effective date of actions in Copyright Office.

704. Retention and disposition of articles deposited in Copyright Office.

705. Copyright Office records: Preparation, maintenance, public inspection, and searching.

706. Copies of Copyright Office records.

707. Copyright Office forms and publications.

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709. Delay in delivery caused by disruption of postal or other services.

710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures.

§ 701. The Copyright Office: General responsibilities and organization 17 USC 701.

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under the Librarian's general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1978, to authenticate all certified documents issued by the Copyright Office. Seal.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress. Report to Librarian of Congress.

(d) Except as provided by section 706(b) and the regulations issued thereunder, all actions taken by the Register of Copyrights under this title are subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, Chapter 5, Subchapter II and Chapter 7).

5 USC 551, 701.
17 USC 702.**§ 702. Copyright Office regulations**

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

§ 703. Effective date of actions in Copyright Office

17 USC 703.

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

§ 704. Retention and disposition of articles deposited in Copyright Office 17 USC 704.

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled, Regulations.

under regulations that the Register of Copyrights shall prescribe, to select any deposits for its collections or for transfer to the National Archives of the United States or to a Federal records center, as defined in section 2901 of title 44.

(c) The Register of Copyrights is authorized, for specific or general categories of works, to make a facsimile reproduction of all or any part of the material deposited under section 408, and to make such reproduction a part of the Copyright Office records of the registration, before transferring such material to the Library of Congress as provided by subsection (b), or before destroying or otherwise disposing of such material as provided by subsection (d).

(d) Deposits not selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be knowingly or intentionally destroyed or otherwise disposed of during its term of copyright unless a facsimile reproduction of the entire deposit has been made a part of the Copyright Office records as provided by subsection (c).

(e) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708(a)(11) if the request is granted.

17 USC 705.

§ 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

Report.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

17 USC 706.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

17 USC 707.

§ 707. Copyright Office forms and publications

(a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has

discretion to determine, on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) **OTHER PUBLICATIONS.**—The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. The Register also has the authority to publish compilations of information, bibliographies, and other material he or she considers to be of value to the public.

(c) **DISTRIBUTION OF PUBLICATIONS.**—All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

§ 708. Copyright Office fees

17 USC 708.

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, \$10;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, \$6;

(3) for the issuance of a receipt for a deposit under section 407, \$2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, \$10; for each page over six and each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, \$6;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, \$10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, \$1 additional;

(7) for the issuance, under section 601, of an import statement, \$3;

(8) for the issuance, under section 706, of an additional certificate of registration, \$4;

(9) for the issuance of any other certification, \$4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, \$10 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

Waiver.

(c) The Register of Copyrights shall deposit all fees in the Treasury of the United States in such manner as the Secretary of the Treasury directs. The Register may, in accordance with regulations that

Regulations.

he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section; however, before making a refund in any case involving a refusal to register a claim under section 410(b), the Register may deduct all or any part of the prescribed registration fee to cover the reasonable administrative costs of processing the claim.

17 USC 709.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

17 USC 710.

§ 710. Reproduction for use of the blind and physically handicapped: Voluntary licensing forms and procedures

Regulation.

The Register of Copyrights shall, after consultation with the Chief of the Division for the Blind and Physically Handicapped and other appropriate officials of the Library of Congress, establish by regulation standardized forms and procedures by which, at the time applications covering certain specified categories of nondramatic literary works are submitted for registration under section 408 of this title, the copyright owner may voluntarily grant to the Library of Congress a license to reproduce the copyrighted work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies or phonorecords solely for the use of the blind and physically handicapped and under limited conditions to be specified in the standardized forms.

Chapter 8.—COPYRIGHT ROYALTY TRIBUNAL

Sec.

801. Copyright Royalty Tribunal: Establishment and purpose.

802. Membership of the Tribunal.

803. Procedures of the Tribunal.

804. Institution and conclusion of proceedings.

805. Staff of the Tribunal.

806. Administrative support of the Tribunal.

807. Deduction of costs of proceedings.

808. Reports.

809. Effective date of final determinations.

810. Judicial review.

17 USC 801.

§ 801. Copyright Royalty Tribunal: Establishment and purpose

(a) There is hereby created an independent Copyright Royalty Tribunal in the legislative branch.

(b) Subject to the provisions of this chapter, the purposes of the Tribunal shall be—

(1) to make determinations concerning the adjustment of reasonable copyright royalty rates as provided in sections 115 and 116, and to make determinations as to reasonable terms and rates of royalty payments as provided in section 118. The rates applicable under sections 115 and 116 shall be calculated to achieve the following objectives:

(A) To maximize the availability of creative works to the public;

(B) To afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions;

(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication;

(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

(2) to make determinations concerning the adjustment of the copyright royalty rates in section 111 solely in accordance with the following provisions:

(A) The rates established by section 111(d)(2)(B) may be adjusted to reflect (i) national monetary inflation or deflation or (ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act: *Provided*, That if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(2)(B) shall be permitted: *And provided further*, That no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber. The Commission may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(2)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Tribunal shall consider, among other factors, the economic impact on copyright owners and users: *Provided*, That no adjustment in royalty rates shall be made under this subclause with respect to any distant signal equivalent or fraction thereof represented by (i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or (ii) a television broadcast signal first carried after April 15, 1976, pursuant to an

individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(2)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

(D) The gross receipts limitations established by section 111(d)(2)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and

(3) to distribute royalty fees deposited with the Register of Copyrights under sections 111 and 116, and to determine, in cases where controversy exists, the distribution of such fees.

Notice.

(c) As soon as possible after the date of enactment of this Act, and no later than six months following such date, the President shall publish a notice announcing the initial appointments provided in section 802, and shall designate an order of seniority among the initially-appointed commissioners for purposes of section 802(b).

17 USC 802.

§ 802. Membership of the Tribunal

(a) The Tribunal shall be composed of five commissioners appointed by the President with the advice and consent of the Senate for a term of seven years each; of the first five members appointed, three shall be designated to serve for seven years from the date of the notice specified in section 801(c), and two shall be designated to serve for five years from such date, respectively. Commissioners shall be compensated at the highest rate now or hereafter prescribe for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

(b) Upon convening the commissioners shall elect a chairman from among the commissioners appointed for a full seven-year term. Such chairman shall serve for a term of one year. Thereafter, the most senior commissioner who has not previously served as chairman shall serve as chairman for a period of one year, except that, if all commissioners have served a full term as chairman, the most senior commissioner who has served the least number of terms as chairman shall be designated as chairman.

(c) Any vacancy in the Tribunal shall not affect its powers and shall be filled, for the unexpired term of the appointment, in the same manner as the original appointment was made.

17 USC 803.

§ 803. Procedures of the Tribunal

(a) The Tribunal shall adopt regulations, not inconsistent with law, governing its procedure and methods of operation. Except as otherwise provided in this chapter, the Tribunal shall be subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, chapter 5, subchapter II and chapter 7).

5 USC 551, 701.

Publication in
Federal Register.

(b) Every final determination of the Tribunal shall be published in the Federal Register. It shall state in detail the criteria that the Tribunal determined to be applicable to the particular proceeding, the

various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination.

§ 804. Institution and conclusion of proceedings

17 USC 804.

(a) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under section 801(b)(2)(A) and (D)—

(1) on January 1, 1980, the Chairman of the Tribunal shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter; and

Publication in
Federal Register.

(2) during the calendar years specified in the following schedule, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. The Tribunal shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Tribunal determines that the petitioner has a significant interest, the Chairman shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with notice of commencement of proceedings under this chapter.

Publication in
Federal Register.

(A) In proceedings under section 801(b)(2)(A) and (D), such petition may be filed during 1985 and in each subsequent fifth calendar year.

(B) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, such petition may be filed in 1987 and in each subsequent tenth calendar year.

(C) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates under section 116, such petition may be filed in 1990 and in each subsequent tenth calendar year.

(b) With respect to proceedings under subclause (B) or (C) of section 801(b)(2), following an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established by the Tribunal, may, within twelve months, file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. In this event the Tribunal shall proceed as in subsection (a)(2), above. Any change in royalty rates made by the Tribunal pursuant to this subsection may be reconsidered in 1980, 1985, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(2)(B) or (C), as the case may be.

(c) With respect to proceedings under section 801(b)(1), concerning the determination of reasonable terms and rates of royalty payments as provided in section 118, the Tribunal shall proceed when and as provided by that section.

(d) With respect to proceedings under section 801(b)(3), concerning the distribution of royalty fees in certain circumstances under sections 111 or 116, the Chairman of the Tribunal shall, upon determination by the Tribunal that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

Publication in
Federal Register.

(e) All proceedings under this chapter shall be initiated without delay following publication of the notice specified in this section, and the Tribunal shall render its final decision in any such proceeding within one year from the date of such publication.

17 USC 805. **§ 805. Staff of the Tribunal**

(a) The Tribunal is authorized to appoint and fix the compensation of such employees as may be necessary to carry out the provisions of this chapter, and to prescribe their functions and duties.

(b) The Tribunal may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5.

5 USC 3109. 17 USC 806. **§ 806. Administrative support of the Tribunal**

(a) The Library of Congress shall provide the Tribunal with necessary administrative services, including those related to budgeting, accounting, financial reporting, travel, personnel, and procurement. The Tribunal shall pay the Library for such services, either in advance or by reimbursement from the funds of the Tribunal, at amounts to be agreed upon between the Librarian and the Tribunal.

(b) The Library of Congress is authorized to disburse funds for the Tribunal, under regulations prescribed jointly by the Librarian of Congress and the Tribunal and approved by the Comptroller General. Such regulations shall establish requirements and procedures under which every voucher certified for payment by the Library of Congress under this chapter shall be supported with a certification by a duly authorized officer or employee of the Tribunal, and shall prescribe the responsibilities and accountability of said officers and employees of the Tribunal with respect to such certifications.

17 USC 807. **§ 807. Deduction of costs of proceedings**

Before any funds are distributed pursuant to a final decision in a proceeding involving distribution of royalty fees, the Tribunal shall assess the reasonable costs of such proceeding.

17 USC 808. **§ 808. Reports**

In addition to its publication of the reports of all final determinations as provided in section 803(b), the Tribunal shall make an annual report to the President and the Congress concerning the Tribunal's work during the preceding fiscal year, including a detailed fiscal statement of account.

17 USC 809. **§ 809. Effective date of final determinations**

Any final determination by the Tribunal under this chapter shall become effective thirty days following its publication in the Federal Register as provided in section 803(b), unless prior to that time an appeal has been filed pursuant to section 810, to vacate, modify, or correct such determination, and notice of such appeal has been served on all parties who appeared before the Tribunal in the proceeding in question. Where the proceeding involves the distribution of royalty fees under sections 111 or 116, the Tribunal shall, upon the expiration of such thirty-day period, distribute any royalty fees not subject to an appeal filed pursuant to section 810.

17 USC 810. **§ 810. Judicial review**

Any final decision of the Tribunal in a proceeding under section 801(b) may be appealed to the United States Court of Appeals, within thirty days after its publication in the Federal Register by an aggrieved party. The judicial review of the decision shall be had, in accordance with chapter 7 of title 5, on the basis of the record before the Tribunal. No court shall have jurisdiction to review a final decision of the Tribunal except as provided in this section.

5 USC 701.

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS17 USC note
prec. 101.

SEC. 102. This Act becomes effective on January 1, 1978, except as otherwise expressly provided by this Act, including provisions of the

first section of this Act. The provisions of sections 118, 304(b), and chapter 8 of title 17, as amended by the first section of this Act, take effect upon enactment of this Act.

SEC. 103. This Act does not provide copyright protection for any work that goes into the public domain before January 1, 1978. The exclusive rights, as provided by section 106 of title 17 as amended by the first section of this Act, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909.

17 USC note
prec. 101.

SEC. 104. All proclamations issued by the President under section 1(e) or 9(b) of title 17 as it existed on December 31, 1977, or under previous copyright statutes of the United States, shall continue in force until terminated, suspended, or revised by the President.

17 USC note
prec. 104.

SEC. 105. (a) (1) Section 505 of title 44 is amended to read as follows:

“§ 505. Sale of duplicate plates

44 USC 505.

“The Public Printer shall sell, under regulations of the Joint Committee on Printing to persons who may apply, additional or duplicate stereotype or electrotpe plates from which a Government publication is printed, at a price not to exceed the cost of composition, the metal, and making to the Government, plus 10 per centum, and the full amount of the price shall be paid when the order is filed.”

(2) The item relating to section 505 in the sectional analysis at the beginning of chapter 5 of title 44, is amended to read as follows:

“505. Sale of duplicate plates.”

(b) Section 2113 of title 44 is amended to read as follows:

“§ 2113. Limitation on liability

44 USC 2113.

“When letters and other intellectual productions (exclusive of patented material, published works under copyright protection, and unpublished works for which copyright registration has been made) come into the custody or possession of the Administrator of General Services, the United States or its agents are not liable for infringement of copyright or analogous rights arising out of use of the materials for display, inspection, research, reproduction, or other purposes.”

(c) In section 1498(b) of title 28, the phrase “section 101(b) of title 17” is amended to read “section 504(c) of title 17”.

28 USC 1498.

(d) Section 543(a) (4) of the Internal Revenue Code of 1954, as amended, is amended by striking out “(other than by reason of section 2 or 6 thereof)”.

26 USC 543.

(e) Section 3202(a) of title 39 is amended by striking out clause (5). Section 3206 of title 39 is amended by deleting the words “subsections (b) and (c)” and inserting “subsection (b)” in subsection (a), and by deleting subsection (c). Section 3206(d) is renumbered (c).

39 USC 3202,
3206.

(f) Subsection (a) of section 290(e) of title 15 is amended by deleting the phrase “section 8” and inserting in lieu thereof the phrase “section 105”.

15 USC 290e.

(g) Section 131 of title 2 is amended by deleting the phrase “deposit to secure copyright,” and inserting in lieu thereof the phrase “acquisition of material under the copyright law.”

2 USC 131.

SEC. 106. In any case where, before January 1, 1978, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1977, such person may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license

17 USC 115 note.

under the terms of section 115 of title 17 as amended by the first section of this Act. However, such parts made on or after January 1, 1978, constitute phonorecords and are otherwise subject to the provisions of said section 115.

17 USC 304 note.

SEC. 107. In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1977, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by the first section of this Act.

17 USC 401 note.

SEC. 108. The notice provisions of sections 401 through 403 of title 17 as amended by the first section of this Act apply to all copies or phonorecords publicly distributed on or after January 1, 1978. However, in the case of a work published before January 1, 1978, compliance with the notice provisions of title 17 either as it existed on December 31, 1977, or as amended by the first section of this Act, is adequate with respect to copies publicly distributed after December 31, 1977.

17 USC 410 note.

SEC. 109. The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1978, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1978, shall be made in accordance with title 17 as it existed on December 31, 1977.

17 USC 407 note.

SEC. 110. The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1977, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by the first section of this Act.

SEC. 111. Section 2318 of title 18 of the United States Code is amended to read as follows:

18 USC 2318.

“§ 2318. Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels

“(a) Whoever knowingly and with fraudulent intent transports, causes to be transported, receives, sells, or offers for sale in interstate or foreign commerce any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, to which or upon which is stamped, pasted, or affixed any forged or counterfeited label, knowing the label to have been falsely made, forged, or counterfeited shall be fined not more than \$10,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than \$25,000 or imprisoned for not more than two years, or both, for any subsequent offense.

“(b) When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels and all articles to which counterfeit labels have been affixed or which were intended to have had such labels affixed.”

“(c) Except to the extent they are inconsistent with the provisions of this title, all provisions of section 509, title 17, United States Code, are applicable to violations of subsection (a).”

17 USC 501 note.

SEC. 112. All causes of action that arose under title 17 before January 1, 1978, shall be governed by title 17 as it existed when the cause of action arose.

SEC. 113. (a) The Librarian of Congress (hereinafter referred to as the "Librarian") shall establish and maintain in the Library of Congress a library to be known as the American Television and Radio Archives (hereinafter referred to as the "Archives"). The purpose of the Archives shall be to preserve a permanent record of the television and radio programs which are the heritage of the people of the United States and to provide access to such programs to historians and scholars without encouraging or causing copyright infringement.

American
Television and
Radio Archives
Act.
2 USC 170.

(1) The Librarian, after consultation with interested organizations and individuals, shall determine and place in the Archives such copies and phonorecords of television and radio programs transmitted to the public in the United States and in other countries which are of present or potential public or cultural interest, historical significance, cognitive value, or otherwise worthy of preservation, including copies and phonorecords of published and unpublished transmission programs—

(A) acquired in accordance with sections 407 and 408 of title 17 as amended by the first section of this Act; and

(B) transferred from the existing collections of the Library of Congress; and

(C) given to or exchanged with the Archives by other libraries, archives, organizations, and individuals; and

(D) purchased from the owner thereof.

(2) The Librarian shall maintain and publish appropriate catalogs and indexes of the collections of the Archives, and shall make such collections available for study and research under the conditions prescribed under this section.

(b) Notwithstanding the provisions of section 106 of title 17 as amended by the first section of this Act, the Librarian is authorized with respect to a transmission program which consists of a regularly scheduled newscast or on-the-spot coverage of news events and, under standards and conditions that the Librarian shall prescribe by regulation—

(1) to reproduce a fixation of such a program, in the same or another tangible form, for the purposes of preservation or security or for distribution under the conditions of clause (3) of this subsection; and

(2) to compile, without abridgment or any other editing, portions of such fixations according to subject matter, and to reproduce such compilations for the purpose of clause (1) of this subsection; and

(3) to distribute a reproduction made under clause (1) or (2) of this subsection—

(A) by loan to a person engaged in research; and

(B) for deposit in a library or archives which meets the requirements of section 108(a) of title 17 as amended by the first section of this Act,

in either case for use only in research and not for further reproduction or performance.

(c) The Librarian or any employee of the Library who is acting under the authority of this section shall not be liable in any action for copyright infringement committed by any other person unless the Librarian or such employee knowingly participated in the act of infringement committed by such person. Nothing in this section shall be construed to excuse or limit liability under title 17 as amended by the first section of this Act for any act not authorized by that title or this section, or for any act performed by a person not authorized to act under that title or this section.

Citation of
section.
Appropriation
authorization.
17 USC note
prec. 101.
Severability.
17 USC note
prec. 101.

(d) This section may be cited as the "American Television and Radio Archives Act".

SEC. 114. There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

SEC. 115. If any provision of title 17, as amended by the first section of this Act, is declared unconstitutional, the validity of the remainder of this title is not affected.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1476 (Comm. on the Judiciary) and No. 94-1733 (Comm. of Conference).

SENATE REPORT No. 94-473 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 6, 16-19, considered and passed Senate.

Sept. 22, considered and passed House, amended.

Sept. 30, Senate and House agreed to conference report.

Public Law 94-554
94th Congress

An Act

To amend section 376 of title 28, United States Code, in order to reform and update the existing program for annuities to survivors of Federal Justices and judges.

Oct. 19, 1976
[S. 12]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Judicial Survivors' Annuities Reform Act".

Judicial
Survivors'
Annuities Reform
Act.
28 USC 376 note.

SEC. 2. That section 376 of title 28 of the United States Code is amended to read as follows:

“§ 376. Annuities for survivors of certain judicial officials of the United States

“(a) For the purposes of this section—

Definitions.

“(1) ‘judicial official’ means:

“(A) a Justice or judge of the United States, as defined by section 451 of this title;

28 USC 451.

“(B) a judge of the United States District Court for the District of the Canal Zone, the District Court of Guam, or the District Court of the Virgin Islands;

“(C) a Director of the Administrative Office of the United States Courts, after he or she has filed a waiver under subsection (a) of section 611 of this title;

28 USC 611.

“(D) a Director of the Federal Judicial Center, after he or she has filed a waiver under subsection (b) of section 627 of this title; or

28 USC 627.

“(E) an administrative assistant to the Chief Justice of the United States, after he or she has filed a waiver in accordance with both subsection (a) of section 677 and subsection (a) of section 611 of this title;

28 USC 677.

who notifies the Director of the Administrative Office of the United States Courts in writing of his or her intention to come within the purview of this section within six months after (i) the date upon which he or she takes office, (ii) the date upon which he or she marries, or (iii) the date upon which the Judicial Survivors' Annuities Reform Act becomes effective;

Written
notification.

“(2) ‘retirement salary’ means:

“(A) in the case of a Justice or judge of the United States, as defined by section 451 of this title, salary paid (i) after retirement from regular active service under subsection (b) of section 371 or subsection (a) of section 372 of this title, or (ii) after retirement from office by resignation on salary under subsection (a) of section 371 of this title;

28 USC 372.

28 USC 371.

“(B) in the case of a judge of the United States District Court for the District of the Canal Zone, the District Court of Guam, or the District Court of the Virgin Islands, salary paid after retirement from office (i) by resignation on salary under section 373 of this title or (ii) by removal or failure of reappointment after not less than ten years' judicial service;

28 USC 373.

“(C) in the case of a Director of the Administrative Office of the United States Courts, an annuity paid under subsection (b) or (c) of section 611 of this title;

28 USC 677,
611.

“(D) in the case of a Director of the Federal Judicial Center, an annuity paid under subsection (c) or (d) of section 627 of this title; and

“(E) in the case of an administrative assistant to the Chief Justice of the United States, an annuity paid in accordance with both subsection (a) of section 677 and subsection (a) of section 611 of this title;

“(3) ‘widow’ means the surviving wife of a ‘judicial official’, who:

“(A) has been married to him for at least one year on the day of his death; or

“(B) is the mother of issue by that marriage;

“(4) ‘widower’ means the surviving husband of a ‘judicial official’, who:

“(A) has been married to her for at least one year on the day of her death; or

“(B) is the father of issue by that marriage;

“(5) ‘child’ means:

“(A) an unmarried child under eighteen years of age, including (i) an adopted child and (ii) a stepchild or recognized natural child who lived with the judicial official in a regular parent-child relationship;

“(B) such unmarried child between eighteen and twenty-two years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable educational institution. A child whose twenty-second birthday occurs before July 1, or after August 31, of a calendar year, and while he or she is regularly pursuing such a course of study or training, is deemed to have become twenty-two years of age on the first day of July immediately following that birthday. A child who is a student is deemed not to have ceased being a student during an interim period between school years, if that interim period lasts no longer than five consecutive months and if that child shows, to the satisfaction of the Director of the Administrative Office of the United States Courts, that he or she has a bona fide intention of continuing to pursue a course of study or training in the same or a different school during the school semester, or other period into which the school year is divided, immediately following that interim period; or

“(C) such unmarried child, regardless of age, who is incapable of self-support because of a mental or physical disability incurred either (i) before age eighteen, or (ii) in the case of a child who is receiving an annuity as a full-time student under subparagraph (5)(B) of this subsection, before the termination of that annuity.

“(b) Every judicial official who files a written notification of his or her intention to come within the purview of this section, in accordance with paragraph (1) of subsection (a) of this section, shall be deemed thereby to consent and agree to having deducted and withheld from his or her salary, including any ‘retirement salary’, a sum equal to 4.5 percent of that salary. The amounts so deducted and withheld from the salary of each such judicial official shall, in accordance with such procedures as may be prescribed by the Comptroller General of the United States, be covered into the Treasury of the United States and credited to the ‘Judicial Survivors’ Annuities Fund’ established by

section 3 of the Judicial Survivors' Annuities Reform Act. Such fund shall be used for the payment of annuities, refunds, and allowances as provided by this section. Payment of such salary less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all services rendered by such judicial official during the period covered by such payment, except the rights to those benefits to which such judicial official, or his or her survivors, shall be entitled under the provisions of this section. *Post*, p. 2611.

“(c) There shall also be deposited to the credit of the ‘Judicial Survivors’ Annuities Fund’, in accordance with such procedures as may be prescribed by the Comptroller General of the United States, amounts matching those deducted and withheld in accordance with subsection (b) of this section. Such deposits shall be taken from the fund used to pay the compensation of the judicial official, and shall immediately become an integrated part of the ‘Judicial Survivors’ Annuities Fund’ for any use required under this section.

“(d) Each judicial official shall deposit, with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31 of each year, to the credit of the ‘Judicial Survivors’ Annuities Fund’:

“(1) a sum equal to 4.5 percent of that salary, including ‘retirement salary’, which he or she has received for serving in any of the offices designated in paragraph (1) of subsection (a) of this section prior to the date upon which he or she filed notice of an intention to come within the purview of this section with the Director of the Administrative Office of the United States Courts; and

“(2) a sum equal to 4.5 percent of the basic salary, pay, or compensation which he or she has received for serving as a Senator, Representative, Delegate, or Resident Commissioner in Congress, or for serving as an ‘employee’, as that term is defined in subsection (1) of section 8331 of title 5, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section.

The interest otherwise required by this subsection shall not be required for any period during which a judicial official was separated from all such service and was not receiving any retirement salary.

“Each such judicial official may elect to make such deposits in installments, during the continuance of his or her service in those offices designated in paragraph (1) of subsection (a) of this section, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts: *Provided*, That, in each instance in which a judicial official does elect to make such deposits in installments, the Director shall require (i) that the first installment payment made shall be in an amount no smaller than that amount necessary to cover at least the last eighteen months of prior creditable civilian service, and (ii) that at least one additional installment payment shall be made every eighteen months thereafter until the total of all such deposits have been made.

“Notwithstanding the failure of any such judicial official to make all such deposits or installment payments, credit shall be allowed for the service rendered, but the annuity of that judicial official’s widow or widower shall be reduced by an amount equal to 10 percent of the amount of such deposits, computed as of the date of the death of such judicial official, unless such widow or widower shall elect to eliminate such service entirely from credit under subsection (k) of this section:

Provided, That no deposit shall be required from any such judicial official for any honorable active duty service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, or for any other creditable service rendered prior to August 1, 1920.

“(e) The amounts deducted and withheld in accordance with subsection (b) of this section, and the amounts deposited in accordance with subsection (d) of this section, shall be credited to individual accounts in the name of each judicial official from whom such amounts are received, for credit to the ‘Judicial Survivors’ Annuities Fund’.

“(f) The Secretary of the Treasury shall invest, from time to time, in interest bearing securities of the United States or Federal farm loan bonds, those portions of the ‘Judicial Survivors’ Annuities Fund’ which in his judgment may not be immediately required for the payment of annuities, refunds, and allowances as provided in this section. The income derived from such investments shall constitute a part of such fund for the purposes of paying annuities and carrying out the provisions of subsections (g), (h), (m), (o), (p), and (q) of this section.

“(g) If any judicial official resigns from office without receiving any ‘retirement salary,’ all amounts credited to his or her individual account, together with interest at 4 percent per annum to December 31, 1947; and at 3 percent annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this subsection a ‘reasonable period of time’ shall be presumed to be no longer than one year following the date upon which such judicial official relinquished his or her office.

“(h) Annuities payable under this section shall be paid only in accordance with the following provisions:

“(1) In any case in which a judicial official dies while in office, or while receiving ‘retirement salary,’ after having completed at least eighteen months of creditable civilian service, as computed in accordance with subsection (k) of this section, for the last eighteen months of which the salary deductions provided by subsection (b) of this section or, in lieu thereof, the deposits required by subsection (d) of this section have actually been made—

“(A) if such judicial official is survived by a widow or widower, but not by a child, there shall be paid to such widow or widower an annuity, beginning on the day on which such judicial official died, in an amount computed as provided in subsection (l) of this section; or

“(B) if such judicial official is survived by a widow or widower and a child or children, there shall be paid to such widow or widower an annuity, beginning on the day on which such judicial official died, in an amount computed as provided in subsection (l) of this section, and there shall also be paid to or on behalf of each such child an immediate annuity equal to:

“(i) \$1,548; or

“(ii) \$4,644, divided by the number of children; whichever is smallest; or

“(C) if such judicial official leaves no surviving widow or widower, but does leave a surviving child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to:

“Reasonable
period of time.”

“(i) the amount of the annuity to which the judicial official's widow or widower would have been entitled under subparagraph (1)(A) of this subsection, had such widow or widower survived the judicial official, divided by the number of children; or

“(ii) \$1,860; or

“(iii) \$5,580, divided by the number of children;

whichever is smallest.

“(2) An annuity payable to a widow or widower under subparagraphs (1)(A) or (1)(B) of this subsection shall be terminated upon his or her death or remarriage.

“(3) An annuity payable to a child under this subsection shall terminate:

“(A) if such child is receiving an annuity based upon his or her status under subparagraph (5)(A) of subsection (a) of this section, on the last day of the month during which he or she becomes eighteen years of age;

“(B) if such child is receiving an annuity based upon his or her status under subparagraph (5)(B) of subsection (a) of this section, either (i) on the first day of July immediately following his or her twenty-second birthday or (ii) on the last day of the month during which he or she ceases to be a full-time student in accordance with subparagraph (5)(B) of subsection (a) of this section, whichever occurs first: *Provided*, That if such child is rendered incapable of self-support because of a mental or physical disability incurred while receiving that annuity, that annuity shall not terminate, but shall continue without interruption and shall be deemed to have become, as of the date of disability, an annuity based upon his or her status under clause (ii) of subparagraph (5)(C) of subsection (a) of this section;

“(C) if such child is receiving an annuity based upon his or her status under subparagraph (5)(C) of subsection (a) of this section, on the last day of the month during which he or she ceases to be incapable of self-support because of mental or physical disability; or

“(D) on the last day of the month during which such child dies or marries.

“(4) An annuity payable to a child or children under subparagraph (1)(B) of this subsection shall be recomputed and paid as provided in subparagraph (1)(C) of this subsection upon the death, but not upon the remarriage, of the widow or widower who is receiving an annuity under subparagraph (1)(B) of this subsection.

“(5) In any case in which the annuity of a child is terminated, the annuity of each remaining child which is based upon the service of the same judicial official shall be recomputed and paid as though the child whose annuity has been terminated had not survived that judicial official.

“(i) All questions of dependency and disability arising under this section shall be determined by the Director of the Administrative Office of the United States Courts, subject to review only by the Judicial Conference of the United States, and the decision of the Judicial Conference of the United States shall be final and conclusive. The Director may order or direct at any time such medical or other examinations as he deems necessary to determine the facts relative to the nature and degree of disability of any child who is an annuitant, or an applicant for an annuity, under this section, and may suspend or

deny any such annuity for failure to submit to any such examination.

“(j) In any case in which a payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability, as determined by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary of such claimant by the laws of the State of residence of such claimant, or to any other person who is otherwise legally vested with the care of the claimant or of the claimant’s estate, and need not be made directly to such claimant. The Director of the Administrative Office of the United States Courts may, at his or her discretion, determine whether such payment is made directly to such claimant or to such guardian, fiduciary, or other person legally vested with the care of such claimant or the claimant’s estate. Where no guardian or other fiduciary of such minor or such person under legal disability has been appointed under the laws of the State of residence of such claimant, the Director of the Administrative Office of the United States Courts shall determine the person who is otherwise legally vested with the care of the claimant or of the claimant’s estate.

“(k) The years of service rendered by a judicial official which may be creditable in calculating the amount of an annuity for such judicial official’s widow or widower under subsection (l) of this section shall include—

“(1) those years during which such judicial official served in any of the offices designated in paragraph (1) of subsection (a) of this section, including in the case of a Justice or judge of the United States those years during which he or she continued to hold office following retirement from regular active service under subsection (b) of section 371 or subsection (a) of section 372 of this title;

“(2) those years during which such judicial official served as a Senator, Representative, Delegate, or Resident Commissioner in Congress, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section;

“(3) those years during which such judicial official honorably served on active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section: *Provided*, That those years of such military service for which credit has been allowed for the purposes of retirement or retired pay under any other provision of law shall not be included as allowable years of such service under this section; and

“(4) those years during which such judicial official served as an ‘employee’, as that term is defined in subsection (1) of section 8331 of title 5, prior to assuming the responsibilities of any of the offices designated in paragraph (1) of subsection (a) of this section.

28 USC 371,
372.

“Years.”

For the purposes of this subsection the term ‘years’ shall mean full years and twelfth parts thereof, excluding from the aggregate any fractional part of a month which numbers less than fifteen full days and including, as one full month, any fractional part of a month which numbers fifteen full days or more. Nothing in this subsection shall be interpreted as waiving or canceling that reduction in the annuity of a widow or widower which is required by subsection (d) of this section due to the failure of a judicial official to make those deposits required by subsection (d) of this section.

“(l) The annuity of a widow or widower of a judicial official shall be an amount equal to the sum of—

“(1) $11\frac{1}{4}$ percent of the average annual salary, including retirement salary, which such judicial official received for serving in any of the offices designated in paragraph (1) of subsection (a) of this section (i) during those three years of such service in which his or her annual salary was greatest, or (ii) if such judicial official has so served less than three years, but more than eighteen months, then during the total period of such service prior to his or her death, multiplied by the total of:

“(A) the number of years of creditable service tabulated in accordance with paragraph (1) of subsection (k) of this section; plus

“(B) the number of years of creditable service tabulated in accordance with paragraph (2) of subsection (k) of this section; plus

“(C) the number of years of creditable service tabulated in accordance with paragraph (3) of subsection (k) of this section; plus

“(D) the number of years up to, but not exceeding, fifteen of creditable service tabulated in accordance with paragraph (4) of subsection (k) of this section,

plus:

“(2) three-fourths of 1 percent of such average annual salary, multiplied by the number of years of any prior creditable service, as tabulated in accordance with subsection (k) of this section, not applied under paragraph (1) of this subsection:

Provided, That such annuity shall not exceed 40 percent of such average annual salary and shall be further reduced in accordance with subsection (d) of this section, if applicable.

“(m) Whenever the salary paid for service in one of the offices designated in paragraph (1) of subsection (a) of this section is increased, each annuity payable from the ‘Judicial Survivors’ Annuities Fund’, which is based, in whole or in part, upon a deceased judicial official having rendered some portion of his or her final eighteen months of service in that same office, shall also be increased. The actual amount of the increase in such an annuity shall be determined by multiplying the amount of the annuity, on the date on which the increase in salary becomes effective, by 3 percent for each 5 percent by which such salary has been increased. In the event that such salary is increased by less than 5 percent, there shall be no increase in such annuity.

“(n) Each annuity authorized under this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued. No annuity authorized under this section shall be assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

“(o) In any case in which a judicial official dies while in office, or while receiving ‘retirement salary’, and;

“(1) before having completed eighteen months of civilian service, computed in accordance with subsection (k) of this section, during which the salary deductions provided by subsection (h) of this section or the deposit required by subsection (d) of this section have actually been made; or

“(2) after having completed eighteen months of civilian service, computed in accordance with subsection (k) of this section, during which all such deductions or deposits have been made, but without a survivor or survivors who are entitled to receive the annuity benefits provided by subsection (h) of this section; or

“(3) the rights of all persons entitled to receive the annuity benefits provided by subsection (h) of this section terminate before a valid claim therefor has been established; the total amount credited to the individual account of that judicial official, established under subsection (e) of this section, with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31, of each year, to the date of that judicial official's death, shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence:

“First, to the beneficiary or beneficiaries whom that judicial official may have designated in a writing received by the Administrative Office of the United States Courts prior to his or her death;

“Second, if there be no such beneficiary, to the widow or widower of such judicial official;

“Third, if none of the above, to the child or children of such judicial official and the descendants of any deceased children by representation;

“Fourth, if none of the above, to the parents of such judicial official or the survivor of them;

“Fifth, if none of the above, to the duly appointed executor, executrix, administrator, or administratrix of the estate of such judicial official;

“Sixth, if none of the above, to such other next of kin of such judicial official, as may be determined by the Director of the Administrative Office of the United States Courts to be entitled to such payment, under the laws of the domicile of such judicial official, at the time of his or her death.

Such payment shall be a bar to recovery by any other person. For the purposes of this subsection only, a determination that an individual is a widow, widower, or child of a judicial official may be made by the Director of the Administrative Office of the United States Courts without regard to the definitions of those terms contained in paragraphs (3), (4), and (5) of subsection (a) of this section.

“(p) In any case in which all the annuities which are authorized by this section and based upon the service of a given official terminate before the aggregate amount of annuity payments received by the annuitant or annuitants equals the total amount credited to the individual account of such judicial official, established under subsection (e) of this section with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31, of each year, to the date of that judicial official's death, the difference between such total amount, with such interest, and such aggregate amount shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in subsection (o) of this section.

“(q) Any accrued annuity benefits remaining unpaid upon the termination of an annuity, other than by the death of an annuitant, shall be paid to that annuitant. Any accrued annuity benefits remaining unpaid upon the death of an annuitant shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

“First, to the duly appointed executor, executrix, administrator, or administratrix of the estate of such annuitant;

"Second, if there is no such executor, executrix, administrator, or administratrix, payments shall be made, after the expiration of sixty days from the date of death of such annuitant, to such individual or individuals as may appear, in the judgment of the Director of the Administrative Office of the United States Courts, to be legally entitled thereto, and such payment shall be a bar to recovery by any other individual.

"(r) Nothing contained in this section shall be interpreted to prevent a widow or widower eligible for an annuity under this section from simultaneously receiving such an annuity while also receiving any other annuity to which such widow or widower may also be entitled under any other law without regard to this section: *Provided*, That service used in the computation of the annuity conferred by this section shall not also be credited in computing any such other annuity."

SEC. 3. That on the date upon which this Act becomes effective there shall be established on the books of the Treasury a fund which shall be known as "The Judicial Survivors' Annuities Fund", and all money credited to the judicial survivors annuity fund established by section 2 of the Act of August 3, 1956 (70 Stat. 1021), as amended, shall be transferred to the credit of the Judicial Survivors' Annuities Fund established by this section.

The Judicial
Survivors'
Annuities Fund.
Establishment.
28 USC 376 note.
28 USC 376.

SEC. 4. That on the date upon which this Act becomes effective the Secretary of the Treasury shall ascertain from the Director of the Administrative Office of the United States Courts the amount of the actuarial deficiency in the fund transferred by section 3 of this Act on the date of that fund's transfer and, at the earliest time thereafter at which appropriated funds in that amount shall become available, the Secretary shall deposit such funds, in a single payment, into the Judicial Survivors' Annuities Fund established by section 3 of this Act. Such funds as are necessary to carry out this section are hereby authorized to be appropriated.

28 USC 376 note.

SEC. 5. That on the date upon which this Act becomes effective each annuity then being paid to a widow from the judicial survivors annuity fund established by section 2 of the Act of August 3, 1956 (70 Stat. 1021), as amended, shall be increased by an amount equal to one-fifth of 1 percent of the amount of such annuity multiplied by the number of months which have passed since the commencement of that annuity. For the purposes of this section, any fractional part of a month which numbers less than fifteen full days shall be excluded from the computation of the number of months and any fractional part of a month which numbers fifteen full days or more shall be included in the computation as one full month. Such funds as are necessary to carry out this section are authorized to be appropriated and, upon appropriation, shall be deposited by the Secretary of the Treasury, in a single payment, to credit of the Judicial Survivors' Annuities Fund established by section 3 of this Act.

28 USC 376 note.

SEC. 6. That the benefits conferred by this Act shall, on the date upon which this Act becomes effective, immediately become available to any individual then receiving an annuity under section 2 of the Act of August 3, 1956 (70 Stat. 1021), as amended: *Provided*, That although the rights of any judicial official electing to come within the purview of section 376 of title 28, United States Code, on or after the date upon which this Act becomes effective, shall be determined exclusively under the provisions of that section as amended by this Act, nothing in this Act shall be interpreted to cancel, abrogate, or diminish any rights to which an individual or his or her survivors may be entitled by virtue of that individuals having contributed to the judicial survivors

28 USC 376 note.

28 USC 376. annuity fund established by section 2 of the Act of August 3, 1956 (70 Stat. 1021), as amended, before the date upon which this Act becomes effective.

28 USC 376 note. SEC. 7. That, at any time within one hundred and eighty days after the date upon which this Act becomes effective, any judicial official who has, prior to that date, already participated in the judicial survivors annuity program created by the Act of August 3, 1956 (70 Stat. 1021), as amended, shall be entitled to revoke his or her earlier election to participate in that program and thereby completely withdraw from participation in the judicial survivors' annuities program created by this Act: *Provided*, That (a) any such revocation may be effected only by means of a writing filed with the Director of the Administrative Office of the United States Courts, (b) any such writing shall be deemed to have become effective no sooner than the date upon which that writing is received by the Director, (c) upon receipt of such a writing by the Director, any and all rights to survivorship benefits for such judicial official's survivors shall terminate, and all amounts credited to such judicial official's individual account, together with interest at 3 percent per annum, compounded on December 31 of each year to that date of revocation, shall thereafter be returned to that judicial official in a lump-sum refund payment, and (d) any judicial official who effects such a revocation and who subsequently again becomes eligible and elects to join the judicial survivors annuities program created by this Act under the provisions of section 376 of title 28, United States Code, as amended by this Act, shall be permitted to do so only upon the redeposit of the full amount of the refund obtained under this section plus interest at 3 percent per annum, compounded on December 31 of each year from the date of the revocation until the date upon which that amount is redeposited. Any judicial official who fails to effect a revocation in accordance with the right conferred by this section within one hundred and eighty days after the date upon which this Act becomes effective shall be deemed to have irrevocably waived the right to that revocation.

Effective date.

28 USC 376 note.

SEC. 8. That this Act shall become effective on the first day of the third month following the month in which it is enacted, or on October 1, 1976, whichever occurs last.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1604 (Comm. on the Judiciary).

SENATE REPORT No. 94-799 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 22, considered and passed Senate.

Sept. 29, considered and passed House, amended.

Oct. 1, Senate concurred in House amendments.

Public Law 94-555
94th Congress

An Act

To amend the Rail Passenger Service Act to provide financing for the National Railroad Passenger Corporation, to amend the Regional Rail Reorganization Act of 1973 to increase the amount of loan authority under section 211(h) (1) of such Act, and for other purposes.

Oct. 19, 1976

[S. 3131]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the “Rail Transportation Improvement Act”.

Rail Transportation Improvement Act.
45 USC 501 note.

TITLE I—AMTRAK IMPROVEMENT

- Sec. 101. Short title.
- Sec. 102. Authorization of appropriations.
- Sec. 103. Board membership.
- Sec. 104. Security guards.
- Sec. 105. Waste disposal.
- Sec. 106. Through routes and joint fares.
- Sec. 107. Cost computation.
- Sec. 108. Hours of food service.

TITLE II—RAIL AMENDMENTS

- Sec. 201. Short title.
- Sec. 202. Rail marine freight service; options.
- Sec. 203. Loans for payment of obligations.
- Sec. 204. Protection of employees' pension benefits.
- Sec. 205. Evidentiary use of certain determinations; reimbursement for rail service.
- Sec. 206. Authority of the Interstate Commerce Commission.
- Sec. 207. Replacement operators.
- Sec. 208. Collective bargaining and FELA claims.
- Sec. 209. Employee displacement allowance.
- Sec. 210. Noncontract employees.
- Sec. 211. United States Railway Association Board membership.
- Sec. 212. Financial assistance.
- Sec. 213. Priority of redeemable preference shares.
- Sec. 214. Redemption payments and interest rate.
- Sec. 215. Obligation guarantees.
- Sec. 216. Rehabilitation and financing amendments.
- Sec. 217. Northeast Corridor acquisitions.
- Sec. 218. Discontinuance and abandonment procedures.
- Sec. 219. Preservation of historical rail facilities.
- Sec. 220. Technical amendments.

TITLE III—GENERAL PROVISIONS

- Sec. 301. Environmental study.
- Sec. 302. Delmarva rail study.
- Sec. 303. Effective date.

TITLE I—AMTRAK IMPROVEMENT

Amtrak Improvement Act of 1976.

SHORT TITLE

SEC. 101. This title may be cited as the “Amtrak Improvement Act of 1976”. 45 USC 501 note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. (a) Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is amended by striking out the second and third sen-

tences thereof and inserting in lieu thereof the following: "There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

45 USC 563. “(1) for the payment of operating expenses for the basic system, except for the additional expenses that are to be paid from funds authorized by clause (3) of this sentence, and for operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act, not to exceed \$350,000,000 for the fiscal year ending June 30, 1976, not to exceed \$105,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed \$130,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$470,000,000 for the fiscal year ending September 30, 1978;

 “(2) for the payment of the costs of capital acquisitions or improvements of the basic system, not to exceed \$110,000,000 for the fiscal year ending June 30, 1976, not to exceed \$25,000,000 for the transitional fiscal period ending September 30, 1976, not to exceed \$130,000,000 for the fiscal year ending September 30, 1977, and not to exceed \$130,000,000 for the fiscal year ending September 30, 1978;

 “(3) for the payment of the additional operating expenses of the Corporation which result from the operation, maintenance, and ownership or control of the Northeast Corridor, pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.), not to exceed a total amount of \$68,000,000 for the transitional fiscal period ending September 30, 1976, and the fiscal year ending September 30, 1977, and not to exceed \$75,000,000 for the fiscal year ending September 30, 1978; and

45 USC 602. “(4) for the payment of the principal amount of obligations (other than leases) of the Corporation which are guaranteed by the Secretary pursuant to section 602 of this Act, not to exceed \$25,000,000 for the fiscal year ending September 30, 1978.

Not more than \$25,000,000 of the amounts authorized by clause (1) of the preceding sentence for the fiscal year ending June 30, 1976; not more than \$7,000,000 of the amounts so authorized for the transitional fiscal period ending September 30, 1976, not more than \$35,000,000 of the amounts so authorized for the fiscal year ending September 30, 1977, and not more than \$40,000,000 of the amounts so authorized for the fiscal year ending September 30, 1978, shall be available for payment of rail passenger service operating and capital expenses, pursuant to section 403(b) of this Act.”

(b) Section 601(a) of the Rail Passenger Service Act (45 U.S.C. 601(a)) is further amended—

(1) by inserting “(1)” immediately after “(a)”; and

(2) by adding at the end thereof the following new paragraph:

“(2) Funds appropriated for capital grants pursuant to this section (other than subsection (a)(4)) shall be paid to the Corporation in each fiscal quarter, and such grants may be used by the Corporation for temporary reduction of outstanding loan balances, including loans guaranteed by the Secretary pursuant to section 602 of this Act.”

(c) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended by inserting immediately after the first sentence thereof the following new sentence: “Such \$900,000,000 maximum shall be reduced by an amount equal to the total principal amount of such securities, obligations, or loans paid by the Corporation from

funds made available pursuant to clause (4) of section 601(a) of this Act.”.

45 USC 601.

BOARD MEMBERSHIP

SEC. 103. Section 303(a)(1) of the Rail Passenger Service Act (45 U.S.C. 543 (a)(1)) is amended—

(1) by striking out the period at the end of subparagraph (A) thereof and inserting in lieu thereof “, and the President of the Corporation, ex officio.”; and

(2) by striking out “Nine” in subparagraph (B) thereof and inserting in lieu thereof “Eight”.

SECURITY GUARDS

SEC. 104. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

“(i) The Corporation is authorized to employ security guards for purposes of providing security and protection for rail passengers of the Corporation and for rail properties owned by the Corporation. Security guards employed by the Corporation who have complied with the provisions of any State law setting forth licensing, residency, or related requirements applicable to security guards or persons employed in similar positions may be employed without regard to the provisions of any other State’s laws setting forth such requirements.”.

WASTE DISPOSAL

SEC. 105. Section 306(i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) is amended by inserting “waste disposal from” immediately after “shall not apply to”.

THROUGH ROUTES AND JOINT FARES

SEC. 106. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following two new subsections:

“(j)(1) The establishment of through routes and joint fares, between the National Railroad Passenger Corporation and other intercity common carriers of passengers by rail and motor carriers of passengers, is consistent with the public interest and the national transportation policy. The Congress encourages the making of such arrangements.

“(2) The Corporation may establish through routes and joint fares with any motor carrier.

“(k) The Commission shall, by September 30, 1977, conduct and transmit to the Congress a study of through routes and joint fares between the Corporation and other intercity common carriers by rail and motor carriers of passengers. Such study shall include, but not be limited to—

Study,
transmittal
to Congress.

“(1) a history of through route and joint fare arrangements between motor carriers of passengers and carriers of passengers by rail;

“(2) laws and regulations presently applicable or related to such through route and joint fare arrangements;

“(3) analysis of the need for intermodal terminals, through ticketing and baggage handling arrangements, and the means by which such needs should be met;

“(4) the extent to which any existing arrangements have improved or lessened, or might improve or lessen, the adequacy of service and passenger convenience;

“(5) methods of formulating joint fares and divisions thereof;

“(6) views of the Corporation, other intercity common carriers by rail and of organizations representing intercity bus operators; and

“(7) recommendations relative to the establishment of through routes and joint fares between railroads and motor carriers of passengers, including any recommendations for legislation.”

COST COMPUTATION

SEC. 107. Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended—

Contract.

(1) in paragraph (1), by adding at the end thereof the following new sentence: “Any decisions which are likely to have a significant effect on the scheduling, marketing, or operations of the service provided pursuant to this section shall be made by contract or other agreement between the Corporation and the State or agency which is obligated to reimburse the Corporation for all or part of the operating loss, and associated capital costs, of such service.”;

(2) in paragraph (1), by striking out “total operating losses” in the second sentence thereof and inserting in lieu thereof “solely related costs”; and

(3) in paragraph (3), by striking out “total” the first place it appears and inserting in lieu thereof “solely related costs and associated capital”.

HOURS OF FOOD SERVICE

SEC. 108. Section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: “No regulation issued by the Commission under this section shall require the Corporation or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours.”

Rail
Amendments
of 1976.

TITLE II—RAIL AMENDMENTS

SHORT TITLE

45 USC 701 note.

SEC. 201. This title may be cited as the “Rail Amendments of 1976”.

RAIL MARINE FREIGHT SERVICE; OPTIONS

SEC. 202. (a) The last sentence of section 206(d) (5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d) (5)) is amended by inserting immediately after “passenger service” the following: “or for purposes of providing rail marine freight floating service”.

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended by adding at the end thereof the following new paragraph:

“(6) Whenever the Corporation exercises an option to acquire, or acquires, interests in rail marine freight floating equipment pursuant to the recommendations of the final system plan, and the Corporation

thereafter makes such floating equipment available to a profitable railroad operating in the region, a State, or a responsible person including a government entity), the United States shall indemnify—

“(A) the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against it, with respect to such equipment, under paragraph (2) of this subsection; and

“(B) such profitable railroad, State, or responsible person against any costs or liabilities imposed thereon as the result of any judgment entered against such profitable railroads, State, or responsible person under paragraph (3) of this subsection, plus interest on the amount of such judgment at such rate as is constitutionally required.”

(c) Section 206(d)(7) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(7)) is amended by inserting immediately after “acquisition” the following: “by the Corporation pursuant to the final system plan”.

LOANS FOR PAYMENT OF OBLIGATIONS

SEC. 203. (a) Section 211(h)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(1)) is amended to read as follows:

“(h) LOANS FOR PAYMENT OF OBLIGATIONS.—(1) (A) The Association is authorized, subject to the limitations set forth in section 210(b) of this title, to enter into loan agreements, in amounts not to exceed, at any given time, \$350,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of this Act, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to—

“(i) amounts claimed by suppliers (including private car lines) of materials or services utilized or purchased in current rail operations;

“(ii) claims by shippers arising from current rail services;

“(iii) payments to railroads for settlement of current interline accounts and all other current accounts and obligations;

“(iv) claims of employees arising under the collective-bargaining agreements of the railroads in reorganization in the region and subject to section 3 of the Railway Labor Act (including claims for accrued vacation and wages and similar claims arising in connection with labor and services performed);

“(v) claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Act (45 U.S.C. 51-60);

“(vi) amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefit plans described in section 505(a) of this Act;

Post, p. 2620.

45 USC 743.

45 USC 153.

45 USC 775.

“(vii) amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provides benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, and to which both a railroad in reorganization and employee members have made contributions;

45 USC 743.

“(viii) amounts required to provide adequate funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization prior to the date of conveyance pursuant to section 303(b)(1) of this Act, and for individuals who retired, prior to such date of conveyance, from service with a railroad in reorganization;

“(ix) amounts required to discharge the obligations of each such railroad in reorganization to nonemployee claimants for personal injuries suffered during the period such railroad has been in reorganization; and

“(x) amounts required to discharge any obligation of a railroad in reorganization in the region to the National Railroad Passenger Corporation, arising out of a contract between such railroad in reorganization and such Corporation under which such railroad in reorganization is required to provide a suitable rail passenger station, in any case in which such railroad in reorganization sold a rail passenger station pursuant to a judicial order of condemnation prior to April 1, 1976.

Post, pp. 2622, 2623.

“(B) The Association shall make a loan pursuant to subparagraph (A) of this paragraph if, notwithstanding any other requirement of this subsection, it finds that the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to section 303(b)(6), 504(e), or 504(g) of this Act, or if, with respect to an obligation referred to in subparagraph (A) of this paragraph, it finds that—

“(i) provision for the payment of such obligation was not included in the financial projections of the final system plan;

Ante, p. 2616.

“(ii) such obligation arose from rail operations prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act and is, under other applicable law, the responsibility of a railroad in reorganization in the region, and a claim is presented to a railroad in reorganization in the region, or the Corporation within 2 years after the date of enactment of the Rail Amendments of 1976;

“(iii) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is for services or materials, the furnishing of which served to avoid disruptions in ordinary business relationships prior to the date of conveyance of rail properties pursuant to section 303(b)(1) of this Act, or is necessary to avoid postconveyance disruptions in ordinary business relationships;

“(iv) the transferor is unable to pay such obligation within a reasonable period of time; and

“(v) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from a railroad in reorganization in the region for an obligation paid on its behalf under this subsection, have been

jointly agreed to by the Finance Committee and the Corporation, and the joint agreement—

“(I) provides for the Corporation to receive reimbursement from the Association for any expenses incurred in seeking reimbursement from any railroad in reorganization in the region for an obligation paid on its behalf under this subsection; and

“(II) includes a stipulation of the exact procedures the Corporation shall undertake to avoid the finding, referred to in paragraph (6)(A)(i) of this subsection, that it has not exercised due diligence.”.

(b) Section 211(h)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(2)) is amended—

(1) by inserting immediately before the period at the end of the first sentence thereof the following: “and for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of this subsection”; and

(2) by adding at the end thereof the following new sentences: Jurisdiction.

“Nothing in this subsection shall be construed as permitting any district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region to enjoin, restrain, or limit the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph, (B) cash or other current assets identified pursuant to paragraph (3) of this subsection, or (C) proceeds of loans pursuant to paragraph (1) of this subsection. Any agency agreement executed prior to the date of the enactment of the Rail Transportation Improvement Act shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph. Nothing in this paragraph shall be construed to affect any payment made prior to such date of enactment with respect to obligations other than those identified in paragraph (1) of this subsection.”.

Ante, p. 2613.

(c) Section 211(h)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(4)) is amended by adding at the end thereof the following new subparagraph:

“(D)(i) Except as provided in clause (ii) of this subparagraph, any funds held in an escrow account by a railroad in reorganization on the date of enactment of the Rail Transportation Improvement Act which are thereafter determined to be cash and other current assets of the estate of such railroad in reorganization, for purposes of paragraph (3) of this subsection, shall be applied as follows—

“(I) first, to the reduction of any outstanding loans to the Corporation by the Association, pursuant to paragraph (1) of this subsection, the proceeds of which were used to discharge obligations of such railroad in reorganization;

“(II) second, to the Association to the extent of any such loans which have been forgiven pursuant to paragraph (5) of this subsection; and

“(III) third, to the payment of any remaining obligations of such railroad in reorganization, in accordance with the provision of the agency agreement entered into pursuant to paragraph (2) of this subsection.

“(ii) The manner of disposition set forth in clause (i) of this subparagraph shall not apply with respect to a railroad in reorganization

Administrative
expense, proof
of claim, filing.

if the Secretary (I) determines that a different disposition of assets is necessary to carry out a reorganization plan of such railroad in reorganization, and that such different disposition adequately protects the interests of the United States, and (II) transmits his determination to the court having jurisdiction over the reorganization of such railroad.”.

(d) Section 211(h)(5)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(h)(5)(B)) is amended by adding at the end thereof the following new sentences: “The Corporation, the National Rail Passenger Corporation, or a profitable railroad, as the case may be, shall, with respect to each direct claim for reimbursement pursuant to paragraph (4) of this subsection, file a proof of administrative expense claim with the trustees of the railroad in reorganization from whom reimbursement is sought. Each such proof of administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).”.

(e) The first sentence of section 210(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(b)) is amended to read as follows: “The aggregate principal amount (exclusive of interest or additions to principal on account of accrual of interest) of obligations issued by the Association under this section which may be outstanding at any one time shall not exceed \$395,000,000.”.

PROTECTION OF EMPLOYEES’ PENSION BENEFITS

SEC. 204. Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: “, except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974, the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 211(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.”.

29 USC 1301.

Ante, p. 2617.

EVIDENTIARY USE OF CERTAIN DETERMINATIONS; REIMBURSEMENT FOR RAIL SERVICE

SEC. 205. (a) Section 304(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(d)) is amended by adding at the end thereof the following new paragraph:

“(4) No determination of reasonable payment for the use of rail properties of a railroad in reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after the date of enactment of the Rail Transportation Improvement Act—

“(A) pursuant to this section; or

“(B) pursuant to section 402 of this Act or section 17 of the 45 USC 562.

Urban Mass Transportation Act of 1964 (49 U.S.C. 1613), shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this Act.”.

(b) Section 304(e) (5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended by redesignating subparagraph (C) thereof as subparagraph (D), and by inserting immediately after subparagraph (B) thereof the following new subparagraph:

“(C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies, and agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and costs incurred incident thereto) shall be included within the meaning of the term “loss” as used in subparagraph (A) of this paragraph and within the meaning of the term “additional costs” as used in subparagraph (B) of this paragraph and section 17(a) (2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a) (2)).”.

AUTHORITY OF THE INTERSTATE COMMERCE COMMISSION

SEC. 206. Section 304(j) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(j)) is amended—

(1) by striking out paragraph (1) thereof and inserting in lieu thereof the following: “(1) (A) Except as provided in subparagraph (B) of this paragraph, no local public body which provides mass transportation services by rail, and which is otherwise subject to the Interstate Commerce Act shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or to rules, regulations, and orders promulgated under such Act, if the interstate fares, or the ability to apply to the Interstate Commerce Commission for changes thereto, of such local public body is subject to approval or disapproval by a Governor of any State in which it provides services.

49 USC prec. 1
note.

“(B) Any local public body described in subparagraph (A) of this paragraph shall continue to be subject to applicable Federal laws pertaining to (i) safety, (ii) the representation of employees for purposes of collective bargaining, and (iii) employment retirement, annuity, and unemployment systems or any other provision pertaining to dealings between employees and employers.”; and

(2) by striking out paragraph (2) (B) thereof and inserting in lieu thereof the following:

“(B) ‘mass transportation services’ means transportation services described in section 12(c) (5) of the Urban Mass Transportation Act (49 U.S.C. 1608(c) (5)) which are provided by rail.”.

“Mass transportation services.”

REPLACEMENT OPERATORS

SEC. 207. (a) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

"Replacement operator."

- (1) by striking out "and" at the end of paragraph (9) thereof;
- (2) by striking out the period at the end of paragraph (10) thereof, and inserting in lieu thereof "; and"; and
- (3) by adding at the end thereof the following new paragraph:

"(11) 'replacement operator' means—

"(A) a State which has acquired all or part of the rail properties of any railroad in reorganization in the region and which intends to replace any class I railroad as the operator of rail service over such rail properties; or

"(B) any class I railroad which is designated, by a State which has acquired such rail properties, to replace the State or any other class I railroad as the operator of rail service over such rail properties."

(b) Section 504(f) (3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(b) (3)) is amended—

(1) in the first sentence thereof, by striking out "shall upon transfer" and all that follows through "status," and inserting in lieu thereof the following: ", or as a result of the designation of a replacement operator, shall, upon transfer to the National Railroad Passenger Corporation, an acquiring railroad, or a replacement operator, carry with him his protected status."; and

(2) in the second sentence thereof by striking out "or an acquiring railroad," and inserting in lieu thereof ", an acquiring railroad, or a replacement operator,".

(c) Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended—

(1) by inserting immediately after "the Association (where applicable)," each time it appears the following: "replacement operators,"; and

(2) in the third sentence thereof, by inserting immediately after "the Corporation nor" the following: "a replacement operator nor".

COLLECTIVE BARGAINING AND FELA CLAIMS

SEC. 208. (a) Section 504(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(e)) is amended—

(1) by striking out the period at the end of the first sentence thereof, and inserting in lieu thereof the following: ", to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the region."; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant to this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h) (1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid."

Ante, p. 2617.

(b) Section 504(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(g)) is amended—

(1) by striking out the period at the end of the last sentence thereof and inserting in lieu thereof the following: “, to the extent that such claims are determined by the Association to be the obligation of such railroad.”; and

(2) by adding at the end thereof the following new sentences: “Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the pre-conveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid.”

Ante, p. 2617.

EMPLOYEE DISPLACEMENT ALLOWANCE

SEC. 209. (a) Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended—

(1) in paragraph (1) thereof, by striking out “February 26, 1975” and inserting in lieu thereof “January 1, 1975”;

(2) in paragraph (3) thereof, by striking out “February 26, 1975” and inserting in lieu thereof “January 1, 1975”; and

(3) in paragraph (4) thereof, by striking out “February 26, 1975” and inserting in lieu thereof “January 1, 1975”.

(b) Section 505(b)(1)(B) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(1)(B)) is amended by inserting immediately after “(B)” the following: “with respect to a protected employee who has been deprived of his employment,”.

NONCONTRACT EMPLOYEES

SEC. 210. (a) Section 505(i)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(2)) is amended by inserting immediately after the first sentence thereof the following new sentence: “Such resolution procedure shall be the exclusive means available to the parties for resolving such dispute, and any arbitration decision rendered shall be final and binding on all parties.”.

(b) Section 505(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)) is amended by adding at the end thereof the following new paragraph:

“(3) Except as otherwise provided in this title, a protected employee whose employment is not governed by the terms of a collective bargaining agreement and who has been deprived of employment shall not, during the period in which he is entitled to protection, be placed in a worse position with respect to any voluntary relief plan benefits or preretirement benefits provided under any life or medical insurance plan, except that the level of benefits to which such an employee is entitled under this paragraph shall not exceed the level of benefits which is afforded to the Corporation’s active noncontract employees of comparable age, position, and level of compensation.”.

(c) Section 505(b)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)(4)) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any noncontract employee whose noncontract position has been abolished."

UNITED STATES RAILWAY ASSOCIATION BOARD MEMBERSHIP

SEC. 211. (a) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended by striking out "the duly authorized representatives of either of them" and inserting in lieu thereof ", in his absence, the Deputy Secretary of Transportation".

(b) Section 201(d)(2) of such Act (45 U.S.C. 711) is amended by striking out "their duly authorized representatives" and inserting in lieu thereof "the Deputy Secretary of Transportation, the Vice Chairman of the Commission, or the Deputy Secretary of the Treasury, as the case may be".

(c) Section 201(h) of such Act (45 U.S.C. 711(h)) is amended by striking out the second sentence thereof.

(d) Section 201(i) of such Act (45 U.S.C. 711(i)) is amended, in the first sentence thereof, by striking out "duly authorized representatives" and inserting in lieu thereof "Deputy Secretaries".

(e) Section 201(j)(4) of such Act (45 U.S.C. 711(j)(4)) is amended to read as follows: "Any reference in this Act to the Secretary of the Treasury is to the Secretary of the Treasury or the person who is at the time performing the duties of the Office of the Secretary of the Treasury in accordance with law or, in his absence, the Deputy Secretary of the Treasury. Any reference in this Act to the Chairman of the Commission is to the Chairman of the Commission or the person who is at the time performing the duties of the Chairman of the Commission in accordance with law."

FINANCIAL ASSISTANCE

Ante, p. 71.

SEC. 212. (a) Section 505(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(a)) is amended to read as follows:

"SEC. 505. (a) IN GENERAL.—Any railroad may apply to the Secretary, following the date of enactment of this Act and in accordance with regulations promulgated by the Secretary, for financial assistance for facilities rehabilitation and improvement financing and for such other financial assistance as may be approved by the Secretary. Any regulations promulgated by the Secretary pursuant to this section shall include specific and detailed standards in accordance with which the Secretary shall conduct the evaluations and make the determinations required in subsection (b)(2) of this section."

PRIORITY OF REDEEMABLE PREFERENCE SHARES

Ante, p. 73.

SEC. 213. Section 506(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(2)) is amended—

(1) in clause (i) thereof, by inserting immediately after "whenever issued," the following: "except that the Secretary may make any such redeemable preference share subordinate to any common stock which was issued as a result of an exchange for securities which were senior in right to common stock, if (I) such exchange took place pursuant to a court-approved reorganization plan under section 77 of the Bankruptcy Act (11 U.S.C.

205), and (II) the railroad subject to such reorganization plan was in reorganization under such section 77 prior to the date of enactment of this Act," 11 USC 205.

(2) in clause (iii) thereof, by inserting immediately after "other than common stock" the following: "(except in those cases in which the Secretary has provided for subordination pursuant to clause (i) of this paragraph) which is";

REDEMPTION PAYMENTS AND INTEREST RATE

SEC. 214. (a) Section 506(a)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)(4)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and, except to permit the railroad to prepay its redemption payments, the number of such annual redemption payments shall in no event be less than 15; and".

Ante, p. 73.

(b) Section 506(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826(a)) is amended by adding at the end thereof the following new paragraph:

"(5) the proceeds from the issuance of which are to be expended solely to reduce the deferred maintenance on facilities, shall in no event yield (A) less than the minimum permissible yield determinable in accordance with paragraphs (3) and (4) of this subsection, nor (B) more than such railroad's rate of return on total capital (represented by the ratio which such carrier's net income, including interest on long-term debt, bore to the sum of the average shareholder's equity, long-term debt, and accumulated deferred income tax credits for the three fiscal years preceding the date of submission of the application) as determined in accordance with the uniform system of accounts promulgated by the Commission in those cases in which such rate of return exceeded such minimum permissible yield."

OBLIGATION GUARANTEES

SEC. 215. (a) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (c) thereof and inserting in lieu thereof the following new subsection:

Ante, p. 76.

"(c) **FULL FAITH AND CREDIT.**—All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the United States of America."

(b) Section 511(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended—

(1) in paragraph (1) thereof, by inserting "(A)" immediately after "secured", and by inserting immediately before the semicolon the following "or (B) in the case of the rehabilitation or improvement of leased equipment, by the lease"; and

(2) by amending paragraph (5) thereof to read as follows—

"(5) the prospective earning power of the applicant, or the value or prospective earning power of any equipment or facilities to be improved, rehabilitated, or acquired (or any combination of the foregoing), together with any other security offered by the applicant, is sufficient to provide the United States with reasonable security and protection, except that if the value or prospective earning power of such equipment or facilities is equal to or

greater than the amount of the obligation to be guaranteed, the Secretary may not, on the basis of the lack of prospective earning power of the applicant, find that the United States will not be provided with the reasonable security and protection referred to in this paragraph; and”.

Ante, p. 76.

(c) Section 511(j) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(j)) is amended to read as follows:

“(j) CONDITIONS OF GUARANTEES.—(1) The Secretary shall, before making, approving, or extending any guarantee or commitment to guarantee any obligation under this section, require the obligor to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to assure that, as long as any principal or interest is due and payable on such obligation, such obligor—

“(A) will not make any discretionary dividend payments, except as provided in paragraph (2) of this subsection; and

“(B) will not use any funds or assets from railroad operations for nonrail purposes,

if such payments or use will impair the ability of such obligor to provide rail services in an efficient and economic manner or will adversely effect the ability of such obligor to perform any obligation guaranteed by the Secretary.

“(2) An obligor shall not be restricted with respect to making dividend payments from its net income for any fiscal year, if such payments do not exceed—

“(A) when compared to the net income of such obligor for such fiscal year, the ratio which aggregate dividends paid by such obligor, during the 5 fiscal years prior to the granting of the earliest loan guarantee then outstanding under this section, bore to aggregate net income of such obligor for such period; or

“(B) 50 per centum of the total additions to the retained income of such obligor (computed on a cumulative basis and giving cognizance to dividends paid) during the period commencing with the fiscal year prior to the granting of the earliest loan guarantee then outstanding under this section,

whichever is greater.

“(3) The restrictions set forth in paragraphs (1) of this subsection shall not apply with respect to an obligation guaranteed under this section if, in the event of a default by the obligor, the Secretary would be subrogated to the rights of the lender under section 77(j) of the Bankruptcy Act.”.

11 USC 205.

(d) Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by striking out subsection (g) thereof and redesignating subsections (h) through (n) thereof as subsections (g) through (m), respectively.

REHABILITATION AND FINANCING AMENDMENTS

Ante, p. 71.

SEC. 216. (a) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting in the third sentence thereof, immediately after “shall” the following: “evaluate and”;

(2) by inserting immediately after “financed” in clause (A) the following: “and the railroad’s rate of return on total capital (represented by the ratio which such carriers net income, including interest on long-term debt, bore to the sum of average shareholder’s equity, long-term debt, and accumulated deferred income tax

for fiscal year 1975) as determined in accordance with the uniform system of accounts promulgated by the Commission"; and

(3) by inserting immediately after the third sentence thereof the following new sentence: "Except as provided in the last sentence of this paragraph, the Secretary, in determining the extent to which a project will provide public benefits, shall give the highest priority to projects which will enhance the ability of the applicant carrier or other carriers to provide essential freight services."

(b) Section 503(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823(e)) is amended by striking out "60" and inserting in lieu thereof "150". *Ante*, p. 69.

(c) Section 504(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(b)) is amended— *Ante*, p. 70.

(1) by striking out "360" and inserting in lieu thereof "540"; and

(2) by inserting in paragraph (A) thereof, immediately after "needs," the following: "the projected gross national product, the potential demand for rail service and the types of service capable of meeting that potential demand, the potential revenues and costs (including capital costs associated with those revenues), the demand for rail services for which the railroads could compete on an economic basis, the probable sources of funding for the capital costs of providing those services, and which of those costs must be provided by public financing,".

(d) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking out "September 30, 1978" and inserting in lieu thereof "March 31, 1979". *Ante*, p. 76.

(e) Section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654 note) is amended by striking out "540" and inserting in lieu thereof "720". *Ante*, p. 147.

NORTHEAST CORRIDOR ACQUISITIONS

SEC. 217. (a) Section 704(a)(3)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)(B)) is amended by striking out "\$85,182,956" and inserting in lieu thereof "\$120,000,000". *Ante*, p. 122.

(b) Section 704(a)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(3)) is amended by adding at the end thereof the following:

"Amounts appropriated pursuant to subparagraphs (B) and (D) of this paragraph shall be used first for the repayment, with interest, of that portion of obligations issued by the National Railroad Passenger Corporation and guaranteed pursuant to section 602 of the Rail Passenger Service Act (34 U.S.C. 602), the proceeds of which have been used for the payment of expenses resulting from the acquisition of the properties referred to in such subparagraphs (B) and (D).". *45 USC 602.*

(c) Section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854) is amended by adding at the end thereof the following new subsections:

"(e) NOTE AND MORTGAGE.—In order to protect and secure the expenditure of funds by the United States on account of the acquisition and improvement of properties designated under section 206 (c)(1) (C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1) (C) and (D)), the Secretary is authorized to obtain a note of indebtedness from, and to enter into a mortgage agreement with, the National Railroad Passenger Corporation

Ante, p. 119.
45 USC 851.

in order to establish a mortgage lien on such properties for the United States securing such expenditure. Such note and mortgage shall not infringe upon or supersede the authority conferred upon the National Railroad Passenger Corporation by section 701 of this Act.

“(f) EXEMPTION AND IMMUNITY.—Any agreement, security, or obligation obtained by the Secretary pursuant to subsection (e) of this section, and any transaction in connection with any such agreement, security, or obligation, shall be exempt from the provisions of the Interstate Commerce Act (49 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), and any other Federal, State, or local law or regulation which regulates securities or the issuance thereof. Any such agreement, security, obligation, or transaction shall enjoy all of the immunities from other laws which section 601 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791) accords to transactions which are in compliance with or implement the final system plan. The conveyance or transfer of rail properties resulting from any such agreement, security, obligation, or transaction shall enjoy the same exemptions, privileges, and immunities which the Regional Rail Reorganization Act of 1973 (including section 303(e) thereof) accords to conveyances ordered or approved by the special court under section 306(b) of such Act (45 U.S.C. 743(b)).

“(g) PROTECTION FROM LIABILITY.—The Corporation, its Board of Directors, and its individual directors shall not be liable to any party for any damages, or in any other manner, by reason of the fact that the Corporation has given or issued a security or obligation to the United States pursuant to the provisions of subsection (e) of this section. The immunity granted by this subsection shall also extend to any agreement entered into by the Corporation pursuant to such subsection (e) and to any transaction in connection with. The United States shall indemnify the Corporation, its Board of Directors, and its individual directors against all costs and expenses (including fees of accountants, experts, and attorneys) actually and reasonably incurred in defending any litigation testing the legal validity of any security, obligation, agreement, or transaction, given, issued, or entered into pursuant to such subsection (e).”

DISCONTINUANCE AND ABANDONMENT PROCEDURES

SEC. 218. (a) Section 1a(1) of the Interstate Commerce Act (49 U.S.C. 1a(1)) is amended by adding at the end thereof the following new sentence: “The authority granted to the Commission under this section shall not apply to (a) abandonment or discontinuance with respect to spur, industrial, team, switching, or side tracks if such tracks are located entirely within one State, or (b) any street, suburban, or interurban electric railway which is not operated as part of a general system of rail transportation.”

(b) Section 1a(4) of the Interstate Commerce Act (49 U.S.C. 1a(4)) is amended—

(1) by adding immediately before the last sentence thereof the following new sentence “If such certificate is issued without an investigation pursuant to paragraph (3) of this section, actual abandonment or discontinuance may take effect, in accordance with such certificate, 30 days after the date of issuance thereof.”; and

(2) in the last sentence thereof, by inserting immediately after “issued” the following: “after an investigation pursuant to such paragraph (3)”.

PRESERVATION OF HISTORICAL RAIL FACILITIES

SEC. 219. (a) Section 4(i)(9) of the Department of Transportation Act (49 U.S.C. 1653) is amended by—

(1) striking out “\$5,000,000” in clauses (ii) and (iii) of subparagraph (A) thereof and inserting in lieu thereof “2,500,000”;

(2) striking out subparagraph (B) thereof and redesignating subparagraph (C) thereof as subparagraph (B) thereof.

(b) Section 11(a)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by adding after subparagraph (B) thereof the following new subparagraph:

Appropriation
authorization.

“(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

“(i) \$2,500,000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1652(i)),

49 USC 1653.

“(ii) \$2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such section 4(i); and

“(iii) \$250,000 for administrative expenses.

Sums appropriated for the purposes of this subparagraph shall remain available until expended.”

TECHNICAL AMENDMENTS

SEC. 220. (a) Section 211(h)(6)(A)(i) of the Regional Rail Reorganization Act (45 U.S.C. 721(h)(6)(A)(i)) is amended by striking out “paragraph (1)(E)” and inserting in lieu thereof “paragraph (1)(B)(v)”.

(b) Section 303(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(c)) is amended—

(1) in paragraph (2)(A) thereof, by striking out “securities, certificates of value of the Corporation” and inserting in lieu thereof “securities and certificates of value”;

(2) in paragraph (2)(A) thereof, by striking out “it has” and inserting in lieu thereof “they have”;

(3) in paragraph (2)(B) thereof, by striking out “Corporation’s securities, certificates of value” and inserting in lieu thereof “securities and certificates of value”;

(4) in paragraph (2)(B) thereof, by striking out “other securities, certificates of value” and inserting in lieu thereof “other securities”; and

(5) in the fourth sentence of paragraph (3) thereof, by striking out “section 303(a)(2)” and inserting in lieu thereof “subsection (a)(2) of this section”.

(c) Section 308(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (15 U.S.C. 80a-3 note) is amended by striking out “subsection (c)” and inserting in lieu thereof “subsection (b)”.

Ante, p. 56.

(d) Section 504(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 824(a)) is amended by inserting “and equipment” immediately after “railroad’s facilities”.

Ante, p. 70.

(e) The first sentence of section 511(a) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately before the period at the end thereof the following: “, or to develop or establish new railroad facilities”.

Ante, p. 76.

(f) Section 511(h) of the Rail Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(h)) is amended by striking out "PREQUISITES FOR GUARANTEES." and inserting in lieu thereof "PREREQUISITES FOR GUARANTEES."

49 USC 1a note.

(g) Section 809(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 1a note) is amended by striking out "abandoned" and inserting "abandoned since 1970" immediately after "railroad right-of-way".

49 USC 1654 note.

(h) Section 901(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1654(8)) is amended to read as follows:

"(8) a survey and analysis of the railroad industry in the United States to determine its financial condition and the physical condition of its facilities, rolling stock, and equipment."

(i) The second sentence of section 5(16) of the Interstate Commerce Act (49 U.S.C. 5(16)) is amended by striking out "paragraph (16)" and inserting in lieu thereof "paragraph (17)".

(j) The first sentence of section 17(9)(e) of the Interstate Commerce Act (49 U.S.C. 17(9)(e)) is amended by striking out "section" and inserting in lieu thereof "paragraph".

49 USC 5c.

(k) Section 5b(5)(a)(iii) of the Interstate Commerce Act (49 U.S.C. 5b(5)(a)(iii)) is amended by striking out "section 15(7)" and inserting in lieu thereof "section 15(8)".

(l) Section 13(5) of the Interstate Commerce Act (49 U.S.C. 13(5)) is amended by adding at the end thereof the following: "Nothing in this paragraph shall affect the authority of the Commission to institute an investigation or to act in such investigation as provided in paragraphs (3) and (4) of this section."

(m) The final sentence of section 15(19) of the Interstate Commerce Act (49 U.S.C. 15(19)) is amended by striking out "section 2" and inserting in lieu thereof "section 1, 2".

(n) Section 22(2) of the Interstate Commerce Act (49 U.S.C. 22(2)) is amended—

(1) by inserting immediately after "under section 5a" the following: "or section 5b"; and

(2) by striking out "said section 5a" and inserting in lieu thereof "such section 5a or paragraph (8) of such section 5b".

49 USC 26c.

(o) Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) is amended by inserting immediately before section 28 the following center heading:

"DISCRIMINATORY STATE TAXATION".

TITLE III—GENERAL PROVISIONS

ENVIRONMENTAL STUDY

Report to
Congress.
45 USC 641
note.

SEC. 301. The Secretary of Health, Education, and Welfare, in consultation with the Interstate Commerce Commission and the Secretary of Transportation, shall submit a report to the Congress within 18 months after the enactment of this Act concerning (1) the risk of outbreaks of disease or illnesses and any other adverse environmental effects resulting from the discharge of waste from railroad conveyances operated in intercity rail passenger service, in rail commuter service, and in rail freight service, and (2) the financial and operating hardships on railroads or public authorities which would

result from a prohibition of waste disposal. Such report shall contain such recommendations as the Secretary of Health, Education, and Welfare, the Interstate Commerce Commission, or the Secretary of Transportation considers appropriate to balance possible dangers of disease or illness and environmental considerations with operating or financial considerations relevant to the railroad industry, including any distinction considered appropriate between new railroad rolling stock and existing railroad rolling stock, and shall consider any regulations pertaining to waste disposal from railroad conveyances operated in other Nations.

Recommendations.

DELMARVA RAIL STUDY

Sec. 302. The Interstate Commerce Commission shall, within 6 months after the date of enactment of this Act, submit a report to the Congress with respect to the problems of, and need for, rail transportation services on the Delaware-Maryland-Virginia peninsula. Such report shall include—

Report to Congress.
45 USC 714 note.

(1) an analysis of why the acquisitions proposed under the final system plan with respect to rail properties on such peninsula were not consummated; and

(2) recommendations with respect to the continuation or extension of viable rail transportation service on such peninsula.

EFFECTIVE DATE

Sec. 303. The provisions of this Act and the amendments made by this Act shall take effect on October 1, 1976.

45 USC 543 note.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1168 accompanying H.R. 13601 and No. 94-1479 accompanying H.R. 14932 (both from Comm. on Interstate and Foreign Commerce) and No. 94-1743 (Comm. of Conference).

SENATE REPORT No. 94-851 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 9, 11, H.R. 13601 considered and passed House.

Sept. 1, considered and passed Senate, in lieu of H.R. 13601.

Sept. 27, considered and passed House, amended, in lieu of H.R. 14932.

Sept. 30, Senate agreed to conference report.

Oct. 1, House agreed to conference report.

Public Law 94-556
94th Congress

An Act

Oct. 19, 1976
[S. 64]

To provide for the recognition of the States of Alaska and Hawaii at the Lincoln National Memorial, and for other purposes.

Lincoln National
Memorial.
Recognition of
Alaska and
Hawaii.
16 USC 431 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of providing appropriate commemoration at the Lincoln National Memorial of the addition of the States of Alaska and Hawaii to the Union, the Secretary of the Interior is authorized and directed to study the feasibility of and make recommendations for the recognition at an appropriate place at such memorial of the addition to the Union of the States of Alaska and Hawaii. Such recommendations shall after review and approval by the Commission of Fine Arts, the National Capital Planning Commission, and the Advisory Council on Historic Preservation be submitted to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives of the United States. If, at the end of sixty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) following receipt of such recommendations, neither committee has adopted a resolution of disapproval, the Secretary is authorized and directed to carry out said recommendations.

Appropriation
authorization.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not to exceed \$20,000. No funds authorized to be appropriated pursuant to this Act shall be available prior to October 1, 1977.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1684 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-734 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 6, considered and passed Senate.

Sept. 27, considered and passed House, amended.

Oct. 1, Senate concurred in House amendment.

Public Law 94-557
94th Congress

An Act

To designate certain lands as wilderness.

Oct. 19, 1976

[S. 1026]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wilderness
areas.

DESIGNATION OF WILDERNESS AREAS WITHIN THE NATIONAL WILDLIFE
REFUGE SYSTEM

SECTION 1. In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

16 USC 1132
note.

(a) certain lands in the Simeonof National Wildlife Refuge, Alaska, which comprise approximately twenty-five thousand one hundred and forty-one acres, which are depicted on a map entitled "Simeonof Wilderness Proposal", dated January 1971, and which shall be known as the Simeonof Wilderness;

(b) certain lands in the Big Lake National Wildlife Refuge, Arkansas, which comprise approximately two thousand six hundred acres, which are depicted on a map entitled "Big Lake Wilderness Proposal", dated June 1976, and which shall be known as the Big Lake Wilderness;

(c) certain lands in the Chassahowitzka National Wildlife Refuge, Florida, which comprise approximately twenty-three thousand three hundred and sixty acres, which are depicted on a map entitled "Chassahowitzka Wilderness Proposal", dated March 1975, and which shall be known as the Chassahowitzka Wilderness;

(d) certain lands in the J. N. "Ding" Darling National Wildlife Refuge, Florida, which comprise approximately two thousand eight hundred and twenty-five acres, which are depicted on a map entitled "J. N. 'Ding' Darling Wilderness Proposal", dated March 1975, and which shall be known as the J. N. "Ding" Darling Wilderness;

(e) certain lands in the Lake Woodruff National Wildlife Refuge, Florida, which comprise approximately one thousand one hundred and forty-six acres, which are depicted on a map entitled "Lake Woodruff Wilderness Proposal", dated June 1976, and which shall be known as the Lake Woodruff Wilderness;

(f) certain lands in the Crab Orchard National Wildlife Refuge, Illinois, which comprise approximately four thousand and fifty acres, which are depicted on a map entitled "Crab Orchard Wilderness Proposal", dated January 1973, and which shall be known as the Crab Orchard Wilderness;

(g) certain lands in the Lacassine National Wildlife Refuge, Louisiana, which comprise approximately three thousand three hundred acres, which are depicted on a map entitled "Lacassine Wilderness Proposal", dated June 1976, and which shall be known as the Lacassine Wilderness;

(h) certain lands in the Agassiz National Wildlife Refuge, Minnesota, which comprise approximately four thousand acres,

which are depicted on a map entitled "Agassiz Wilderness Proposal", dated November 1973, and which shall be known as the Agassiz Wilderness;

(i) certain lands in the Tamarac National Wildlife Refuge, Minnesota, which comprise approximately two thousand one hundred and thirty-eight acres, which are depicted on a map entitled "Tamarac Wilderness Proposal", dated January 1973, and which shall be known as the Tamarac Wilderness;

(j) certain lands in the Mingo National Wildlife Refuge, Missouri, which comprise approximately eight thousand acres, which are depicted on a map entitled "Mingo Wilderness Proposal", dated March 1975, and which shall be known as the Mingo Wilderness;

(k) certain lands in the Red Rock Lakes National Wildlife Refuge, Montana, which comprise approximately thirty-two thousand three hundred and fifty acres, which are depicted on a map entitled "Red Rock Lakes Wilderness Proposal", dated January 1974, and which shall be known as the Red Rock Lakes Wilderness;

(l) certain lands in the Medicine Lake National Wildlife Refuge, Montana, which comprise approximately eleven thousand three hundred and sixty-six acres, which are depicted on a map entitled "Medicine Lake Wilderness Proposal", dated November 1973, and which shall be known as the Medicine Lake Wilderness;

(m) certain lands in the UL Bend National Wildlife Refuge, Montana, which comprise approximately twenty thousand eight hundred and ninety acres, which are depicted on a map entitled "UL Bend Wilderness Proposal", dated June 1976, and which shall be known as the UL Bend Wilderness;

(n) certain lands in the Fort Niobrara National Wildlife Refuge, Nebraska, which comprise approximately four thousand six hundred and thirty-five acres, which are depicted on a map entitled "Fort Niobrara Wilderness Proposal", dated November 1973, and which shall be known as the Fort Niobrara Wilderness;

(o) certain lands in the Swanquarter National Wildlife Refuge, North Carolina, which comprise approximately nine thousand acres, which are depicted on a map entitled "Swanquarter Wilderness Proposal", dated December 1973, and which shall be known as the Swanquarter Wilderness;

(p) certain lands in the San Juan Islands National Wildlife Refuge, Washington, which comprise approximately three hundred and fifty-five acres, which are depicted on a map entitled "San Juan Islands Wilderness Proposal", dated August 1971 (revised July 1976), and which shall be known as the San Juan Wilderness.

DESIGNATION OF WILDERNESS AREAS WITHIN THE NATIONAL FOREST SYSTEM

SEC. 2. (a) In accordance with the subsection 3(b) of the Wilderness Act (78 Stat. 891), the area in the Shoshone National Forest in Wyoming classified as the Glacier Primitive Area, with the proposed additions thereto and deletions therefrom, comprising an area of approximately one hundred and ninety-seven thousand six hundred

acres as generally depicted on a map entitled "Glacier Wilderness Proposed", dated March 1975 (revised August 1976), is hereby designated as the "Fitzpatrick Wilderness" and, therefore, as a component of the National Wilderness Preservation System.

(b) In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

16 USC 1131
note.

(1) certain lands in the Sierra National Forest in California, which comprise about twenty-two thousand five hundred acres, as generally depicted on a map entitled "Kaiser Wilderness-Proposed", dated August 1976, and shall be known as Kaiser Wilderness;

(2) certain lands in the Mark Twain National Forest in Missouri, which comprise about twelve thousand three hundred and fifteen acres, as generally depicted on a map entitled "Hercules-Glades Wilderness, Proposed", dated March 1976, and shall be known as the Hercules-Glades Wilderness;

DESIGNATION OF WILDERNESS STUDY AREAS WITHIN THE NATIONAL FOREST SYSTEM

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and in accordance with the provisions of subsection 3(d) of that Act (78 Stat. 892, 893), relating to public notice, public hearings, and review by State and other agencies, the Secretary of Agriculture shall review, as to its suitability or unsuitability for preservation as wilderness, each wilderness study area designated by or pursuant to subsection (b) of this section and report his findings to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to the designation as wilderness of each such area on which the review has been completed, together with a map thereof and a definition of its boundaries.

16 USC 1132
note.

(b) Wilderness study areas to be reviewed pursuant to this section include—

(1) certain lands in the Angeles and San Bernardino National Forests in California, which comprise approximately fifty-two thousand acres, and which are generally depicted on a map entitled "Sheep Mountain Wilderness, Proposed", and dated February 1974. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendations with respect to the designation of the Sheep Mountain Wilderness Study Area as wilderness not later than two years after the date of enactment of this Act;

(2) certain lands in the Mendocino National Forest in California, which comprise approximately thirty-seven thousand acres, and which are generally depicted on a map entitled "Snow Mountain Wilderness Proposed", and dated June 1971. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendations with respect to the designation of the Snow Mountain Wilderness Study Area as wilderness not later than two years after the date of enactment of this Act;

Report to
President,
submittal
to Congress.

Report to
President,
submittal
to Congress.

(3) certain lands in the Mark Twain National Forest in Missouri, which comprise approximately eight thousand five hundred and thirty acres, and which are generally depicted on a map entitled "Bell Mountain Wilderness Study Area", and dated March 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendations with respect to the designation of the Bell Mountain Wilderness Study Area as wilderness not later than five years after the date of enactment of this Act;

Report to
President,
submittal
to Congress.

(4) certain lands in the Mark Twain National Forest in Missouri, which comprise approximately six thousand eight hundred and eighty-eight acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Study Area", and dated March 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Paddy Creek Wilderness Study Area as wilderness not later than five years after the date of enactment of this Act;

Report to
President,
submittal
to Congress.

(5) certain lands in the Mark Twain National Forest in Missouri, which comprise approximately eight thousand four hundred and thirty acres, and which are generally depicted on a map entitled "Piney Creek Wilderness Study Area", and dated March 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Piney Creek Wilderness Study Area as wilderness not later than five years after the date of enactment of this Act;

Report to
President,
submittal
to Congress.

(6) certain lands in the Mark Twain National Forest in Missouri, which comprise approximately four thousand one hundred and seventy acres, and which are generally depicted on a map entitled "Rockpile Mountain Wilderness Study Area", and dated March 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Rockpile Mountain Wilderness Study Area as wilderness not later than five years after the date of enactment of this Act;

Report to
President,
submittal
to Congress.

(7) certain lands in the Flathead and Lewis and Clark National Forests in Montana, which comprise approximately three hundred ninety-three thousand acres, and which are generally depicted on a map entitled "Great Bear Wilderness-Proposed", and dated November 1975 (revised August 1976). The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Great Bear Wilderness Study Area as wilderness not later than nineteen months after the date of enactment of this Act; and in conducting his review, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall identify any potential utility corridors within or

contiguous to the study area, review any adverse effects such corridors may have on the wilderness character of such area, determine whether any such corridor is necessary, and, if a determination of necessity is made, select a route and design which will minimize such effects. Nothing in this section shall be construed as prohibiting the siting of any such corridor within the boundaries of any area recommended by the President for wilderness preservation pursuant to this Act or designated as wilderness by the Congress and;

(8) certain lands in the Deer Lodge and Helena National Forests, in Montana, which comprise approximately seventy-seven thousand three hundred and forty-six acres and which are generally depicted on a map entitled "Elkhorn Wilderness Study Area" and dated April 1976. The Secretary shall complete his review and report his findings to the President and the President shall submit to the United States Senate and the House of Representatives his recommendation with respect to the designation of the Elkhorn Wilderness Study area as wilderness not later than two years after the date of enactment of this Act.

Report to
President,
submittal
to Congress.

(c) Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominately of wilderness value. Any recommendation of the President to the effect that such area or portion thereof should be designated as "wilderness" shall become effective only if so provided by an Act of Congress.

(d) Subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System, except that such management requirement shall not extend beyond a period of four years from the date of submission to the Congress of the President's recommendation concerning the particular study area. Already established uses may be permitted to continue, subject to such restrictions as the Secretary of Agriculture deems desirable, in the manner and degree in which the same was being conducted on the date of enactment of this Act.

Administration.

ADMINISTRATIVE PROVISIONS

SEC. 4. Except as otherwise provided in this Act, all primitive area classifications of areas herein designated as wilderness are hereby abolished.

SEC. 5. As soon as practicable after this Act takes effect, a map of each wilderness study area and a map and a legal description of each wilderness area shall be filed with the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

Map and
description,
filing with
congressional
committees.

16 USC 1131
note.

SEC. 6. Wilderness areas designated by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1562 accompanying H.R. 15446 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 94-1032 and No. 94-1032 Pt. 2 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 21, considered and passed Senate.

Sept. 27, considered and passed House, amended, in lieu of H.R. 15446.

Sept. 30, Senate agreed to House amendment.

Public Law 94-558
94th Congress

An Act

To amend the Federal Water Pollution Control Act, as amended.

Oct. 19, 1976

[S. 3894]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title II of the Federal Water Pollution Control Act, as amended, is amended by adding the following new section:

Federal Water
Pollution Control
Act, amendment.

“LOAN GUARANTEES FOR CONSTRUCTION OF TREATMENT WORKS

“SEC. 213. (a) Subject to the conditions of this section and to such terms and conditions as the Administrator determines to be necessary to carry out the purposes of this title, the Administrator is authorized to guarantee, and to make commitments to guarantee, the principal and interest (including interest accruing between the date of default and the date of the payment in full of the guarantee) of any loan, obligation, or participation therein of any State, municipality, or intermunicipal or interstate agency issued directly and exclusively to the Federal Financing Bank to finance that part of the cost of any grant-eligible project for the construction of publicly owned treatment works not paid for with Federal financial assistance under this title (other than this section), which project the Administrator has determined to be eligible for such financial assistance under this title, including, but not limited to, projects eligible for reimbursement under section 206 of this title.

33 USC 1293.

“(b) No guarantee, or commitment to make a guarantee, may be made pursuant to this section—

33 USC 1286.

“(1) unless the Administrator certifies that the issuing body is unable to obtain on reasonable terms sufficient credit to finance its actual needs without such guarantee; and

“(2) unless the Administrator determines that there is a reasonable assurance of repayment of the loan, obligation, or participation therein.

A determination of whether financing is available at reasonable rates shall be made by the Secretary of the Treasury with relationship to the current average yield on outstanding marketable obligations of municipalities of comparable maturity.

“(c) The Administrator is authorized to charge reasonable fees for the investigation of an application for a guarantee and for the issuance of a commitment to make a guarantee.

Fees.

33 USC 1284.

33 USC 1286.

“(d) The Administrator, in determining whether there is a reasonable assurance of repayment, may require a commitment which would apply to such repayment. Such commitment may include, but not be limited to, (1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2) any funds received by such grantee from the amounts appropriated under section 206 of this Act.”.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Oct. 1, considered and passed Senate and House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 20, Presidential statement.

Public Law 94-559
94th Congress

An Act

The Civil Rights Attorney's Fees Awards Act of 1976.

Oct. 19, 1976

[S. 2278]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Civil Rights Attorney's Fees Awards Act of 1976".

SEC. 2. That the Revised Statutes section 722 (42 U.S.C. 1988) is amended by adding the following: "In any action or proceeding to enforce a provision of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes, title IX of Public Law 92-318, or in any civil action or proceeding, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs."

The Civil
Rights Attorney's
Fees Awards
Act of 1976.
42 USC 1981
note.
42 USC 1981-
1983, 1985,
1986.
20 USC 1681.
26 USC 1 *et seq.*
42 USC 2000d.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1558 accompanying H.R. 15460 (Comm. on the Judiciary).
SENATE REPORT No. 94-1011 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21-24, 27-29, considered and passed Senate.
Oct. 1, considered and passed House.

Public Law 94-560
94th Congress

An Act

Oct. 19, 1976
[H.R. 12033]

To continue until the close of June 30, 1979, the existing suspension of duties on manganese ore (including ferruginous ore) and related products.

Manganese ore,
duty suspension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) item 911.07 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/76" and inserting in lieu thereof "June 30, 1979".

19 USC 1202
app. note.

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1976.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1067 (Comm. on Ways and Means).

SENATE REPORT No. 94-994 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 17, considered and passed House.

July 1, considered and passed Senate, amended.

Sept. 29, House disagreed to Senate amendment.

Oct. 1, Senate receded from its amendment.

Public Law 94-561
94th Congress

An Act

Oct. 19, 1976

[H.R. 10133]

To upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for an additional Assistant Secretary of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5313 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

“(23) Deputy Secretary of Agriculture.”.

(b) Section 5314 of such title 5 is amended by striking out paragraph (3).

(c) The Acts listed in paragraphs (1) and (2) of this subsection are amended by striking out the words “Under Secretary of Agriculture” wherever they appear and by inserting in lieu thereof the words “Deputy Secretary of Agriculture”:

(1) The Act of March 26, 1934 (48 Stat. 467; 7 U.S.C. 2210).

(2) The Act of June 5, 1939 (53 Stat. 809; 7 U.S.C. 2211).

(d) The officer occupying the position of Under Secretary of Agriculture, on the date of enactment of this Act, may assume the duties of the Deputy Secretary of Agriculture. The individual assuming such duties shall not be required to be reappointed by reason of the enactment of this Act.

SEC. 2. There shall be hereafter in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, one additional Assistant Secretary of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, shall be responsible for such duties as the Secretary of Agriculture shall prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

SEC. 3. (a) Section 5315 of title 5 of the United States Code is amended by striking out “(4)” at the end of paragraph (11) and by inserting in lieu thereof “(5)”.

(b) Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (55); and

(2) by adding at the end thereof a new paragraph (137) as follows:

“(137) Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.”.

SEC. 4. Section 9(a) of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1072, as amended, 15 U.S.C. 714g(a)), is amended by striking out the third sentence and inserting in lieu thereof: “The Board shall consist of seven members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate.”.

SEC. 5. (a) Except as otherwise provided in this section, this Act shall take effect on its date of enactment.

Department
of Agriculture.
Executive
adjustments.

7 USC 2210
note.

Additional
Assistant
Secretary of
Agriculture.
7 USC 2212b.

Commodity
Credit
Corporation,
Board of
Directors,
additional
member.
Effective dates.
5 USC 5313 note.

(b) Subsection (b)(1) of section 3 of this Act shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act.

Ante, p. 314.
7 USC 2042.

SEC. 6. Section 3(b) of the Farm Labor Contractor Registration Act of 1963, as amended (78 Stat. 920, as amended; 7 U.S.C. 2042), is amended—

(a) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word “or”; and

(b) by adding at the end thereof a new paragraph (9) as follows:

“(9) any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours.”.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1156 and No. 94-1156 Pt. 2 (Comm. on Agriculture).

SENATE REPORT No. 94-1377 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 26, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 1, House agreed to Senate amendments.

Public Law 94-562
94th Congress

An Act

To amend the Public Health Service Act to revise and extend provisions respecting arthritis, diabetes, and digestive diseases.

Oct. 19, 1976

[S. 2910]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the “Arthritis, Diabetes, and Digestive Disease Amendments of 1976”.

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Arthritis,
Diabetes, and
Digestive Disease
Amendments
of 1976.

42 USC 201 note.

42 USC 201 note.

**TITLE I—ARTHRITIS AND RELATED MUSCULO-
 SKELETAL DISEASES**

ARTHRITIS DEMONSTRATION PROJECTS AND DATA SYSTEM

SEC. 101. (a) Section 438(a) is amended—

42 USC 289c-5.

(1) by striking out “prevention,”; and

(2) by striking out “data bank” and inserting in lieu thereof “data system”.

(b) Section 438(b) is amended—

(1) by striking out “and” at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof “; and”; and

(3) by adding after paragraph (4) the following new paragraph:

“(5) emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

“(A) on the importance of early detection of arthritis, of seeking prompt treatment, and of following an appropriate regimen; and

“(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis.”.

(c) Section 438(c) (1) is amended—

(1) by striking out “Screening and Detection Data Bank” and inserting in lieu thereof “Data System”; and

(2) by striking out “useful in screening, prevention, and early detection involving” and inserting in lieu thereof “derived from”.

(d) Section 438(d) is amended—

(1) by inserting “(1)” after “(d)”;

(2) by inserting at the end thereof the following new paragraphs:

**Appropriation
authorization.**

"(2) There are authorized to be appropriated to carry out subsections (a) and (b) \$3,000,000 for the fiscal year ending September 30, 1978, \$4,000,000 for the fiscal year ending September 30, 1979, and \$5,000,000 for the fiscal year ending September 30, 1980.

"(3) There are authorized to be appropriated to carry out subsection (c) \$1,000,000 for the fiscal year ending September 30, 1978, \$1,250,000 for the fiscal year ending September 30, 1979, and \$1,500,000 for the fiscal year ending September 30, 1980."

42 USC 289c-5.

(e) The heading to section 438 is amended to read as follows: "ARTHRITIS DEMONSTRATION PROJECTS AND DATA SYSTEM".

MULTIPURPOSE ARTHRITIS CENTERS**42 USC 289c-6.**

SEC. 102. Section 439 is amended—

(1) by inserting ", and in research in arthritis" in subsection

(b) (2) (B) before the semicolon at the end thereof;

(2) by amending subsection (f) to read as follows:

Limitation.

"(f) Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases."

(3) by inserting "the" before "fiscal year" each place it appears in subsection (g);

(4) by striking out "and" in subsection (g) before "\$20,000,000";

(5) by inserting "\$18,700,000 for the fiscal year ending September 30, 1978, \$19,000,000 for the fiscal year ending September 30, 1979, and \$20,000,000 for the fiscal year ending September 30, 1980" before the period at the end of the first sentence of subsection (g); and

(6) by amending the heading to read as follows: "MULTIPURPOSE ARTHRITIS CENTERS".

NATIONAL ARTHRITIS ADVISORY BOARD

SEC. 103. (a) Part D of title IV is amended by inserting after section 439 the following new section:

"NATIONAL ARTHRITIS ADVISORY BOARD**Establishment.****42 USC 289c-7.**

"SEC. 440. (a) The Secretary shall establish a National Arthritis Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of twenty-four members as follows:

"(1) Eight members shall be appointed by the Secretary from individuals who are scientists, physicians, or other health professionals, who are not employed by the Federal Government, and who represent the various specialties and disciplines involved in arthritis. Of the members appointed pursuant to this paragraph, three shall be clinical rheumatologists, two shall be orthopedic surgeons, two shall be rheumatology investigators, and one shall be an allied health professional.

"(2) Six members shall be appointed by the Secretary from individuals, who are not employed by the Federal Government,

with an interest in arthritis and who as a group have knowledge and experience in the fields of medical education, nursing, community program development, health education, data systems, and public information.

“(3) One member shall be appointed by the Secretary from individuals who are members of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and who are expert in the field of arthritis.

“(4) Four members shall be appointed by the Secretary from the general public. At least two of such members shall be persons who have arthritis and one shall be the parent of a child who has arthritis.

“(5) The Assistant Secretary of Health or his designee, the Director of the National Institutes of Health or his designee, the Associate Director for Arthritis of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee, the Chief Medical Director of the Veterans' Administration or his designee, and the Secretary of Defense or his designee shall each be *ex officio* members.

“(b) The members of the Board shall select a Chairperson from among the appointed members.

“(c) The Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with such additional professional staff members, such clerical staff members, and (through contracts or other arrangements) with such administrative support services and facilities, such information, and such services of consultants, as the Secretary determines are necessary for the Board to carry out its functions.

“(d) Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 (b) of title 5 of the United States Code.

“(e) The appointed members of the Board shall be appointed to serve until the expiration of the Board (as provided in subsection (1)).

“(f) The Board shall—

“(1) review and evaluate the implementation of the Arthritis Plan (formulated under section 3(g) of the National Arthritis Act of 1974); and

“(2) for the purpose of assuring the most effective utilization and organization of arthritis resources, advise and make recommendations to Congress, the Secretary, and the heads of other appropriate Federal agencies with respect to the Arthritis Plan

Compensation.

5 USC 5332 note.

Travel expenses.

Duties.

42 USC 289c-1 note.

and with respect to the guidelines, policies and procedures of Federal programs relating to arthritis.

“(g) The Board may collect such data as it deems advisable and necessary to enable it to perform the functions required by subsection (f).

Subcommittees.

“(h) The Board may, from time to time, establish Subcommittees. Such Subcommittees may be composed of Board members and non-member consultants with expertise in the particular area addressed by such Subcommittees.

“(i) The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its Subcommittees may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.

Report to
Secretary of
HEW and
Congress.

“(j) One year after the date of its establishment and each year thereafter the Board shall submit to the Secretary and to the Congress a report—

“(1) which describes the Board’s activities during the year for which the report is made;

“(2) which describes and evaluates the progress made in such year in arthritis research, treatment, education, and training;

“(3) which summarizes and analyzes expenditures made by the Federal Government for arthritis-related activities during the year for which the report is made; and

“(4) which contains the Board’s recommendations (if any) for changes in the Arthritis Plan.

The annual arthritis report shall be made available to the public at the same time it is transmitted to Congress and the Secretary.

Appropriation
authorization.

“(k) There are authorized to be appropriated to carry out the purposes of this section \$300,000 for the fiscal year ending September 30, 1978, \$300,000 for the fiscal year ending September 30, 1979, and \$300,000 for the fiscal year ending September 30, 1980.

Expiration.

“(l) The Board shall expire on September 30, 1980.”

Effective date.
42 USC 289c-7
note.

(b) The Secretary of Health, Education, and Welfare shall establish the National Arthritis Advisory Board (established by the amendment made by subsection (a)) not later than ninety days after the date of enactment of this section.

TITLE II—DIABETES

NATIONAL DIABETES ADVISORY BOARD

SEC. 201. (a) Part D of title IV is amended by inserting after section 436 the following new section:

“NATIONAL DIABETES ADVISORY BOARD

Establishment.
42 USC 289c-3a.

“SEC. 436A. (a) The Secretary shall establish a National Diabetes Advisory Board (hereinafter in this section referred to as the ‘Board’) to be composed of twenty-three members as follows:

“(1) The following ex officio members: The Assistant Secretary for Health or his designee, the Director of the National Institutes of Health or his designee, the Director of the National Institute of Arthritis, Metabolism and Digestive Disease or his designee, the Director of the National Heart, Lung, and Blood Institute or his designee, the Director of the National Eye Institute or his designee, the Director of the Center for Disease

Control or his designee, the Administrator of the Health Services Administration or his designee, the Administrator of the Health Resources Administration or his designee, the Associate Director for Diabetes of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee, the Chief Medical Director of the Veterans' Administration or his designee, and the Secretary of Defense or his designee.

"(2) Seven members shall be appointed by the Secretary from individuals who are not in the employ of the Federal Government and who are health and allied health professionals or scientists representing the various specialties and disciplines involved with diabetes mellitus and related endocrine and metabolic diseases.

"(3) Five members shall be appointed by the Secretary from the general public, including at least one person with diabetes and two persons each of whom is a parent of a diabetic child.

"(b) The members of the Board shall select a Chairperson from among the appointed members.

"(c) The Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Board, provide the Board with such additional professional staff members, such clerical staff members, and (through contracts or other arrangements) with such administrative support services and facilities, such information, and such services of consultants, as the Secretary determines are necessary for the Board to carry out its functions.

"(d) Members of the Board who are officers or employees of the Federal Government shall serve as members of the Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(e) The appointed members of the Board shall be appointed to serve until the expiration of the Board (as provided in subsection (1)).

"(f) The Board shall—

"(1) review and evaluate the implementation of the long range plan to combat diabetes mellitus (hereinafter in this section referred to as the "Diabetes Plan") formulated by the National Commission on Diabetes under section 3(e) of the National Diabetes Mellitus Research and Education Act, and

"(2) for the purpose of assuring the most effective utilization and organization of diabetes resources, advise and make recommendations to Congress, the Secretary, and the heads of other appropriate Federal agencies with respect to the Diabetes Plan and with respect to the guidelines, policies and procedures of Federal programs relating to diabetes.

Compensation.

5 USC 5332 note.

Travel expenses.

Duties.

42 USC 289c-2 note.

Subcommittees.	<p>“(g) The Board may collect such data as it deems advisable and necessary to enable it to perform the functions required by subsection (f).</p> <p>“(h) The Board may, from time to time, establish Subcommittees. Such Subcommittees may be composed of Board members and non-member consultants with expertise in the particular area addressed by such Subcommittees.</p> <p>“(i) The full Board shall hold regular quarterly meetings. In addition, the full Board or any of its Subcommittees may hold such additional meetings as are necessary in order to enable the Board to carry out its activities.</p>
Report to Secretary of HEW and Congress.	<p>“(j) One year after the date of its establishment and each year thereafter the Board shall submit to the Secretary and to the Congress a report—</p> <p>“(1) which describes the Board’s activities during the year for which the report is made;</p> <p>“(2) which describes and evaluates the progress made in such year in diabetes research, treatment, education, and training;</p> <p>“(3) which summarizes and analyzes expenditures made by the Federal Government for diabetes-related activities during the year for which the report is made; and</p> <p>“(4) which contains the Board’s recommendations (if any) for changes in the Diabetes Plan.</p>
Appropriation authorization.	<p>The annual diabetes report shall be made available to the public at the same time it is transmitted to Congress and the Secretary.</p> <p>“(k) There are authorized to be appropriated to carry out the purposes of this section \$300,000 for the fiscal year ending September 30, 1978, \$300,000 for the fiscal year ending September 30, 1979, and \$300,000 for the fiscal year ending September 30, 1980.</p>
Expiration. Effective date. 42 USC 289c-3a note.	<p>“(l) The Board shall expire on September 30, 1980.”</p> <p>(b) The Secretary of Health, Education, and Welfare shall establish the National Diabetes Advisory Board (established by the amendment made by subsection (a)) not later than ninety days after the date of enactment of this section.</p>

DIABETES RESEARCH AND TRAINING CENTERS

42 USC 289c-2.

SEC. 202. Section 435(c) is amended—

- (1) by striking out “and” after “1976,” and
- (2) by inserting before the period at the end thereof “, \$12,000,000 for the fiscal year ending September 30, 1978, \$20,000,000 for the fiscal year ending September 30, 1979, and \$20,000,000 for the fiscal year ending September 30, 1980”.

TITLE III—DIGESTIVE DISEASES

NATIONAL COMMISSION ON DIGESTIVE DISEASES

Establishment.
42 USC 289a
note.

SEC. 301. (a) The Secretary of Health, Education, and Welfare (hereafter in this section referred to as the “Secretary”) after consulting with the Director of the National Institutes of Health, shall, within sixty days of the date of enactment of this section, establish a National Commission on Digestive Diseases (hereafter in this section referred to as the “Commission”).

Membership.

(b) The Commission shall be composed of twenty-six members as follows:

(1) Ten members, appointed by the Secretary from scientists, physicians, and other health professionals, not in the employment of the Federal Government, as follows: Two shall be practicing clinical gastroenterologists, two shall be gastroenterologists involved primarily in research on digestive diseases, one shall be a surgeon, one shall be an expert in liver disease, one shall be an epidemiologist, one shall be an allied health professional, and two shall be basic biomedical scientists (such as biochemists, physiologists, microbiologists, nutritionists, pharmacologists, or immunologists).

(2) Six members, appointed by the Secretary from the general public, of whom at least three shall have personal or close family experience with digestive diseases.

(3) One member, appointed by the Secretary from the members of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council whose primary interest is in the field of digestive diseases.

(4) The Director of the National Institutes of Health or his designee; the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases or his designee; the Directors, or their designees, of the National Institute of Allergy and Infectious Diseases, the National Cancer Institute, the National Institute of General Medical Sciences; the Associate Director for Digestive Diseases and Nutrition of the National Institute of Arthritis, Metabolism, and Digestive Diseases; the Director of the Center for Disease Control or his designee; the Chief Medical Director of the Veterans' Administration or his designee; and the Secretary of Defense or his designee shall each be *ex officio* members of the Commission.

(c) The members of the Commission shall select a Chairperson from among the appointed members of the Commission.

(d) The Commission shall first meet as directed by the Secretary, not later than sixty days after the Commission is established, and thereafter shall meet at the call of the Chairperson of the Commission, but not less often than three times during the life of the Commission. The Commission may hold such hearings, take such testimony, and sit and act at such time and places as the Commission deems advisable.

(e) (1) The Commission may appoint and fix the pay of an executive secretary to effectively carry out its functions. The executive secretary shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary shall provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Secretary determines to be necessary for the Commission to carry out effectively its functions.

(f) Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission who are not officers or employees of the Federal Government shall receive compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties

5 USC 101 *et seq.*

5 USC 5101,
5331.

Additional staff.

Compensation.

5 USC 5332
note.

Travel expenses. as members of the Commission. All members, while serving away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

Duties. (g) (1) The Commission shall—
 (A) conduct a comprehensive study of the present state of knowledge of the incidence, duration, and morbidity of, and mortality rates resulting from, digestive diseases and of the social and economic impact of such diseases;
 (B) evaluate the public and private facilities and resources (including trained personnel and research activities) for the diagnosis, prevention, and treatment of, and research in, such diseases; and
 (C) identify programs (including biological, behavioral, nutritional, environmental, and social programs) in which, and the means by which, improvement in the management of digestive diseases can be accomplished.

Each Federal entity administering health programs and activities related to digestive diseases shall, upon request, assist the Commission in carrying out its duties under this paragraph.

Long-range plan. (2) Based on the study, evaluation, and identification made pursuant to paragraph (1), the Commission shall develop and recommend a long-range plan for the use and organization of national resources to effectively deal with digestive diseases. The plan shall provide for—

(A) research studies into the basic biological processes and mechanisms related to digestive diseases;

(B) investigations into the epidemiology, etiology, diagnosis, treatment, prevention, and control of digestive diseases;

(C) development of preventive measures (including education programs, programs for the elimination of environmental hazards related to digestive diseases, and clinical programs) to be taken against digestive diseases;

(D) detection of digestive diseases in the presymptomatic stages and development and evaluation of new and improved methods of screening for digestive diseases;

(E) development of criteria for the diagnosis and the clinical management and control of digestive diseases;

(F) development of coordinated health care systems for dealing with digestive diseases;

(G) education and training (including continuing education programs) of scientists, clinicians, educators, and allied health professionals in the fields and specialties requisite to the conduct of programs related to digestive diseases with special emphasis on training for careers in research, teaching, and all aspects of patient care;

(H) the conduct and direction of field studies and clinical trials for testing, evaluating, and demonstrating preventive, diagnostic, therapeutic, rehabilitative, and control measures in digestive diseases;

(I) establishment of a standardized nomenclature of all digestive diseases for use in basic and clinical research and to facilitate collaborative studies; and

(J) establishment of a system of periodic surveillance of the research potential and research needs in digestive diseases corre-

sponding with the recently completed survey organized by the National Institute of Arthritis, Metabolism, and Digestive Diseases.

The long-range plan formulated under this paragraph shall also include within its scope related nutritional disorders and basic biological processes and mechanisms in nutrition which are related to digestive diseases.

(h) The Commission shall recommend for each of the Institutes of the National Institutes of Health whose activities are to be affected by the long-range plan estimates of the expenditures needed to carry out each Institute's part of the overall program. Such estimates shall be prepared for the fiscal year beginning immediately after completion of the Commission's plan and for each of the next two fiscal years.

(i) (1) Within eighteen months following its initial meeting (as prescribed by subsection (d)), the Commission shall publish and transmit directly to the Congress a final report respecting its activities under this section. The report shall contain (A) the long-range plan required by subsection (g), (B) the expenditure estimates required by subsection (h), and (C) any recommendations of the Commission for legislation.

Report to Congress.

(2) The Commission shall cease to exist on the thirtieth day following the date of submission of the final report to Congress.

Termination.

(j) There are authorized to be appropriated without fiscal year limitation \$1,500,000 to carry out the purposes of this section.

Appropriation authorization.

COORDINATING COMMITTEE FOR DIGESTIVE DISEASES

SEC. 302. Part D of title IV is amended by adding after section 440 (as added by section 103 of this Act) the following new section:

"COORDINATING COMMITTEE FOR DIGESTIVE DISEASES

"SEC. 440A. (a) The Secretary shall establish a Coordinating Committee for Digestive Diseases (hereafter in this section referred to as the 'Committee') to be composed of the Directors (or their designated representatives) of each of the Institutes of the National Institutes of Health involved in digestive disease research; and the head (or his designated representative) of the Alcohol, Drug Abuse and Mental Health Administration, the National Institute of Occupational Safety and Health, the Food and Drug Administration, the Department of Medicine and Surgery of the Veterans' Administration, the Center for Disease Control, the Department of Defense, the Department of Agriculture, the Health Services Administration, the Health Resources Administration, the Social Security Administration, and the Institute of Medicine of the National Academy of Sciences. The Committee shall be chaired by the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases and the Associate Director for Digestive Diseases and Nutrition of that Institute shall serve as vice chairman. The Committee shall meet at the call of the Chairman, but not less often than three times a year.

Establishment.
42 USC 289c-8.

Report to
Secretary
of HEW.

“(b) The Committee shall be responsible for the coordination of the activities of the entities represented on the Committee respecting digestive diseases. The Committee shall submit to the Secretary an annual report detailing the manner in which the Committee has coordinated such activities.”.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 122 (1976):

Oct. 1, considered and passed Senate and House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 20, Presidential statement.

Public Law 94-563
94th Congress

An Act

To amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund or credit of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund or credit because it had not previously filed such certificate.

Oct. 19, 1976
[H.R. 15571]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 210 (a) (8) (B) of the Social Security Act is amended—

Social security
taxes.
42 USC 410.

(1) by inserting after “filed pursuant to section 3121(k) of the Internal Revenue Code of 1954” in the matter preceding clause (i) the following: “(or deemed to have been so filed under paragraph (4) or (5) of such section 3121(k))”;

(2) by inserting after “filed” in clauses (i), (ii), and (iii) the following: “(or deemed to have been filed)”; and

(3) by striking out “is in effect” in the matter following clause (iii) and inserting in lieu thereof “is (or is deemed to be) in effect”.

(b) Section 3121(b) (8) of the Internal Revenue Code of 1954 (relating to exclusion of certain services from definition of employment) is amended—

26 USC 3121.

(1) by inserting after “filed pursuant to subsection (k) (or the corresponding subsection of prior law)” in the matter preceding clause (i) the following: “or deemed to have been so filed under paragraph (4) or (5) of such subsection”;

(2) by inserting after “filed” in clauses (i), (ii), and (iii) the following: “(or deemed to have been filed)”; and

(3) by striking out “is in effect” in the matter following clause (iii) and inserting in lieu thereof “is (or is deemed to be) in effect”.

(c) Section 3121(k) of such Code (relating to exemption of religious, charitable, and certain other organizations) is amended by adding at the end thereof the following new paragraphs:

“(4) CONSTRUCTIVE FILING OF CERTIFICATE WHERE NO REFUND OR CREDIT OF TAXES HAS BEEN MADE.—

“(A) In any case where—

“(i) an organization described in section 501(c) (3) which is exempt from income tax under section 501 (a) has not filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) as of the date of the enactment of this paragraph or any subsequent date, but

26 USC 501.

“(ii) the taxes imposed by sections 3101 and 3111 have been paid with respect to the remuneration paid by such organization to its employees, as though such a certificate had been filed, during any period (subject to subparagraph (B) (i)) of not less than three consecutive calendar quarters,

26 USC 3101,
3111.

42 USC 410.

such organization shall be deemed (except as provided in subparagraph (B) of this paragraph) for purposes of subsection (b)(8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection (or under the corresponding provision of prior law) on the first day of the period described in clause (ii) of this subparagraph effective on the first day of the calendar quarter in which such period began, and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes described in such subparagraph were paid (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate).

“(B) Subparagraph (A) shall not apply with respect to any organization if—

42 USC 405.

“(i) the period referred to in clause (ii) of such subparagraph (in the case of that organization) terminated before the end of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph, or

“(ii) a refund or credit of any part of the taxes which were paid as described in clause (ii) of such subparagraph with respect to remuneration for services performed on or after the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of enactment of this paragraph (other than a refund or credit which would have been allowed if a valid waiver certificate filed under paragraph (1) had been in effect) has been obtained by the organization or its employees prior to September 9, 1976.

“(5) CONSTRUCTIVE FILING OF CERTIFICATE WHERE REFUND OR CREDIT HAS BEEN MADE AND NEW CERTIFICATE IS NOT FILED.—In any case where—

26 USC 501.

“(A) an organization described in section 501(c)(3) which is exempt from income tax under section 501(a) would be deemed under paragraph (4) of this subsection to have filed a valid waiver certificate under paragraph (1) if it were not excluded from such paragraph (4) (pursuant to subparagraph (B)(ii) thereof) because a refund or credit of all or a part of the taxes described in paragraph (4)(A)(ii) was obtained prior to September 9, 1976; and

“(B) such organization has not, prior to the expiration of 180 days after the date of the enactment of this paragraph, filed a valid waiver certificate under paragraph (1) which is effective for a period beginning on or before the first day of the first calendar quarter with respect to which such refund or credit was made (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under paragraph (1)(B)(iii)) and which is accompanied by the list described in paragraph (1)(A),

such organization shall be deemed, for purposes of subsection (b) (8)(B) and section 210(a)(8)(B) of the Social Security Act, to have filed a valid waiver certificate under paragraph (1) of this subsection on the 181st day after the date of the enactment of this paragraph, effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (A) of this paragraph was made (or, if later, with the first day of the earliest calendar quarter falling wholly or partly within the time limitation (as defined in section 205(c)(1)(B) of the Social Security Act) immediately preceding the date of the enactment of this paragraph), and to have accompanied such certificate with a list containing the signature, address, and social security number (if any) of each employee described in subparagraph (A) of paragraph (4) including any employee with respect to whom taxes were refunded or credited as described in subparagraph (A) of this paragraph (and each such employee shall be deemed for such purposes to have concurred in the filing of the certificate). A certificate which is deemed to have been filed by an organization on such 181st day shall supersede any certificate which may have been actually filed by such organization prior to that day except to the extent prescribed by the Secretary or his delegate.

42 USC 410.

42 USC 405.

“(6) APPLICATION OF CERTAIN PROVISIONS TO CASES OF CONSTRUCTIVE FILING.—All of the provisions of this subsection (other than subparagraphs (B), (F), and (H) of paragraph (1)), including the provisions requiring payment of taxes under sections 3101 and 3111 with respect to the services involved, shall apply with respect to any certificate which is deemed to have been filed by an organization on any day under paragraph (4) or (5), in the same way they would apply if the certificate had been actually filed on that day under paragraph (1); except that—

26 USC 3101.

26 USC 3111.

“(A) the provisions relating to the filing of supplemental lists of concurring employees in the third sentence of paragraph (1)(A), and in paragraph (1)(C), shall apply to the extent prescribed by the Secretary or his delegate;

“(B) the provisions of paragraph (1)(E) shall not apply unless the taxes described in paragraph (4)(A)(ii) were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate; and

“(C) the action of the organization in obtaining the refund or credit described in paragraph (5)(A) shall not be considered a termination of such organization's coverage period for purposes of paragraph (3). Any organization which is deemed to have filed a waiver certificate under paragraph (4) or (5) shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

26 USC 3102.

“(7) BOTH EMPLOYEE AND EMPLOYER TAXES PAYABLE BY ORGANIZATION FOR RETROACTIVE PERIOD IN CASES OF CONSTRUCTIVE FILING.—Notwithstanding any other provision of this chapter, in any case where an organization described in paragraph (5)(A) has not filed a valid waiver certificate under paragraph (1) prior to the expiration of 180 days after the date of the enactment of this paragraph and is accordingly deemed under paragraph (5) to have filed such a certificate on the 181st day after such date, the taxes due under section 3101, with respect to services constituting

26 USC 3111.

employment by reason of such certificate for any period prior to the first day of the calendar quarter in which such 181st day occurs (along with the taxes due under section 3111 with respect to such services and the amount of any interest paid in connection with the refund or credit described in paragraph (5)(A)) shall be paid by such organization from its own funds and without any deduction from the wages of the individuals who performed such services; and those individuals shall have no liability for the payment of such taxes.

26 USC 3101.

“(8) EXTENDED PERIOD FOR PAYMENT OF TAXES FOR RETROACTIVE COVERAGE.—Notwithstanding any other provision of this title, in any case where an organization described in paragraph (5)(A) files a valid waiver certificate under paragraph (1) by the end of the 180-day period following the date of the enactment of this paragraph as described in paragraph (5)(B), or (not having filed such a certificate within that period) is deemed under paragraph (5) to have filed such a certificate on the 181st day following that date, the taxes due under sections 3101 and 3111 with respect to services constituting employment by reason of such certificate for any period prior to the first day of the calendar quarter in which the date of such filing or constructive filing occurs may be paid in installments over an appropriate period of time, as determined under regulations prescribed by the Secretary or his delegate, rather than in a lump sum.”.

26 USC 3121
note.*Ante*, p. 2655.26 USC 3121
note.

(d) The amendments made by this section shall apply with respect to services performed after 1950, to the extent covered by waiver certificates filed or deemed to have been filed under section 3121(k) (4) or (5) of the Internal Revenue Code of 1954 (as added by such amendments).

SEC. 2. Notwithstanding any other provision of law, no refund or credit of any tax paid under section 3101 or 3111 of the Internal Revenue Code of 1954 by an organization described in section 501(c)(3) of such Code which is exempt from income tax under section 501(a) of such Code shall be made on or after September 9, 1976, by reason of such organization's failure to file a waiver certificate under section 3121(k)(1) of such Code (or the corresponding provision of prior law), if such organization is deemed to have filed such a certificate under section 3121(k)(4) of such Code (as added by the first section of this Act).

Remuneration.
26 USC 3121
note.

SEC. 3. In any case where—

(1) an individual performed service, as an employee of an organization which is deemed under section 3121(k)(5) of the Internal Revenue Code of 1954 to have filed a waiver certificate under section 3121(k)(1) of such Code, at any time prior to the period for which such certificate is effective;

(2) the taxes imposed by sections 3101 and 3111 of such Code were paid with respect to remuneration paid for such service, but such service (or any part thereof) does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b) of such Code) because the applicable taxes so paid were refunded or credited (otherwise than through a refund or credit which would have been allowed if a valid waiver certificate filed under section 3121(k)(1) of such Code had been in effect) prior to September 9, 1976; and

(3) any portion of such service (with respect to which taxes were paid and refunded or credited as described in paragraph (2)) would constitute employment (as so defined) if the organization had actually filed under section 3121(k)(1) of such Code a valid waiver certificate effective as provided in section 3121(k)(5)(B) thereof (with such individual's signature appearing on the accompanying list), 26 USC 3121.
the remuneration paid for the portion of such service described in paragraph (3) shall, upon the request of such individual (filed in such manner and form, and with such official, as may be prescribed by regulations made under title II of the Social Security Act) accompanied by full repayment of the taxes which were paid under section 3101 of such Code with respect to such remuneration and so refunded or credited, be deemed to constitute remuneration for employment as so defined. In any case where remuneration paid by an organization to an individual is deemed under the preceding sentence to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of such Code) for repayment of any taxes which it paid under section 3111 of such Code with respect to such remuneration and which were refunded or credited to it. 26 USC 3101.
42 USC 401.
26 USC 3101.
26 USC 3111.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1711 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 30, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 94-564
94th Congress

An Act

Oct. 19, 1976
[H.R. 13955]

To provide for amendment of the Bretton Woods Agreements Act, and for other purposes.

Bretton Woods
Agreements Act,
amendments.

22 USC 286e-5.
60 Stat. 1401.

22 USC 286e-1e.

22 USC 286e-6.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286-286k-2) is amended by adding at the end thereof the following new sections:

"SEC. 24. The United States Governor of the Fund is authorized to accept the amendments to the Articles of Agreement of the Fund approved in resolution numbered 31-4 of the Board of Governors of the Fund.

"SEC. 25. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 1,705 million Special Drawing Rights.

"SEC. 26. The United States Governor of the Fund is directed to vote against the establishment of a Council authorized under Article XII. Section 1 of the Fund Articles of Agreement as amended, if under any circumstances the United States' vote in the Council would be less than its weighted vote in the Fund."

SEC. 2. Section 3 of the Bretton Woods Agreements Act (22 U.S.C. 286a) shall be amended as follows:

(1) section 3(c) shall be amended to read as follows:

"(c) Should the provisions of Schedule D of the Articles of Agreement of the Fund apply, the Governor of the Fund shall also serve as councillor, shall designate an alternate for the councillor, and may designate associates."

(2) a new section 3(d) shall be added to read as follows:

"(d) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor, executive director, councillor, alternate, or associate."

SEC. 3. The first sentence of section 5 of the Bretton Woods Agreements Act (22 U.S.C. 286c) is amended to read as follows: "Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) request or consent to any change in the quota of the United States under article III, section 2(a), of the Articles of Agreement of the Fund; (b) propose a par value for the United States dollar under paragraph 2, paragraph 4, or paragraph 10 of schedule C of the Articles of Agreement of the Fund; (c) propose any change in the par value of the United States dollar under paragraph 6 of schedule C of the Articles of Agreement of the Fund, or approve any general change in par values under paragraph 11 of schedule C; (d) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank; (e) accept any amendment under article XXVIII of the Articles of Agreement of the Fund or article VIII of the Articles of Agreement of the Bank; (f) make any loan to the Fund or the Bank; (g) approve the establishment of any additional trust fund, for the special benefit of a single member, or of a particular segment of the membership, of the Fund."

SEC. 4. The first sentence of section 17(a) of the Bretton Woods Agreements Act (22 U.S.C. 286e-2(a)) is amended to read as follows: "In order to carry out the purposes of the decision of January 5, 1962, of the Executive Directors of the International Monetary Fund, the Secretary of the Treasury is authorized to make loans, not to exceed \$2,000,000,000 outstanding at any one time, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund."

60 Stat. 1401.
22 USC 286o.

SEC. 5. The Special Drawing Rights Act (22 U.S.C. 286n-r) is amended by:

(1) deleting "article XXIV" in section 3(a) and inserting in lieu thereof "article XVIII";

(2) deleting "article XXVI, article XXX, and article XXXI" in section 3(b), wherever it appears, and inserting in lieu thereof "article XX, article XXIV, and article XXV";

(3) deleting "article XXIV" in section 6 and inserting in lieu thereof "article XVIII"; 22 USC 286q.

(4) deleting "article XXVII(b)" in section 7 and inserting in lieu thereof "article XXI(b)". 22 USC 286r.

SEC. 6. Section 2 of the Par Value Modification Act (31 U.S.C. 449) is hereby repealed.

Repeal.
31 USC 449.

SEC. 7. Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended to read as follows:

"SEC. 10. (a) The Secretary of the Treasury, with the approval of the President, directly or through such agencies as he may designate, is authorized, for the account of the fund established in this section, to deal in gold and foreign exchange and such other instruments of credit and securities as he may deem necessary to and consistent with the United States obligations in the International Monetary Fund. The Secretary of the Treasury shall annually make a report on the operations of the fund to the President and to the Congress."

SEC. 8. Section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b) is amended to read as follows: "The Secretary of the Treasury is authorized to issue gold certificates in such form and in such denominations as he may determine, against any gold held by the United States Treasury. The amount of gold certificates issued and outstanding shall at no time exceed the value, at the legal standard provided in section 2 of the Par Value Modification Act (31 U.S.C. 449) on the date of enactment of this amendment, of the gold so held against gold certificates."

SEC. 9. The amendments made by sections 2, 3, 4, 5, 6, and 7 of this Act shall become effective upon entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31-4 of the Board of Governors of the Fund.

22 USC 286a
note.

Approved October 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1284 (Comm. on Banking, Currency, and Housing).

SENATE REPORTS: No. 94-1148 (Comm. on Foreign Relations) and No. 94-1295 (Comm. on Banking, Housing and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 22, July 27, considered and passed House.

Oct. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 21, Presidential statement.

Public Law 94-565
94th Congress

An Act

Oct. 20, 1976

[H.R. 9719]

To provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality.

Local government
units.
Public lands,
payments.
31 USC 1601.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective for fiscal years beginning on and after October 1, 1976, the Secretary is authorized and directed to make payments on a fiscal year basis to each unit of local government in which entitlement lands (as defined in section 6) are located. Such payments may be used by such unit for any governmental purpose. The amount of such payments shall be computed as provided in section 2.

Amounts,
determination.
31 USC 1602.

SEC. 2. (a) The amount of any payment made for any fiscal year to a unit of local government under section 1 shall be equal to the greater of the following amounts—

(1) 75 cents for each acre of entitlement land located within the boundaries of such unit of local government (but not in excess of the population limitation determined under subsection (b)), reduced (but not below 0) by the aggregate amount of payments, if any, received by such unit of local government during the preceding fiscal year under all of the provisions specified in section 4, or

(2) 10 cents for each acre of entitlement land located within the boundaries of such unit of local government (but not in excess of the population limitation determined under subsection (b)).

In the case of any payment under a provision specified in section 4 which is received by a State, the Governor (or his delegate) shall submit to the Secretary a statement respecting the amount of such payment which is transferred to each unit of local government within the State.

(b) (1) In the case of any unit of local government having a population of less than five thousand, the population limitation applicable to such unit of local government shall not exceed an amount equal to \$50 multiplied by the population within the jurisdiction of such unit of local government.

(2) In the case of any unit of local government having a population of five thousand or more, the population limitation applicable to such unit of local government shall not exceed the amount computed under the following table (using a population figure rounded off to the nearest thousand):

If population equals—	Payment shall not exceed the amount computed by multiply- ing such population by—
5,000	\$50. 00
6,000	47. 00
7,000	44. 00
8,000	41. 00
9,000	38. 00
10,000	35. 00
11,000	34. 00
12,000	33. 00
13,000	32. 00

If population equals—	Payment shall not exceed the amount computed by multiplying such population by—
14,000	31.00
15,000	30.00
16,000	29.50
17,000	29.00
18,000	28.50
19,000	28.00
20,000	27.50
21,000	27.20
22,000	26.90
23,000	26.60
24,000	26.30
25,000	26.00
26,000	25.80
27,000	25.60
28,000	25.40
29,000	25.20
30,000	25.00
31,000	24.75
32,000	24.50
33,000	24.25
34,000	24.00
35,000	23.75
36,000	23.50
37,000	23.25
38,000	23.00
39,000	22.75
40,000	22.50
41,000	22.25
42,000	22.00
43,000	21.75
44,000	21.50
45,000	21.25
46,000	21.00
47,000	20.75
48,000	20.50
49,000	20.25
50,000	20.00

For the purpose of this computation no unit of local government shall be credited with a population greater than fifty thousand.

(c) For purposes of this section, "population" shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

(d) In the case of a smaller unit of local government all or part of which is located within another unit of local government, entitlement lands which are within the jurisdiction of both such units shall be treated for purposes of this section as only within the jurisdiction of such smaller unit.

SEC. 3. (a) In the case of any land or interest therein, acquired by the United States (i) for the Redwood National Park pursuant to the Act of October 2, 1968 (82 Stat. 931) or (ii) acquired for addition to the National Park System or National Forest Wilderness Areas after December 31, 1970, which was subject to local real property taxes within the five years preceding such acquisition, the Secretary is authorized and directed to make payments to counties within the jurisdiction of which such lands or interests therein are located, in addition to payments under section 1. The counties, under guidelines established by the Secretary, shall distribute the payments on a proportional basis to those units of local government and affected school districts which have incurred losses of real property taxes due to the acquisition of lands or interests therein for addition to either such system. In those cases in which another unit of local government other

Payments to
counties.
31 USC 1603.

Distribution
guidelines.

Regulations.

than the county acts as the collecting and distributing agency for real property taxes, the payments shall be made to such unit of local government, which shall distribute such payments as provided in this subsection. The Secretary may prescribe regulations under which payments may be made to units of local government in any case in which the preceding provisions will not carry out the purposes of this subsection.

(b) Payments authorized under this section shall be made on a fiscal year basis beginning with the later of—

(1) the fiscal year beginning October 1, 1976, or

(2) the first full fiscal year beginning after the fiscal year in which such lands or interests therein are acquired by the United States.

Such payments may be used by the affected local governmental unit for any governmental purpose.

Rezoned land.

(c) (1) The amount of any payment made for any fiscal year to any unit of local government and affected school districts under subsection (a) shall be an amount equal to 1 per centum of the fair market value of such lands and interests therein on the date on which acquired by the United States. If, after the date of enactment of legislation authorizing any unit of the National Park System or National Forest Wilderness Areas as to which a payment is authorized under subsection (a), rezoning increases the value of the land or any interest therein, the fair market value for the purpose of such payments shall be computed as if such land had not been rezoned.

Payment limitation.

(2) Notwithstanding paragraph (1), the payment made for any fiscal year to a unit of local government under subsection (a) shall not exceed the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest was acquired for addition to the National Park System or National Forest Wilderness Areas.

(d) No payment shall be made under this section with respect to any land or interest therein after the fifth full fiscal year beginning after the first fiscal year in which such a payment was made with respect to such land or interest therein.

31 USC 1604.

SEC. 4. The provisions of law referred to in section 2 are as follows:

(1) the Act of May 23, 1908, entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine" (35 Stat. 251; 16 U.S.C. 500);

(2) the Act of June 20, 1910, entitled "An Act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States" (36 Stat. 557);

(3) section 35 of the Act of February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", commonly known as the "Mineral Lands Leasing Act" (41 Stat. 450; 30 U.S.C. 191);

(4) section 17 of the Federal Power Act (41 Stat. 1072; 16 U.S.C. 810);

(5) section 10 of the Taylor Grazing Act (48 Stat. 1273; 43 U.S.C. 315i);

(6) section 33 of the Bankhead-Jones Farm Tenant Act (50 Stat. 526; 7 U.S.C. 1012);

(7) section 5 of the Act entitled "To safeguard and consolidate certain areas of exceptional public value within the Superior National Forest, State of Minnesota, and for other purposes", approved June 22, 1948 (62 Stat. 570; 16 U.S.C. 577g);

(8) section 5 of the Act entitled "An Act to amend the Act of June 22, 1948 (62 Stat. 568) and for other purposes" approved June 22, 1956 (70 Stat. 366; 16 U.S.C. 577g-1);

(9) section 6 of the Mineral Leasing Act for Acquired Lands (61 Stat. 915; 30 U.S.C. 355); and

(10) section 3 of the Materials Disposal Act (61 Stat. 681; 30 U.S.C. 603).

SEC. 5. (a) No unit of local government which receives any payment with respect to any land under the Act of August 28, 1937 (50 Stat. 875), or the Act of May 24, 1939 (53 Stat. 753), during any fiscal year shall be eligible to receive any payment under this Act for such fiscal year with respect to such land. Nothing in this Act shall be construed to apply to the Act of August 28, 1937 (50 Stat. 875), or the Act of May 24, 1939 (53 Stat. 753).

Eligibility.
31 USC 1605.

(b) If the total payment by the Secretary to any county or unit of local government under this Act would be less than \$100, such payment shall not be made.

SEC. 6. As used in this Act, the term—

Definitions.
31 USC 1606.

(a) "entitlement lands" means lands owned by the United States that are—

(1) within the National Park System, the National Forest System, including wilderness areas within each, or any combination thereof, including, but not limited to, lands described in section 2 of the Act referred to in paragraph (7) of section 4 of this Act (16 U.S.C. 577d) and the first section of the Act referred to in paragraph (8) of this Act (16 U.S.C. 577d-1);

(2) administered by the Secretary of the Interior through the Bureau of Land Management;

(3) dedicated to the use of water resource development projects of the United States;

(4) nothing in this section shall authorize any payments to any unit of local government for any lands otherwise entitled to receive payments pursuant to subsection (a) of this section if such lands were owned and/or administered by a State or local unit of government and exempt from the payment of real estate taxes at the time title to such lands is conveyed to the United States; or

(5) dredge disposal areas owned by the United States under the jurisdiction of the Army Corps of Engineers;

(b) "Secretary" means the Secretary of the Interior; and

(c) "unit of local government" means a county, parish, township, municipality, borough existing in the State of Alaska on the date of enactment of this Act, or other unit of government below the State which is a unit of general government as determined by the Secretary (on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also includes the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

SEC. 7. There are authorized to be appropriated for carrying out the

Appropriation
authorization.
31 USC 1607.

provisions of this Act such sums as may be necessary: *Provided*, That, notwithstanding any other provision of this Act no funds may be made available except to the extent provided in advance in appropriation Acts.

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1106 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-1262 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 5, considered and passed House.

Oct. 1, considered and passed Senate.

Public Law 94-566
94th Congress

An Act

To require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes.

Oct. 20, 1976

[H.R. 10210]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Unemployment Compensation Amendments of 1976".

Unemployment
Compensation
Amendments of
1976.
26 USC 3304
note.

**TITLE I—EXTENSION OF COVERAGE
PROVISIONS**

PART I—GENERAL PROVISIONS

SEC. 111. COVERAGE OF CERTAIN AGRICULTURAL EMPLOYMENT

(a) **NONCASH REMUNERATION.**—Section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "or" at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(11) remuneration for agricultural labor paid in any medium other than cash."

(b) **COVERAGE OF AGRICULTURAL LABOR.**—Paragraph (1) of section 3306(c) of such Code (defining employment) is amended to read as follows:

"(1) agricultural labor (as defined in subsection (k)) unless—

"(A) such labor is performed for a person who—

"(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)), or

"(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (not taking into account labor performed before January 1, 1980, by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 10 or more individuals; and

"(B) such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a) (15) (H) of the Immigration and Nationality Act;"

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

26 USC 3306.

8 USC 1184,
1101.
26 USC 3306
note.

SEC. 112. TREATMENT OF CERTAIN FARMWORKERS.

26 USC 3306. (a) **GENERAL RULE.**—Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

“(o) **SPECIAL RULE IN CASE OF CERTAIN AGRICULTURAL WORKERS.**—

“(1) **CREW LEADERS WHO ARE REGISTERED OR PROVIDE SPECIALIZED AGRICULTURAL LABOR.**—For purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader—

“(A) if—

7 USC 2041 note. “(i) such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or

“(ii) substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

“(B) if such individual is not an employee of such other person within the meaning of subsection (i).

“(2) **OTHER CREW LEADERS.**—For purposes of this chapter, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1)—

“(A) such other person and not the crew leader shall be treated as the employer of such individual; and

“(B) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his behalf or on behalf of such other person) for the agricultural labor performed for such other person.

“(3) **CREW LEADER.**—For purposes of this subsection, the term ‘crew leader’ means an individual who—

“(A) furnishes individuals to perform agricultural labor for any other person,

“(B) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and

“(C) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.”.

26 USC 3306 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 113. COVERAGE OF DOMESTIC SERVICE.

(a) **GENERAL RULE.**—Paragraph (2) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended to read as follows:

“(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of \$1,000 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year;”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date. 26 USC 3306 note.

SEC. 114. DEFINITION OF EMPLOYER.

(a) **GENERAL RULE.**—Subsection (a) of section 3306 of the Internal Revenue Code of 1954 (defining employer) is amended to read as follows: 26 USC 3306.

“(a) **EMPLOYER.**—For purposes of this chapter—

“(1) **IN GENERAL.**—The term ‘employer’ means, with respect to any calendar year, any person who—

“(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$1,500 or more, or

“(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day.

For purposes of this paragraph, there shall not be taken into account any wages paid to, or employment of, an employee performing domestic services referred to in paragraph (3).

“(2) **AGRICULTURAL LABOR.**—In the case of agricultural labor, the term ‘employer’ means, with respect to any calendar year, any person who—

“(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of \$20,000 or more for agricultural labor, or

“(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least 10 individuals in employment in agricultural labor for some portion of the day.

“(3) **DOMESTIC SERVICE.**—In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, the term ‘employer’ means, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of \$1,000 or more for such service.

“(4) **SPECIAL RULE.**—A person treated as an employer under paragraph (3) shall not be treated as an employer with respect to wages paid for any service other than domestic service referred to in paragraph (3) unless such person is treated as an employer under paragraph (1) or (2) with respect to such other service.”

(b) **TECHNICAL AMENDMENT.**—Subsection (a) of section 6157 of such Code (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended to read as follows: 26 USC 6157.

“(a) **GENERAL RULE.**—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

“(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services with respect to which the person is such an employer for such preceding calendar year (as so determined), and

“(2) if the person is not such an employer for the preceding calendar year with respect to any services (as so determined), compute the tax imposed by section 3301 on wages paid for serv- 26 USC 3301.

ices with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

“(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

“(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

Regulations.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary.”

26 USC 3306
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1977, for services performed after such date.

SEC. 115. COVERAGE OF CERTAIN SERVICE PERFORMED FOR NON-PROFIT ORGANIZATIONS AND FOR STATE AND LOCAL GOVERNMENTS.

(a) **GENERAL RULE.**—Subparagraph (B) of section 3309(a) (1) of the Internal Revenue Code of 1954 (relating to State law requirements) is amended to read as follows:

26 USC 3309.

“(B) service excluded from the term ‘employment’ solely by reason of paragraph (7) of section 3306(c); and”.

26 USC 3306.

(b) **EXCLUSION OF CERTAIN GOVERNMENT EMPLOYEES.**—

(1) **CERTAIN EMPLOYEES.**—Paragraph (3) of section 3309(b) of such Code (relating to certain services to which section 3309 does not apply) is amended to read as follows:

“(3) in the employ of a governmental entity referred to in paragraph (7) of section 3306(c), if such service is performed by an individual in the exercise of his duties—

“(A) as an elected official;

“(B) as a member of a legislative body, or a member of the judiciary, of a State or political subdivision thereof;

“(C) as a member of the State National Guard or Air National Guard;

“(D) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

“(E) in a position which, under or pursuant to the State law, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week;”.

(2) **INMATES.**—Paragraph (6) of such section 3309(b) is amended to read as follows:

“(6) by an inmate of a custodial or penal institution.”.

(c) **TECHNICAL ADJUSTMENTS.**—

26 USC 3304.

(1) Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking out “except that” and all that follows down through “, and” at the end thereof and inserting in lieu thereof the following: “except that—

“(i) with respect to services in an instructional research, or principal administrative capacity for an educational insti-

tution to which section 3309(a)(1) applies, compensation shall not be payable based on such services for any week commencing during the period between two successive academic years (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and

“(ii) with respect to services in any other capacity for an educational institution (other than an institution of higher education) to which section 3309(a)(1) applies, compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, and”.

(2) Subsection (d) of section 3309 of such Code is hereby repealed. Repeal.
26 USC 3309.

(3) The section heading of section 3309 of such Code is amended to read as follows:

**“SEC. 3309. STATE LAW COVERAGE OF SERVICES PERFORMED FOR
NONPROFIT ORGANIZATIONS OR GOVERNMENTAL
ENTITIES.”.**

(4) The table of sections for chapter 23 of such Code is amended by striking out the item relating to section 3309 and inserting in lieu thereof the following:

“Sec. 3309. State law coverage of services performed for nonprofit organizations or governmental entities.”.

(5) Section 3304 of such Code is amended by adding at the end thereof the following new subsection: 26 USC 3304.

“(f) **DEFINITION OF INSTITUTION OF HIGHER EDUCATION.**—For purposes of subsection (a)(6), the term ‘institution of higher education’ means an educational institution in any State which—

“Institution of
higher
education.”

“(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

“(2) is legally authorized within such State to provide a program of education beyond high school;

“(3) provides an educational program for it which awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

“(4) is a public or other nonprofit institution.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977. 26 USC 3304
note.

SEC. 116. EXTENSION OF FEDERAL UNEMPLOYMENT COMPENSATION LAW TO THE VIRGIN ISLANDS.

42 USC 1301. (a) **AMENDMENT OF THE SOCIAL SECURITY ACT.**—Paragraph (1) of section 1101(a) of the Social Security Act is amended by inserting after the first sentence the following new sentence: “Such term when used in titles III, IX, and XII also includes the Virgin Islands.”.

42 USC 501,
1101, 1321.
26 USC 3306.

(b) **AMENDMENTS OF THE INTERNAL REVENUE CODE OF 1954.**—

(1) Section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended by striking out “or in the Virgin Islands” in the portion of such section which precedes paragraph (1) thereof.

Definitions. (2) Section 3306(j) of such Code is amended to read as follows:
“(j) **STATE, UNITED STATES, AND AMERICAN EMPLOYER.**—For purposes of this chapter—

“(1) **STATE.**—The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

“(2) **UNITED STATES.**—The term ‘United States’ when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

“(3) **AMERICAN EMPLOYER.**—The term ‘American employer’ means a person who is—

“(A) an individual who is a resident of the United States,

“(B) a partnership, if two-thirds or more of the partners are residents of the United States,

“(C) a trust, if all of the trustees are residents of the United States, or

“(D) a corporation organized under the laws of the United States or of any State.

An individual who is a citizen of the Commonwealth of Puerto Rico or the Virgin Islands (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.”.

(c) **AMENDMENT RELATING TO THE FEDERAL EMPLOYMENT SERVICE.**—Section 5(b) of the Act entitled “An Act to provide for the establishment of a national employment system and for cooperation with the States for the promotion of such system, and for other purposes”, approved June 6, 1933 (29 U.S.C. 49d(b)), is amended by striking out “Guam and the Virgin Islands” and inserting in lieu thereof “Guam”.

(d) **AMENDMENTS RELATING TO EXTENDED AND EMERGENCY BENEFITS.**—

26 USC 3304
note.

(1) Section 202(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out “the Virgin Islands or”.

26 USC 3304
note.

(2) Paragraph (8) of section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

“(8) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.”.

26 USC 3304
note.

(3) Section 102(b)(1)(C) of the Emergency Unemployment Compensation Act of 1974 is amended by striking out “the Virgin Islands or”.

(e) **AMENDMENTS RELATING TO FEDERAL UNEMPLOYMENT COMPENSATION.**—

(1) Paragraph (6) of section 8501 of title 5, United States Code, is amended to read as follows:

“(6) ‘State’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands; and”.

(2) Section 8503 of title 5, United States Code is amended—

(A) by striking out subsections (b) and (d);

(B) by redesignating subsection (c) as subsection (b); and

(C) by striking out “subsection (a) or (b)” in subsection (b) (as so redesignated) and inserting in lieu thereof “subsection (a)”.

(3) Section 8504 of title 5, United States Code, is amended—

(A) by adding “and” at the end of paragraph (1);

(B) by striking out “; and” at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraph (3).

(4) Paragraph (3) of section 8521 of title 5 United States Code, is amended to read as follows:

“(3) ‘State’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.”

(5) Section 8522 of title 5, United States Code, is amended by striking out “or to the Virgin Islands, as the case may be,”.

(f) EFFECTIVE DATES.—

(1) SUBSECTIONS (a), (c), AND (d).—The amendments made by subsections (a), (c), and (d) shall take effect on the later of October 1, 1976, or the day after the day on which the Secretary of Labor approves under section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to him by the Virgin Islands for approval.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply with respect to remuneration paid after December 31 of the year in which the Secretary of Labor approves for the first time an unemployment compensation law submitted to him by the Virgin Islands for approval, for services performed after such December 31.

(3) SUBSECTION (e).—The amendments made by subsection (e) shall apply with respect to benefit years beginning on or after the later of October 1, 1976, or the first day of the first week for which compensation becomes payable under an unemployment compensation law of the Virgin Islands which is approved by the Secretary of Labor under section 3304(a) of the Internal Revenue Code of 1954.

(g) TRANSFER OF FUNDS.—The Secretary of Labor shall not approve an unemployment compensation law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954 until the Governor of the Virgin Islands has approved the transfer to the Federal Unemployment Trust Fund established by section 904 of the Social Security Act of an amount equal to the dollar balance credited to the unemployment subfund of the Virgin Islands established under section 310 of title 24 of the Virgin Islands Code.

26 USC 3304
note.

26 USC 3304.

26 USC 3304
note.

42 USC 1104.

PART II—TRANSITIONAL PROVISIONS

SEC. 121. FEDERAL REIMBURSEMENT FOR BENEFITS PAID TO NEWLY COVERED WORKERS DURING TRANSITION PERIOD.

26 USC 3304
note.

(a) GENERAL RULE.—If any State, the unemployment compensation law of which is approved by the Secretary under section 3304(a) of the Internal Revenue Code of 1954, provides for the payment of compensation for any week of unemployment beginning on or after January 1, 1978, on the basis of previously uncovered services, the

Secretary shall pay to the unemployment fund of such State an amount equal to the Federal reimbursement for any compensation paid for a week of unemployment beginning on or after January 1, 1978, to any individual whose base period wages include wages for previously uncovered services.

"Previously uncovered services."

(b) **PREVIOUSLY UNCOVERED SERVICES.**—For purposes of this section, the term "previously uncovered services" means, with respect to any State, services—

(1) which were not covered by the State unemployment compensation law, at any time, during the 1-year period ending December 31, 1975; and

(2) which—

26 USC 3306.

(A) are agricultural labor (as defined in section 3306(k) of the Internal Revenue Code of 1954) or domestic services referred to in section 3306(c)(2) of such Code (as in effect on the day before the date of the enactment of this Act) and are treated as employment (as defined in section 3306(c) of such Code) by reason of the amendments made by this Act, or

26 USC 3309.

(B) are services to which section 3309(a)(1) of such Code applies by reason of the amendments made by this Act.

(c) **FEDERAL REIMBURSEMENT.**—

(1) **IN GENERAL.**—For purposes of this section, the Federal reimbursement for compensation paid to any individual for any week of unemployment shall be an amount which bears the same ratio to the amount of such compensation as the amount of the individual's base period wages which are attributable to previously uncovered services which are reimbursable bears to the total amount of the individual's base period wages.

(2) **REIMBURSABLE SERVICES.**—For purposes of determining the amount of the Federal reimbursement for compensation paid to any individual for any week of unemployment, previously uncovered services shall be treated as being reimbursable—

(A) if such services were performed—

(i) before July 1, 1978, in the case of a week of unemployment beginning before July 1, 1978; or

(ii) before January 1, 1978, in the case of a week of unemployment beginning after July 1, 1978; and

26 USC 3304
note.

(B) to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was not paid to such individual on the basis of such services.

(3) **DENIAL OF PAYMENT.**—No payment may be made under subsection (a) to any State in respect of any compensation for which the State is entitled to any reimbursement under the provisions of any Federal law other than this Act or the Federal-State Extended Unemployment Compensation Act of 1970.

26 USC 3304
notes.

(d) **EXPERIENCE RATING OF CERTAIN EMPLOYERS.**—The unemployment compensation law of any State may, without being deemed to violate the standards set forth in section 3303(a) of the Internal Revenue Code of 1954, provide that the experience-rating account of any employer shall not be charged for the compensation paid to any individual whose base period wages includes wages for previously uncovered services which are reimbursable under subsection (c)(2) to the extent that such individual would not have been eligible to receive such compensation had the State law not provided for the pay-

26 USC 3303.

ment of compensation on the basis of such previously uncovered services.

(e) **CERTAIN NONPROFIT EMPLOYERS.**—The unemployment compensation law of any State may provide that any organization which elects to make payments (in lieu of contributions) into the State unemployment compensation fund as provided in section 3309(a)(2) of the Internal Revenue Code of 1954 shall not be liable to make such payments with respect to the compensation paid to any individual whose base period wages includes wages for previously uncovered services which are reimbursable under subsection (c)(2) to the extent that such individual would not have been eligible to receive such compensation had the State not provided for the payment of compensation on the basis of such previously uncovered services.

26 USC 3309.

(f) **PAYMENTS MADE MONTHLY.**—Payments under subsection (a) shall be made monthly, prior to audit or settlement by the General Accounting Office, on the basis of estimates by the Secretary of the amount payable to such State for such month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior month were greater or less than the amounts which should have been paid to such State. Such estimates may be made on the basis of such statistical, sampling, or other methods as may be agreed upon by the Secretary and the State.

(g) **DEFINITIONS.**—For purposes of this section—

(1) **STATE.**—The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Labor.

(3) **BENEFIT YEAR.**—The term “benefit year” means the benefit year as defined in the applicable State unemployment compensation law.

(4) **BASE PERIOD.**—The term “base period” means the base period as defined by the applicable State unemployment compensation law for the benefit year.

(5) **UNEMPLOYMENT FUND.**—The term “unemployment fund” has the meaning given to such term by section 3306(f) of the Internal Revenue Code of 1954.

26 USC 3306.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated from the general fund of the Treasury such sums as may be necessary to carry out the purposes of this section.

SEC. 122. TRANSITIONAL RULES IN CASE OF NONPROFIT ORGANIZATIONS.

(a) **CREDIT FOR PRIOR CONTRIBUTIONS.**—Section 3303 of the Internal Revenue Code of 1954 (relating to conditions of additional credit allowance) is amended by adding at the end thereof the following new subsection:

26 USC 3303.

“(g) **TRANSITIONAL RULE FOR UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976.**—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies by reason of the enactment of the Unemployment Compensation Amendments of 1976, a State law may provide that an organization (or group of organizations) which elects, when such election first becomes available under the State law with respect to such service, to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions into such fund under the State law with respect to such service performed in its employ before the date of the enactment of this subsection, is not

Ante, p. 2667.

required to make any such payment (in lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to such service performed in its employ, until the total of such compensation equals the amount—

26 USC 3309. “(1) by which the contributions paid by such organization (or group) on the basis of wages for such service with respect to a period before the election provided by section 3309(a) (2), exceed

“(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of such service performed in its employ or wages paid for such service, whichever is appropriate.”.

26 USC 3303. (b) TECHNICAL AMENDMENT.—Section 3303(f) of such Code (relating to transition to coverage of certain services) is amended by striking out “which elects, when such election first becomes available under the State law,” and inserting in lieu thereof “which elects before April 1, 1972.”.

26 USC 3303 note. (c) EFFECTIVE DATES.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on January 1, 1970.

TITLE II—FINANCING PROVISIONS

SEC. 211. INCREASE IN FEDERAL UNEMPLOYMENT TAX WAGE BASE AND RATE.

26 USC 3306. (a) INCREASE IN WAGE BASE.—Paragraph (1) of section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out “\$4,200” each place it appears and inserting in lieu thereof “\$6,000”.

26 USC 3301. (b) INCREASE IN TAX RATE.—Section 3301 of such Code (relating to rate of Federal unemployment tax) is amended to read as follows: “SEC. 3301. RATE OF TAX.

“There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employ, equal to—

42 USC 1105. “(1) 3.4 percent, in the case of a calendar year beginning before the first calendar year after 1976, as of January 1 of which there is not a balance of repayable advances made to the extended unemployed compensation account (established by section 905(a) of the Social Security Act); or

“(2) 3.2 percent, in the case of such first calendar year and each calendar year thereafter;

of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)).”.

(e) TECHNICAL AMENDMENTS.—

42 USC 1101. (1) Subparagraph (C) of section 901(c) (3) of the Social Security Act is amended to read as follows:

26 USC 3301. “(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.7 percent in the case of any calendar year for which the rate of tax under such section 3301 is 3.4 percent.”.

(2) The last sentence of section 905(b)(1) of such Act is amended to read as follows: "In the case of any month after March 1977 and before April of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting 'five-fourteenths' for 'one-tenth'." 42 USC 1105.
26 USC 3301.

(3) The last sentence of section 6157(b) of the Internal Revenue Code of 1954 is amended to read as follows: "In the case of wages paid in any calendar quarter or other period during a calendar year to which paragraph (1) of section 3301 applies, the amount of such wages shall be multiplied by 0.7 percent in lieu of 0.5 percent." 26 USC 6157.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1977. 26 USC 3306 note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to remuneration paid after December 31, 1976. 26 USC 3301 note.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act. 42 USC 1101 note.

SEC. 212. DENIAL OF CERTAIN PAYMENTS UNDER THE EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph: 26 USC 3304 note.

"(4) The amount which, but for this paragraph, would be payable under this subsection to any State in respect of any compensation paid to an individual whose base period wages include wages for services to which section 3306(c)(7) of the Internal Revenue Code of 1954 applies shall be reduced by an amount which bears the same ratio to the amount which, but for this paragraph, would be payable under this subsection to such State in respect of such compensation as the amount of the base period wages attributable to such services bears to the total amount of the base period wages." 26 USC 3306.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to compensation paid for weeks of unemployment beginning on or after January 1, 1979.

SEC. 213. ADVANCES TO STATE UNEMPLOYMENT FUNDS.

(a) ADVANCES TO BE MADE FOR 3-MONTH PERIODS.—Paragraph (1) of section 1201(a) of the Social Security Act is amended— 42 USC 1321.

(1) by striking out "any month" and inserting in lieu thereof "any 3-month period";

(2) by striking out "the preceding month" and inserting in lieu thereof "the month preceding the first month of such 3-month period"; and

(3) by striking out "such month" and inserting in lieu thereof "each month of such 3-month period".

(b) APPLICATIONS.—Paragraph (2) of such section 1201(a) is amended—

(1) by striking out "any month" each place it appears and inserting in lieu thereof "any 3-month period", and

(2) by striking out "such month" each place it appears and inserting in lieu thereof "each month of such 3-month period".

(c) Section 1201(b) of such Act is amended—

(1) by inserting "in monthly installments" immediately after "transfer" where it first appears therein, and

(2) by adding at the end thereof the following new sentence:
 “The amount of any monthly installment so transferred shall not exceed the amount estimated by the State to be required for the payment of compensation for the month with respect to which such installment is made.”

42 USC 1321
 note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 214. PRORATION OF COSTS OF CLAIMS FILED JOINTLY UNDER STATE LAW AND SECTION 8505 OF TITLE 5, UNITED STATES CODE.

(a) **GENERAL RULE.**—Section 8505(a) of title 5, United States Code, is amended to read as follows:

“(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.”

(b) **TECHNICAL AMENDMENT.**—Section 8501 of title 5, United States Code, is amended by striking out “and” at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof “; and”, and by adding at the end thereof the following new paragraph:

“Base period.”

“(8) ‘base period’ means the base period as defined by the applicable State unemployment compensation law for the benefit year.”

5 USC 8501 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with regard to compensation paid on the basis of claims for compensation filed on or after July 1, 1977.

TITLE III—BENEFIT PROVISIONS

SEC. 311. AMENDMENTS TO THE TRIGGER PROVISIONS OF THE EXTENDED PROGRAM.

(a) **NATIONAL “ON” AND “OFF” INDICATORS.**—Subsection (d) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

26 USC 3304
 note.

“(d) For purposes of this section—

“(1) There is a national ‘on’ indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).

“(2) There is a national ‘off’ indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 per centum (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of such period).”

(b) **STATE “ON” AND “OFF” INDICATORS.**—Subsection (e) of section 203 of such Act is amended to read as follows:

“(e) For purposes of this section—

“(1) There is a State ‘on’ indicator for a week if the rate of insured unemployment under the State law for the period consisting of such week and the immediately preceding twelve weeks—

“(A) equaled or exceeded 120 per centum of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

“(B) equaled or exceeded 4 per centum.

“(2) There is a State ‘off’ indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, either subparagraph (A) or subparagraph (B) of paragraph (1) is not satisfied.

Effective with respect to compensation for weeks of unemployment beginning after March 30, 1977 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State ‘on’ or ‘off’ indicator beginning or ending any extended benefit period shall be made under this subsection as if (i) paragraph (1) did not contain subparagraph (A) thereof, and (ii) the figure ‘4’ contained in subparagraph (B) thereof were ‘5’; except that, notwithstanding any such provision of State law, any week for which there would otherwise be a State ‘on’ indicator shall continue to be such a week and shall not be determined to be a week for which there is a State ‘off’ indicator. For purposes of this subsection, the rate of insured unemployment for any thirteen-week period shall be determined by reference to the average monthly covered employment under the State law for the first four of the most recent six calendar quarters ending before the close of such period.”.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) of this section shall apply to weeks beginning after December 31, 1976, and the amendments made by subsection (b) of this section shall apply to weeks beginning after March 30, 1977.

SEC. 312. PREGNANCY DISQUALIFICATIONS.

(a) **GENERAL RULE.**—Paragraph (12) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended to read as follows: 26 USC 3304.

“(12) no person shall be denied compensation under such State law solely on the basis of pregnancy or termination of pregnancy;”.

(b) **TECHNICAL AMENDMENT.**—Subsection (c) of section 3304 of such Code (relating to certification of State unemployment compensation laws) is amended by adding at the end thereof the following new sentence: “On October 31 of any taxable year after 1977, the Secretary shall not certify any State which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the Unemployment Compensation Amendments of 1976 to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years. 26 USC 3304
note.

SEC. 313. REPEAL OF FINALITY PROVISION.

(a) **GENERAL RULE.**—Section 8506(a) of title 5, United States Code, is amended by striking out the fifth sentence.

5 USC 8506 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to findings made after the date of the enactment of this Act.

SEC. 314. DENIAL OF UNEMPLOYMENT COMPENSATION TO ATHLETES, ILLEGAL ALIENS, AND RECIPIENTS OF RETIREMENT BENEFITS.

26 USC 3304.

(a) **GENERAL RULE.**—Subsection (a) of section 3304 of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by redesignating paragraph (13) as paragraph (16) and by inserting after paragraph (12) the following new paragraphs:

“(13) compensation shall not be payable to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods);

8 USC 1153,
1182.

“(14) (A) compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act),

“(B) any data or information required of individuals applying for compensation to determine whether compensation is not payable to them because of their alien status shall be uniformly required from all applicants for compensation, and

“(C) in the case of an individual whose application for compensation would otherwise be approved, no determination by the State agency that compensation to such individual is not payable because of his alien status shall be made except upon a preponderance of the evidence;

26 USC 3304
note.

“(15) the amount of compensation payable to an individual for any week which begins after September 30, 1979, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week;”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to certifications of States for 1978 and subsequent years, or for 1979 and subsequent years in the case of States the legislatures of which do not meet in a regular session which closes in the calendar year 1977.

TITLE IV—NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

SEC. 411. NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSA- TION.

26 USC 3304
note.

(a) **ESTABLISHMENT OF COMMISSION.**—There is established a National Commission on Unemployment Compensation (hereinafter in this section referred to as the “Commission”) which shall consist of thirteen members who shall be appointed as follows:

(1) Three members appointed by the President pro tempore of the Senate.

(2) Three members appointed by the Speaker of the House of Representatives.

(3) Seven members appointed by the President.

In making appointments under the preceding sentence, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the President shall consult with each other to insure that there will be a balanced representation of interested parties on the Commission. The Commission shall consist of at least one representative of labor, industry, the Federal Government, State government, local government, and small business. The President shall designate one of the members to serve as Chairman of the Commission. Seven members shall constitute a quorum. Any vacancies in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(b) **DUTIES OF THE COMMISSION.**—The Commission shall study and evaluate the present unemployment compensation programs in order to assess the long-range needs of the programs, to develop alternatives, and to recommend changes in the programs. Such study and evaluation shall include, without being limited to—

(1) examination of the adequacy, and economic and administrative impacts, of the changes made by this Act in coverage, benefit provisions, and financing;

(2) identification of appropriate purposes, objectives, and future directions for unemployment compensation programs; including railroad unemployment insurance;

(3) examination of issues and alternatives concerning the relationship of unemployment compensation to the economy, with special attention to long-range funding requirements and desirable methods of program financing;

(4) examination of eligibility requirements, disqualification provisions, and factors to consider in determining appropriate benefit amounts and duration;

(5) examination of (A) the problems of claimant fraud and abuse in the unemployment compensation programs (B) the adequacy of present statutory requirements and administrative procedures designed to protect the programs against such fraud and abuse and (C) problems of claimants in obtaining prompt processing and payment of their claims for benefits and any appropriate measures to relieve such problems;

(6) examination of the relationship between unemployment compensation programs and manpower training and employment programs;

(7) examination of the appropriate role of unemployment compensation in income maintenance and its relationship to other social insurance and income maintenance programs;

(8) conduct of such surveys, hearings, research, and other activities as it deems necessary to enable it to formulate appropriate recommendations, and to obtain relevant information, attitudes, opinions, and recommendations from individuals and organizations representing employers, employees, and the general public;

(9) review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

(10) identification of any weaknesses in such method and any problem which results from the operation of such method;

(11) formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics; and

(12) examination of the feasibility and advisability of developing or not developing Federal minimum benefit standards for State unemployment insurance program.

(c) **POWERS OF THE COMMISSION.**—

(1) **HEARINGS.**—The Commission, or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this section, hold such hearing, take such testimony, receive such evidence, take such oaths and sit and act at such times and places as the Commission may deem appropriate and may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) **STAFF.**—Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(A) appoint and fix the compensation of an executive director, and such additional personnel as he deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the executive director may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of such title and any additional personnel may not receive pay in excess of the maximum annual rate of basic pay in effect for grade GS-15 of such General Schedule, and

(B) obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(3) **CONTRACTS.**—The Commission is authorized to negotiate and enter into contracts with organizations, institutions, and individuals to carry out such studies, surveys, or research and prepare such reports as the Commission determines are necessary in order to carry out its duties.

(d) **COOPERATION OF OTHER FEDERAL AGENCIES.**—

(1) **INFORMATION.**—Each department, agency, and instrumentality of the Federal Government is authorized and directed to

furnish to the Commission, upon request made by the Chairman, and to the extent permitted by law, such data, reports, and other information as the Commission deems necessary to carry out its functions under this section.

(2) **SERVICES.**—The head of each department or agency of the Federal Government is authorized to provide to the Commission such services as the Commission requests on such basis, reimbursable and otherwise, as may be agreed between the department or agency and the Chairman of the Commission. All such requests shall be made by the Chairman of the Commission.

(3) **DEPARTMENT OF LABOR.**—The Department of Labor shall provide support for the Commission and shall perform such other functions with respect to the Commission as may be required by the provisions of the Federal Advisory Committee Act.

5 USC app. I.

(e) **PAY AND TRAVEL EXPENSES.**—

(1) **MEMBERS SERVE WITHOUT PAY.**—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(f) **INTERIM REPORT.**—The Commission shall transmit to the Congress not later than March 31, 1978, an interim report.

Transmittal to Congress.

(g) **FINAL REPORT.**—The Commission shall transmit to the President and the Congress not later than January 1, 1979, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

(h) **TERMINATION.**—On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. REFERRAL OF BLIND AND DISABLED INDIVIDUALS UNDER AGE 16, WHO ARE RECEIVING BENEFITS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM, FOR APPROPRIATE REHABILITATION SERVICES.

(a) **IN GENERAL.**—Section 1615 of the Social Security Act is amended to read as follows: 42 USC 1382d.

“REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

“SEC. 1615. (a) In the case of any blind or disabled individual who—

“(1) has not attained age 65, and

“(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for voca-

29 USC 31 note.

tional rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

Criteria by regulation.

"(b) (1) The Secretary shall by regulation prescribe criteria for approval of State plans for—

"(A) assuring appropriate counseling for disabled children referred pursuant to subsection (a) and their families,

"(B) establishment of individual service plans for such disabled children, and prompt referral to appropriate medical, educational, and social services,

"(C) monitoring to assure adherence to such service plans, and

"(D) provision for such disabled children who are 6 years of age and under, or who have never attended public school and require preparation to take advantage of public educational services, of medical, social, developmental, and rehabilitative services, in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(2) Such criteria shall include—

"(A) administration—

"(i) by the agency administering the State plan for crippled children's services under title V of this Act, or

"(ii) by another agency which administers programs providing services to disabled children and which the Governor of the State concerned has determined is capable of administering the State plan described in the first sentence of this subsection in a more efficient and effective manner than the agency described in clause (i) (with the reasons for such determination being set forth in the State plan described in the first sentence of this subsection);

"(B) coordination with other agencies serving disabled children; and

"(C) establishment of an identifiable unit within such agency which shall be responsible for carrying out the plan.

"(c) Every individual age 16 or over with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which he is referred under subsection (a).

"(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act the costs incurred under such plan in the provision of rehabilitation services to individuals referred for such services pursuant to subsection (a).

"(c) (1) The Secretary shall, subject to the limitations imposed by paragraphs (2) and (3), pay to the State agency administering a State plan of a State under subsection (b) of this section, the costs incurred

each fiscal year which begins after September 30, 1976, and ends prior to October 1, 1979, in carrying out the State plan approved pursuant to such subsection (b).

“(2) (A) Of the funds paid by the Secretary with respect to costs, incurred in any State, to which paragraph (1) applies, not more than 10 per centum thereof shall be paid with respect to costs incurred with respect to activities described in subsection (b) (1) (A), (B), and (C).

“(B) Whenever there are provided pursuant to this section to any child services of a type which is appropriate for children who are not blind or disabled, there shall be disregarded for purposes of computing any payment with respect thereto under this subsection, so much of the costs of such services as would have been incurred if the child involved had not been blind or disabled.

“(C) The total amount payable under this subsection for any fiscal year, with respect to services provided in any State, shall be reduced by the amount by which the sum of the public funds expended (as determined by the Secretary) from non-Federal sources for services of the type involved for such fiscal year is less than the sum of such funds expended from such sources for services of such type for the fiscal year ending June 30, 1976.

“(3) No payment under this subsection with respect to costs incurred in providing services in any State for any fiscal year shall exceed an amount which bears the same ratio to \$30,000,000 as the under age 7 population of such State (and for purposes of this section the District of Columbia shall be regarded as a State) bears to the under age 7 population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph on the basis of the most recent satisfactory data available from the Department of Commerce not later than 90 nor earlier than 270 days before the beginning of such year.”

(b) PUBLICATION OF CRITERIA.—The Secretary shall, within 120 days after the enactment of this subsection, publish criteria to be employed to determine disability (as defined in section 1614(a) (3) of the Social Security Act) in the case of persons who have not attained the age of 18.

42 USC 1382d
note.

42 USC 1382c.

SEC. 502. INCOME OF EACH MEMBER OF MARRIED COUPLE TO BE APPLIED SEPARATELY IN DETERMINING SSI BENEFIT PAYMENTS WHEN ONE OF THEM IS IN AN INSTITUTION.

Section 1611(e) (1) (B) (ii) of the Social Security Act is amended to read as follows:

42 USC 1382.

“(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home or facility throughout such month, at a rate not in excess of the sum of—

“(I) the rate of \$300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

42 USC 1382a.

“(II) the applicable rate specified in subsection (b) (1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and”.

SEC. 503. PRESERVATION OF MEDICAID ELIGIBILITY FOR INDIVIDUALS WHO CEASE TO BE ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME BENEFITS ON ACCOUNT OF COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS.

42 USC 1396a
note.

In addition to other requirements imposed by law as a condition for the approval of any State plan under title XIX of the Social

- 42 USC 1396. Security Act, there is hereby imposed the requirement (and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual, for any month after June 1977 for which such individual is entitled to a monthly insurance benefit under title II of such Act but is not eligible for benefits under title XVI of such Act, in like manner and subject to the same terms and conditions as are applicable under such State plan in the case of individuals who are eligible for and receiving benefits under such title XVI for such month, if for such month such individual would be (or could become) eligible for benefits under such title XVI except for amounts of income received by such individual and his spouse (if any) which are attributable to increases in the level of monthly insurance benefits payable under title II of such Act which have occurred pursuant to section 215(i) of such Act, in the case of such individual, since the last month after April 1977 for which such individual was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II, and, in the case of such individual's spouse (if any), since the last such month for which such spouse was both eligible for (and received) benefits under such title XVI and was entitled to a monthly insurance benefit under such title II. Solely for purposes of this section, payments of the type described in section 1616(a) of the Social Security Act or of the type described in section 212(a) of Public Law 93-66 shall be deemed to be benefits under title XVI of the Social Security Act.
- 42 USC 401.
42 USC 1381.
- 42 USC 1382e.
87 Stat. 155.

SEC. 504. STATE SUPPLEMENTATION OF BENEFITS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM.

- 42 USC 1382e
note. (a) **LIMITATION ON STATE COSTS.**—Section 401(a)(2) of the Social Security Amendments of 1972 is amended—

(1) by inserting “(subject to the second sentence of this paragraph)” immediately after “Act” where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: “In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977, and before July 1, 1979.”

(b) **EFFECTIVE DATE.**—The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

SEC. 505. ELIGIBILITY OF INDIVIDUALS IN CERTAIN INSTITUTIONS.

- 42 USC 1382. (a) **IN GENERAL.**—Section 1611(e)(1) of the Social Security Act is amended by striking out “subparagraph (B)” in subparagraph (A) and inserting in lieu thereof “subparagraph (B) and (C)”; and by adding at the end thereof the following new subparagraph:

“Public institution.” “(C) As used in subparagraph (A), the term ‘public institution’ does not include a publicly operated community residence which serves no more than 16 residents.”

- 42 USC 1382a. (b) **CONFORMING AMENDMENT.**—Section 1612(b)(6) of such Act is amended by striking out “assistance described in section 1616(a) which” and inserting in lieu thereof “assistance, furnished to or on behalf of such individual (and spouse), which”.

(c) **REPEAL OF LIMITATION ON PAYMENT.**—Section 1616(e) of such Act is repealed.

Repeal.
42 USC 1382e.
State standards.

(d) **STATES TO ESTABLISH STANDARDS.**—Effective October 1, 1977, section 1616(e) of such Act is amended to read as follows:

“(e) (1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

“(2) Each State shall annually make available for public review, as a part of the services program planning procedures established pursuant to section 2004 of this Act, a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

Annual public review.
42 USC 1397c.

“(3) Each State shall certify annually to the Secretary that it is in compliance with the requirements of this subsection.

Annual certification.
Payments to individuals.

“(4) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution of the type described in paragraph (1) to such individual as a resident or an inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities.”

(e) **EFFECTIVE DATE.**—The amendments and repeals made by this section, unless otherwise specified therein, shall take effect on October 1, 1976.

42 USC 1382 note.

SEC. 506. ELECTION OF LOCAL GOVERNMENTS TO USE REIMBURSEMENT METHOD.

(a) **IN GENERAL.**—Paragraph (2) of section 3309(a) of the Internal Revenue Code of 1954 (relating to State law requirements) is amended—

26 USC 3309.

(1) by striking out “an organization” and inserting in lieu thereof “a governmental entity or any other organization”,

(2) by striking out “paragraph (1)(A)” and inserting in lieu thereof “paragraph (1)”, and

(3) by striking out “that organizations” and inserting in lieu thereof “that governmental entities or other organizations”.

(b) **TECHNICAL AMENDMENT.**—Subparagraph (B) of section 3304 (a) (6) of such Code is amended by striking out “section 3309(a) (1)(A)” and inserting in lieu thereof “section 3309(a) (1)”.

26 USC 3304.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to certifications of States for 1978 and subsequent years, but only with respect to services performed after December 31, 1977.

26 USC 3304 note.

SEC. 507. AFDC BENEFITS WHERE UNEMPLOYED FATHER RECEIVES UNEMPLOYMENT COMPENSATION.

42 USC 607.

(a) **IN GENERAL.**—Section 407(b)(2) of the Social Security Act is amended—

(1) by striking out “and” at the end of subparagraph (B); and
(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

“(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

“(i) if and for so long as such child’s father, unless exempt under section 402(a)(19)(A), is not registered pursuant to such section for the work incentive program established under part C of this title, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 432(a), is not registered with the public employment offices in the State, and

“(ii) with respect to any week for which such child’s father qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and

“(D) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child’s father receives under an unemployment compensation law of a State or of the United States.”.

(b) **CONFORMING PROVISION.**—Section 407(d)(3) of such Act is amended by inserting “, for purposes of section 407(b)(1)(C),” before “be deemed”.

42 USC 607 note.

(c) **EFFECTIVE DATE.**—The amendments made by the preceding provisions of this section shall be effective with respect to months after (and weeks beginning in months after) the date of the enactment of this Act.

(d) **SIMPLIFICATION OF PROCEDURES.**—Section 407 of the Social Security Act is further amended by adding at the end thereof the following new subsection:

“(e) The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed fathers and other unemployed persons in such State in registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title and in registering with public employment offices (under this section and otherwise) or in connection with applications for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both the work incentive program and the applicable unemployment compensation laws.”.

42 USC 602.

42 USC 630 *et seq.*

SEC. 503. STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PROGRAMS.

(a) **IN GENERAL.**—Section 3(a) of the Act entitled “An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes”, approved June 6, 1933 (29 U.S.C. 49b(a)), is amended by adding at the end thereof the following new sentence: “It shall be the further duty of the bureau to assure that such employment offices in each State, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is hereby authorized to) furnish to such agency making the request, from any data contained in the files of any such employment office, information with respect to any individual specified in the request as to (A) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (B) the current (or most recent) home address of such individual, and (C) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and terms, conditions, and rate of pay therefor.”.

42 USC 601 *et seq.*

42 USC 651 *et seq.*

(b) **PROVISION FOR REIMBURSEMENT OF EXPENSES.**—For purposes of section 403 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices pursuant to the third sentence of section 3(a) of the Act entitled “An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes”, approved June 6, 1933 (29 U.S.C. 49b(a)), by a State or local agency administering a State plan approved under part A of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan; and for purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information so requested by a State or local agency charged with the duty of carrying out a State plan for child support approved under part D of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan.

42 USC 603a.

42 USC 655.

TITLE VI—SPECIAL UNEMPLOYMENT ASSISTANCE AMENDMENTS

SEC. 601. EXTENSION OF SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM.

(a) Section 208 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended to read as follows:

26 USC 3304 note.

“TERMINATION DATE

“SEC. 208. Notwithstanding any other provision of this part, no payment of assistance under this part shall be made to any individual with respect to any week of unemployment ending after June 30,

1978; and no individual shall be entitled to any assistance under this part with respect to any initial claim for assistance or waiting period credit which is effective in a week beginning after December 31, 1977.”.

SEC. 602. ELIMINATION OF SPECIAL BASE PERIOD FOR PAYMENTS OF SPECIAL UNEMPLOYMENT ASSISTANCE.

26 USC 3304
note.

(a) Paragraph (1) of section 203(a) of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by striking out “*Provided, That*” and all that follows down through “; and” at the end thereof and inserting in lieu thereof the following: “*Provided, That* the individual meets the qualifying employment and wage requirements of the applicable State unemployment compensation law in the base period; and, for purposes of this proviso, employment and wages which are not covered by the State law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages; and”.

(b) Subsection (a) of section 205 of such Act is amended by striking out “law: *Provided, That*” and all that follows down through the period at the end thereof and inserting in lieu thereof the following: “law. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.”.

(c) Subsection (a) of section 206 of such Act is amended by striking out “section 205: *Provided, That*” and all that follows down through the period at the end thereof and inserting in lieu thereof the following: “section 205. For purposes of the preceding sentence, employment and wages which are not covered by the applicable State unemployment compensation law shall be treated as though they were covered, except that employment and wages covered by any State or Federal unemployment compensation law, including the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.), shall be excluded to the extent that the individual is or was entitled to compensation for unemployment thereunder on the basis of such employment and wages.”.

(d) Subsection (a) of section 210 of such Act is amended—

Definitions.

(1) by striking out “and” at the end of paragraph (5); and
(2) by striking out paragraph (6) and inserting in lieu thereof the following:

“(6) ‘special unemployment assistance benefit year’ means the benefit year as defined by the applicable State unemployment compensation law; and

“(7) ‘base period’ means the base period as determined under the applicable State unemployment compensation law.”.

Applicability.

(e) The amendments made by this section shall apply with respect to benefit years beginning after December 31, 1976. In the case of any benefit year of an individual which begins after December 31, 1976, for purposes of sections 203(a) (1), 205(a), and 206(a) of the Emergency Jobs and Unemployment Assistance Act of 1974, there shall not

be taken into account any employment and wages to the extent that such individual was entitled on the basis of such employment and wages to assistance under such Act during a benefit year beginning before January 1, 1977.

SEC. 603. DENIAL OF SPECIAL UNEMPLOYMENT ASSISTANCE TO NON-PROFESSIONAL EMPLOYEES OF EDUCATIONAL INSTITUTIONS DURING PERIODS BETWEEN ACADEMIC TERMS.

(a) Section 203 of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new subsection:

26 USC 3304
note.

“(c) An individual who performs services for an educational institution or agency in a capacity (other than an instructional, research, or principal administrative capacity) shall not be eligible to receive a payment of assistance or a waiting period credit with respect to any week commencing during a period between two successive academic years or terms if—

“(1) such individual performed such services for any educational institution or agency in the first of such academic years or terms; and

“(2) there is a reasonable assurance that such individual will perform services for any educational institution or agency in any capacity (other than an instructional, research, or principal administrative capacity) in the second of such academic years or terms.”

(b) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

Applicability.

SEC. 604. MODIFICATION OF AGREEMENTS.

The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 202 of the Emergency Jobs and Unemployment Assistance Act of 1974 a modification of such agreement designed to provide for the payment of special unemployment assistance under such Act in accordance with the amendments made by sections 601, 602, and 603 of this title. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before the last day of such three-week period.

26 USC 3304
note.

Ante, p. 2689.

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-755 (Comm. on Ways and Means) and No. 94-1745 (Comm. of Conference).

SENATE REPORT No. 94-1265 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 19, 20, considered and passed House.

Sept. 29, considered and passed Senate, amended.

Oct. 1, House and Senate agreed to conference report; House receded and concurred in certain Senate amendments and to others with amendments; Senate agreed to House amendments.

Public Law 94-567
94th Congress

An Act

Oct. 20, 1976

[H.R. 13160]

To designate certain lands within units of the National Park System as wilderness; to revise the boundaries of certain of those units; and for other purposes.

Wilderness areas.
Designation.
16 USC 1132
note.

Bandelier
National
Monument,
N. Mex.

Gunnison
National
Monument, Colo.

Chiricahua
National
Monument, Ariz.

Great Sand
Dunes
National
Monument,
Colo.

Haleakala
National
Park, Hawaii.

Isle Royale
National
Park, Mich.

Joshua Tree
National
Monument, Calif.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), the following lands are hereby designated as wilderness, and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act:

(a) Bandelier National Monument, New Mexico, wilderness comprising twenty-three thousand two hundred and sixty-seven acres, depicted on a map entitled "Wilderness Plan, Bandelier National Monument, New Mexico", numbered 315-20,014-B and dated May 1976, to be known as the Bandelier Wilderness.

(b) Black Canyon of the Gunnison National Monument, Colorado, wilderness comprising eleven thousand one hundred and eighty acres, depicted on a map entitled "Wilderness Plan, Black Canyon of the Gunnison National Monument, Colorado", numbered 144-20,017 and dated May 1973, to be known as the Black Canyon of the Gunnison Wilderness.

(c) Chiricahua National Monument, Arizona, wilderness comprising nine thousand four hundred and forty acres, and potential wilderness additions comprising two acres, depicted on a map entitled "Wilderness Plan, Chiricahua National Monument, Arizona", numbered 145-20,007-A and dated September 1973, to be known as the Chiricahua National Monument Wilderness.

(d) Great Sand Dunes National Monument, Colorado, wilderness comprising thirty-three thousand four hundred and fifty acres, and potential wilderness additions comprising six hundred and seventy acres, depicted on a map entitled "Wilderness Plan, Great Sand Dunes National Monument, Colorado", numbered 140-20,006-C and dated February 1976, to be known as the Great Sand Dunes Wilderness.

(e) Haleakala National Park, Hawaii, wilderness comprising nineteen thousand two hundred and seventy acres, and potential wilderness additions comprising five thousand five hundred acres, depicted on a map entitled "Wilderness Plan, Haleakala National Park, Hawaii", numbered 162-20,006-A and dated July 1972, to be known as the Haleakala Wilderness.

(f) Isle Royale National Park, Michigan, wilderness comprising one hundred and thirty-one thousand eight hundred and eighty acres, and potential wilderness additions comprising two hundred and thirty-one acres, depicted on a map entitled "Wilderness Plan, Isle Royale National Park, Michigan", numbered 139-20,004 and dated December 1974, to be known as the Isle Royale Wilderness.

(g) Joshua Tree National Monument, California, wilderness comprising four hundred and twenty-nine thousand six hundred and ninety acres, and potential wilderness additions comprising thirty-seven thousand five hundred and fifty acres, depicted on a map entitled

"Wilderness Plan, Joshua Tree National Monument, California", numbered 156-20,003-D and dated May 1976, to be known as the Joshua Tree Wilderness.

(h) Mesa Verde National Park, Colorado, wilderness comprising eight thousand one hundred acres, depicted on a map entitled "Wilderness Plan, Mesa Verde National Park, Colorado", numbered 307-20,007-A and dated September 1972, to be known as the Mesa Verde Wilderness.

Mesa Verde
National Park,
Colo.

(i) Pinnacles National Monument, California, wilderness comprising twelve thousand nine hundred and fifty-two acres, and potential wilderness additions comprising nine hundred and ninety acres, depicted on a map entitled "Wilderness Plan, Pinnacles National Monument, California", numbered 114-20,010-D and dated September 1975, to be known as the Pinnacles Wilderness.

Pinnacles
National
Monument, Calif.

(j) Saguaro National Monument, Arizona, wilderness comprising seventy-one thousand four hundred acres, depicted on a map entitled "Wilderness Plan, Saguaro National Monument, Arizona", numbered 151-20,003-D and dated May 1976, to be known as the Saguaro Wilderness.

Saguaro National
Monument, Ariz.

(k) Point Reyes National Seashore, California, wilderness comprising twenty-five thousand three hundred and seventy acres, and potential wilderness additions comprising eight thousand and three acres, depicted on a map entitled "Wilderness Plan, Point Reyes National Seashore", numbered 612-90,000-B and dated September 1976, to be known as the Point Reyes Wilderness.

Point Reyes
National
Seashore,
Calif.

(l) Badlands National Monument, South Dakota, wilderness comprising sixty-four thousand two hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Badlands National Monument, South Dakota", numbered 137-29,010-B and dated May 1976, to be known as the Badlands Wilderness.

Badlands
National
Monument,
S. Dak.

(m) Shenandoah National Park, Virginia, wilderness comprising seventy-nine thousand and nineteen acres, and potential wilderness additions comprising five hundred and sixty acres, depicted on a map entitled "Wilderness Plan, Shenandoah National Park, Virginia", numbered 134-90,001 and dated June 1975, to be known as the Shenandoah Wilderness.

Shenandoah
National Park,
Va.

SEC. 2. A map and description of the boundaries of the areas designated in this Act shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of each area designated in the Act. As soon as practicable after this Act takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

Map and
description,
public inspection.

SEC. 3. All lands which represent potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness.

Publication in
Federal Register.
16 USC 1131
note.

SEC. 4. The boundaries of the following areas are hereby revised, and those lands depicted on the respective maps as wilderness or as potential wilderness addition are hereby so designated at such time and in such manner as provided for by this Act:

Boundary
revision.

Isle Royale
National Park,
Mich.

(a) Isle Royale National Park, Michigan:
The Act of March 6, 1942 (56 Stat. 138; 16 U.S.C. 408e-408h), as amended, is further amended as follows:

(1) Insert the letter "(a)" before the second paragraph of the first section, redesignate subparagraphs (a), (b), and (c) of that paragraph as "(1)", "(2)", "(3)", respectively, and add to that section the following new paragraph:

"(b) Gull Islands, containing approximately six acres, located in section 19, township 68 north, range 31 west, in Keweenaw County, Michigan."

16 USC 408g.

(2) Amend section 3 to read as follows:

"SEC. 3. The boundaries of the Isle Royale National Park are hereby extended to include any submerged lands within the territorial jurisdiction of the United States within four and one-half miles of the shoreline of Isle Royale and the surrounding islands, including Passage Island and the Gull Islands, and the Secretary of the Interior is hereby authorized, in his discretion, to acquire title by donation to any such lands not now owned by the United States, the title to be satisfactory to him."

Pinnacles
National
Monument, Calif.

(b) Pinnacles National Monument, California:

(1) The boundary is hereby revised by adding the following described lands, totaling approximately one thousand seven hundred and seventeen and nine-tenths acres:

(a) Mount Diablo meridian, township 17 south, range 7 east: Section 1, east half east half, southwest quarter northeast quarter, and northwest quarter southeast quarter; section 12, east half northeast quarter, and northeast quarter southeast quarter; section 13, east half northeast quarter and northeast quarter southeast quarter.

(b) Township 16 south, range 7 east: Section 32, east half.

(c) Township 17 south, range 7 east: Section 4, west half; section 5, east half.

(d) Township 17 south, range 7 east: Section 6, southwest quarter southwest quarter; section 7, northwest quarter north half southwest quarter.

Publication in
Federal Register.

(2) The Secretary of the Interior may make minor revisions in the monument boundary from time to time by publication in the Federal Register of a map or other boundary description, but the total area within the monument may not exceed sixteen thousand five hundred acres: *Provided, however,* That lands designated as wilderness pursuant to this Act may not be excluded from the monument. The monument shall hereafter be administered in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

(3) In order to effectuate the purposes of this subsection, the Secretary of the Interior is authorized to acquire by donation, purchase, transfer from any other Federal agency or exchange, lands and interests therein within the area hereafter encompassed by the monument boundary, except that property owned by the State of California or any political subdivision thereof may be acquired only by donation.

Appropriation
authorization.

(4) There are authorized to be appropriated, in addition to such sums as may heretofore have been appropriated, not to exceed \$955,000 for the acquisition of lands or interests in lands authorized by this subsection. No funds authorized to be appropriated pursuant to this Act shall be available prior to October 1, 1977.

SEC. 5. (a) The Secretary of Agriculture shall, within two years after the date of enactment of this Act, review, as to its suitability or nonsuitability for preservation as wilderness, the area comprising approximately sixty-two thousand nine hundred and thirty acres located in the Coronado National Forest adjacent to Saguaro National Monument, Arizona, and identified on the map referred to in section 1(j) of this Act as the "Rincon Wilderness Study Area," and shall report his findings to the President. The Secretary of Agriculture shall conduct his review in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" on the effective date of that Act shall be deemed to be a reference to the wilderness study area designated by this Act and except that the President shall advise the Congress of his recommendations with respect to this area within two years after the date of enactment of this Act.

Rincon
Wilderness Study
Area, suitability
review.
16 USC 1132
note.

Report to
President.
16 USC 1132.

(b) The Secretary of Agriculture shall give at least sixty days' advance public notice of any hearing or other public meeting relating to the review provided for by this section.

Notice and
hearing.

SEC. 6. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

Administration.

SEC. 7. (a) Section 6(a) of the Act of September 13, 1962 (76 Stat. 538), as amended (16 U.S.C. 459c-6a) is amended by inserting "without impairment of its natural values, in a manner which provides for such recreational, educational, historic preservation, interpretation, and scientific research opportunities as are consistent with, based upon, and supportive of the maximum protection, restoration and preservation of the natural environment with the area" immediately after "shall be administered by the Secretary".

16 USC 459c-6.

(b) Add the following new section 7 and redesignate the existing section 7 as section 8:

16 USC 459c-7.

"SEC. 7. The Secretary shall designate the principal environmental education center within the Seashore as 'The Clem Miller Environmental Education Center,' in commemoration of the vision and leadership which the late Representative Clem Miller gave to the creation and protection of Point Reyes National Seashore."

The Clem Miller
Environmental
Education
Center,
designation.
16 USC 459c-6a.
Whiskey
Mountain Area,
classification as a
primitive area.

SEC. 8. Notwithstanding any other provision of law, any designation of the lands in the Shoshone National Forest, Wyoming, known as the Whiskey Mountain Area, comprising approximately six thousand four hundred and ninety-seven acres and depicted as the "Whiskey Mountain Area—Glacier Primitive Area" on a map entitled "Proposed Glacier Wilderness and Glacier Primitive Area", dated September 23, 1976, on file in the Office of the Chief, Forest Service, Department of Agriculture, shall be classified as a primitive area until the Secretary of Agriculture or his designee determines otherwise pursuant to classification procedures for national forest primitive areas. Provisions of any other Act designating the Fitzpatrick Wil-

derness in said Forest shall continue to be effective only for the approximately one hundred and ninety-one thousand one hundred and three acres depicted as the "Proposed Glacier Wilderness" on said map.

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1427 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1357 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 22, considered and passed House.

Oct. 1, considered and passed Senate, amended; House agreed to Senate amendments.

Public Law 94-568
94th Congress

An Act

To amend the Internal Revenue Code of 1954 with respect to the tax treatment of social clubs and certain other membership organizations, to provide for a study of tax incentives for recycling, and for other purposes.

Oct. 20, 1976

[H.R. 1144]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 501(c)(7) of the Internal Revenue Code of 1954 (relating to exempt organizations) is amended to read as follows:

Taxes.
Exempt
organizations.
26 USC 501.

“(7) Clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.”

(b) Section 512(a)(3)(A) of such Code (relating to unrelated business taxable income) is amended by adding at the end thereof the following new sentence: “For purposes of the preceding sentence, the deductions provided by sections 243, 244, and 245 (relating to dividends received by corporations) shall be treated as not directly connected with the production of gross income.”

26 USC 512.

(c) Section 277(a) of such Code (relating to deductions incurred by certain membership organizations in transactions with members) is amended by adding at the end thereof the following new sentence: “The deductions provided by sections 243, 244, and 245 (relating to dividends received by corporations) shall not be allowed to any organization to which this section applies for the taxable year.”

26 USC 243,
244, 245.

26 USC 277.

(d) The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

26 USC 501 note.

SEC. 2. (a) Section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

26 USC 501.

“(g) PROHIBITION OF DISCRIMINATION BY CERTAIN SOCIAL CLUBS.—Notwithstanding subsection (a), an organization which is described in subsection (c)(7) shall not be exempt from taxation under subsection (a) for any taxable year if, at any time during such taxable year, the charter, bylaws, or other governing instrument, of such organization or any written policy statement of such organization contains a provision which provides for discrimination against any person on the basis of race, color, or religion.”

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Effective date.
26 USC 501 note.

SEC. 3. (a) Paragraph (2) of section 301(g) of the Tax Reform Act of 1976 (relating to effective date for minimum tax provisions) is amended to read as follows:

26 USC 56 note.
Ante, p. 1549.

“(2) TAX CARRYOVER.

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975.

26 USC 56.

26 USC 56. “(B) Except as provided by paragraph (4) and in section 56(e) of the Internal Revenue Code of 1954, in the case of a corporation which is not an electing small business corporation (as defined in section 1371(b) of such Code) or a personal holding company (as defined in section 524 of such Code), the amount of any tax carryover under section 56(c) of such Code from a taxable year beginning before July 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after June 30, 1976.”

26 USC 1371.

26 USC 524.

Effective date. (b) The amendments made by subsection (a) shall take effect on the date of the enactment of the Tax Reform Act of 1976.

26 USC 56 note. *Ante*, p. 1520.

Study and investigation. SEC. 4. (a) The Secretary of the Treasury, in cooperation with the Administrator of the Environmental Protection Agency, shall make a thorough and complete study and investigation of all provisions of the Internal Revenue Code of 1954 which currently impede or discourage the recycling of solid waste materials, and shall determine what actions Congress may take under the internal revenue laws to increase and encourage the recycling of solid waste materials.

26 USC 7801 note. (b) The Secretary of the Treasury shall report his findings, together with specific legislative proposals and detailed revenue cost estimates, to the President and to the Congress at the earliest practicable date, but not later than six months after the date of the enactment of this Act.

Report to President and Congress.

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1353 (Comm. on Ways and Means).

SENATE REPORT No. 94-1318 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.

Oct. 1, considered and passed Senate, amended; House agreed to Senate amendment.

Public Law 94-569
94th Congress

An Act

To amend the Internal Revenue Code of 1954 to permit the authorization of means other than stamp on containers of distilled spirits as evidence of tax payment, to provide an extension of certain provisions relating to members of the Armed Forces missing in action, and for other purposes.

Oct. 20, 1976

[H.R. 7228]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5205(h) of the Internal Revenue Code of 1954 (relating to form of stamps for containers of distilled spirits) is amended by striking out “or other form of stamp” and inserting in lieu thereof “other form of stamp, or other device”.

Taxes.

Distilled spirits,
use of stamps on
containers.
26 USC 5205.

SEC. 2. Section 6801(b) of the Internal Revenue Code of 1954 (relating to authority for establishment, alteration, and distribution of stamps) is amended by striking out the period at the end thereof and inserting in lieu thereof “; except that stamps required by or prescribed pursuant to the provisions of section 5205 or section 5235 may be prepared and distributed by persons authorized by the Secretary, under such controls for the protection of the revenue as shall be deemed necessary.”.

26 USC 6801.

SEC. 3. (a) SURVIVING SPOUSE.—Section 2(a)(3)(B) of the Internal Revenue Code of 1954 (relating to the special rule where a deceased spouse was in a missing status) is amended to read as follows:

26 USC 5205,
5235.

“(B) the date which is—

26 USC 2.

“(i) January 2, 1978, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

“(ii) 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in clause (i).”.

26 USC 112.

(b) CERTAIN PAY OF MEMBERS OF THE ARMED FORCES HOSPITALIZED AS A RESULT OF THE VIETNAM CONFLICT.—The last sentence of section 112(a) of such Code (relating to certain combat pay of enlisted members of the Armed Forces) and the last sentence of section 112(b) of such Code (relating to certain combat pay of commissioned officers of the armed forces) are each amended by striking out “beginning more than 2 years after the date of the enactment of this sentence” and inserting in lieu thereof “after January 1978”.

(c) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH IN MISSING STATUS.—The second sentence of section 692(b) of such Code (relating to income taxes of members of the armed forces on death in a missing status) is amended to read as follows: “The preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning—

26 USC 692.

“(1) after January 2, 1978, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

“(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1).”.

(d) JOINT RETURN WHERE INDIVIDUAL IS IN MISSING STATUS AS A RESULT OF VIETNAM CONFLICT.—The last sentence of section 6013(f)

- 26 USC 6013. (1) of such Code (relating to joint returns where individual is in missing status as a result of the Vietnam conflict) is amended by striking out "more than 2 years after the date of the enactment of this sentence" and inserting in lieu thereof "after January 2, 1978".
- (e) **TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF VIETNAM CONFLICT.**—The second sentence of section 7508(b) of such Code (relating to the application to a spouse of provision relating to the time for performing certain acts postponed by reason of war) is amended to read as follows: "The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning—
- “(1) after January 2, 1978, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or
- “(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1).”.
- 26 USC 112. SEC. 4. **AUTHORIZATION OF INITIAL PAYMENTS TO PRESUMPTIVELY BLIND INDIVIDUALS.**
- (a) **IN GENERAL.**—Section 1631(a)(4)(B) of the Social Security Act is amended—
- (1) by inserting "or blindness" immediately after "disability" each time it appears; and
- (2) by inserting "or blind" immediately after "disabled" each time it appears.
- (b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to months after the month following the month in which this Act is enacted.
- 42 USC 1383. 42 USC 1383 note. 42 USC 1382b. SEC. 5. Section 1613(a)(1) of the Social Security Act is amended by striking out "to the extent that its value does not exceed such amount as the Secretary determines to be reasonable".

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1071 (Comm. on Ways and Means).

SENATE REPORT No. 94-1319 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 13, considered and passed House.

Oct. 1, considered and passed Senate, amended; House agreed to certain Senate amendments and to one amendment with an amendment; Senate agreed to House amendment.

Public Law 94-570
94th Congress

An Act

To amend the Rural Electrification Act of 1936, as amended, to correct unintended inequities in the interest rate criteria for borrowers from the Rural Electrification Administration, and to make other technical amendments.

Oct. 20, 1976
[H.R. 12207]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Electrification Administration Technical Amendments Act of 1976".

Rural
Electrification
Administration
Technical
Amendments
Act of 1976.
7 USC 901 note.
7 USC 931.

SEC. 2. Section 301(a)(4) of the Rural Electrification Act of 1936, as amended, is amended to strike the semicolon at the end thereof, and add the following: "and the unobligated balances of any funds made available for loans under the item 'Rural Electrification Administration' in the Department of Agriculture and Agriculture-Environmental and Consumer Protection Appropriations Acts;"

SEC. 3. Section 305(b) of the Rural Electrification Act of 1936, as amended, is amended—

Insured loans.
7 USC 935.

(1) by striking the words "meets either of the following conditions";

(2) by striking out all of paragraph (1) thereof and inserting in lieu thereof the following:

"(1) in the case of a telephone borrower, had at the end of the most recent calendar year ending at least six months before approval of the loan, an average subscriber density of three or fewer per mile; or";

(3) by striking out all of paragraph (2) thereof through and including the words "telephone borrowers" and inserting in lieu thereof the following:

"(2) in the case of an electric borrower, had at the end of the most recent calendar year ending at least six months before approval of the loan, an average consumer density of two or fewer per mile or an average adjusted plant revenue ratio of over 9.0, such ratio being a simple average of the ratios obtained by dividing the sum of its distribution plant and general plant by its annual gross revenue less cost of power for that calendar year and the two immediately preceding calendar years. As used in this subsection the sum of distribution plant and general plant shall be the total of the amounts shown in accounts numbered 360 through and including 399 of the uniform system of accounts approved, as of the effective date of this amendment, by the Administrator, for use by Rural Electrification Administration borrowers; gross revenue shall be the amount shown in account numbered 400 of said system of accounts; and the cost of power shall be the total of amounts shown in accounts numbered 500 through and including 573 of said system of accounts as the same is constituted";

(4) by inserting the words "to a telephone or electric borrower" following the words "make a loan" in the proviso to paragraph (2) thereof.

Effective
date.

7 USC 935 note.

7USC 931.

SEC. 4. This Act shall take effect upon enactment, except that insured loans made pursuant to applications for such loans which would otherwise lose eligibility for special rate financing upon such enactment, received by the Rural Electrification Administration and still pending on the date of enactment of this Act, shall bear interest as determined under section 305(b) of the Rural Electrification Act of 1936 before its amendment by this Act.

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1025 (Comm. on Agriculture).

SENATE REPORT No. 94-1314 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 3, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 1, House agreed to Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 21, Presidential statement.

Public Law 94-571
94th Congress

An Act

To amend the Immigration and Nationality Act, and for other purposes.

Oct. 20, 1976
[H.R. 14535]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Immigration and Nationality Act Amendments of 1976".

Immigration and
Nationality Act
Amendments of
1976.
8 USC 1101 note.

SEC. 2. Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), and immediate relatives of United States citizens as specified in subsection (b) of this section, (1) the number of aliens born in any foreign state or dependent area located in the Eastern Hemisphere who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of 45,000 and shall not in any fiscal year exceed a total of 170,000; and (2) the number of aliens born in any foreign state of the Western Hemisphere or in the Canal Zone, or in a dependent area located in the Western Hemisphere, who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally shall not in any of the first three quarters of any fiscal year exceed a total of 32,000 and shall not in any fiscal year exceed a total of 120,000."; and

8 USC 1101.

8 USC 1153.

(2) by striking out subsections (c), (d), and (e).

SEC. 3. Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out the last proviso in subsection (a);

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than a special immigrant, as defined in section 101(a)(27), or an immediate relative of a United States citizen, as defined in section 201(b), shall be chargeable for the purpose of the limitations set forth in sections 201(a) and 202(a), to the hemisphere in which such colony or other component or dependent area is located, and to the foreign state, respectively, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed 600 in any one fiscal year."; and

(3) by inserting at the end thereof the following new subsection:

8 USC 1152.

“(e) Whenever the maximum number of visas or conditional entries have been made available under section 202 to natives of any single foreign state as defined in subsection (b) of this section or any dependent area as defined in subsection (c) of this section in any fiscal year, in the next following fiscal year a number of visas and conditional entries, not to exceed 20,000, in the case of a foreign state or 600 in the case of a dependent area, shall be made available and allocated as follows:

“(1) Visas shall first be made available, in a number not to exceed 20 per centum of the number specified in this subsection, to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

“(2) Visas shall next be made available, in a number not to exceed 20 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence.

“(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

“(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (3), to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

“(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

“(6) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

“(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe, in a number not to exceed 6 per centum of the number specified in this subsection, to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country within the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted

by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term 'general area of the Middle East' means the area between and including (1) Libya on the west, (2) Turkey on the north, (3) Pakistan on the east, and (4) Saudi Arabia and Ethiopia on the south: *Provided*, That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.

"General area of the Middle East."

"(8) Visas so allocated but not required for the classes specified in paragraphs (1) through (7) shall be made available to other qualified immigrants strictly in the chronological order in which they qualify."

SEC. 4. Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "201(a)(ii)" each place it appears in paragraphs (1) through (7) of subsection (a) and inserting in lieu thereof in each such place "201(a)(1) or (2)";

(2) by striking out the period at the end of paragraph (3) of subsection (a) and inserting in lieu thereof a comma and the following: "and whose services in the professions, sciences, or arts are sought by an employer in the United States.";

(3) by striking out the period at the end of paragraph (5) of subsection (a) and inserting in lieu thereof a comma and the following: "provided such citizens are at least twenty-one years of age."; and

(4) by striking out the second sentence of subsection (e) and inserting in lieu thereof the following: "The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within two years following notification of the availability of such visa that such failure to apply was due to circumstances beyond his control. Upon such termination the approval of any petition approved pursuant to section 204(b) shall be automatically revoked."

8 USC 1154.

SEC. 5. Section 212(a)(14) of such Act (8 U.S.C. 1182(a)(14)) is amended to read as follows:

"(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (A) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a)(3) and (6), and to non-preference immigrant aliens described in section 203(a)(8)";

8 USC 1153.

SEC. 6. Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended to read as follows:

"SEC. 245. (a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under sections 202(e) or 203(a) within the class to which the alien is chargeable for the fiscal year then current.

Ante, p. 2703.
8 USC 1153.

"(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; or (3) any alien admitted in transit without visa under section 212(d)(4)(C)."

8 USC 1151.

SEC. 7. (a) Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(b) Section 204 of such Act (8 U.S.C. 1154) is amended to add a new subsection (f), to read as follows:

"(f) The provisions of this section shall be applicable to qualified immigrants specified in paragraphs (1) through (6) of section 202(e)."

(c) Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by striking out "section 101(a)(27)(B)" and inserting in lieu thereof "section 101(a)(27)(A)".

(d) Section 212(a)(24) of such Act (8 U.S.C. 1182(a)(24)) is amended by striking out "101(a)(27)(A) and (B)" and inserting in lieu thereof "101(a)(27)(A) and aliens born in the Western Hemisphere".

(e) Section 241(a)(10) of such Act (8 U.S.C. 1251(a)(10)) is amended by striking out the language in the parentheses and inserting in lieu thereof the following: "other than an alien described in section 101(a)(27)(A) and aliens born in the Western Hemisphere".

(f) Section 244(d) of such Act (8 U.S.C. 1254(d)) is amended by striking out "is entitled to special immigrant classification under section 101(a)(27)(A), or".

Repeal.

(g) Section 21(e) of the Act of October 3, 1965 (Public Law 89-236; 79 Stat. 921), is repealed.

SEC. 8. The Act entitled "An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes", approved November 2, 1966 (8 U.S.C. 1255, note), is amended by adding at the end thereof the following new section:

"SEC. 5. The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States

Cuban refugees,
adjustment of
status.

on or before the effective date of the Immigration and Nationality Act Amendments of 1976.”

SEC. 9. (a) The amendments made by this Act shall not operate to affect the entitlement to immigrant status or the order of consideration for issuance of an immigrant visa of an alien entitled to a preference status, under section 203(a) of the Immigration and Nationality Act, as in effect on the day before the effective date of this Act, on the basis of a petition filed with the Attorney General prior to such effective date. 8 USC 1153 note.
8 USC 1153.

(b) An alien chargeable to the numerical limitation contained in section 21(e) of the Act of October 3, 1965 (79 Stat. 921), who established a priority date at a consular office on the basis of entitlement to immigrant status under statutory or regulatory provisions in existence on the day before the effective date of this Act shall be deemed to be entitled to immigrant status under section 203(a) (8) of the Immigration and Nationality Act and shall be accorded the priority date previously established by him. Nothing in this section shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of the Immigration and Nationality Act, as amended by section 4 of this Act. Any petition filed by, or in behalf of, such an alien to accord him a preference status under section 203(a) shall, upon approval, be deemed to have been filed as of the priority date previously established by such alien. The numerical limitation to which such an alien shall be chargeable shall be determined as provided in sections 201 and 202 of the Immigration and Nationality Act, as amended by this Act. Numerical limitation.

SEC. 10. The foregoing provisions of this Act, including the amendments made by such provisions, shall become effective on the first day of the first month which begins more than sixty days after the date of enactment of this Act. Effective date.
8 USC 1101 note.

Approved October 20, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1553 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 29, considered and passed House.

Oct. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 21, Presidential statement.

Public Law 94-572
94th Congress

An Act

Oct. 21, 1976
[H.R. 10192]

To amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the United States Coast Guard Academy.

U.S. Coast Guard
Academy cadets,
nondiscriminatory
appointment;
certain coastwise
vessels.

Vessels, *Barbara
Ann, Bruja Mar,
and Mary M.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 182 of title 14, United States Code, is amended by inserting after the second sentence thereof two new sentences as follows: "All such appointments shall be made without regard to the sex, race, color, or religious beliefs of an applicant. In the administration of this chapter, the Secretary shall take such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy, and that the relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals."

SEC. 2. (a) Notwithstanding the provisions of section 4132 of the Revised Statutes of the United States, as amended (46 U.S.C. 11), or any other provision of law, the Secretary of the Department in which the Coast Guard is operating (1) shall cause the vessels, *Barbara Ann* (vessel numbered 529835), presently jointly owned, with right of survivorship, by Keith E. and Barbara Malcolm of Marine City, Michigan, and *Bruja Mar* (vessel numbered 546133), presently owned by Greenwood Marine, Incorporated, a Louisiana corporation, to be documented as vessels of the United States with the privilege of engaging in the coastwise trade, and (2) shall cause the vessel, *Mary M* (vessel numbered 230483), presently owned by Charles Hammond, Junior, of Glen Burnie, Maryland, to be documented as a vessel of the United States with the privilege of engaging in the American fisheries, such documentation to be conditional upon compliance with all the requirements for such documentation other than the requirement that the vessel be built in the United States.

(b) The provisions of this section shall remain in effect for the *Barbara Ann* so long as the vessel continues in its present joint ownership, or in the ownership of the survivor thereof, and for the *Bruja Mar* so long as the vessel continues in its present ownership.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1109 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 94-1186 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 122 (1976):

May 18, considered and passed House.

Sept. 13, considered and passed Senate, amended.

Oct. 1, House agreed to Senate amendment with an amendment; Senate agreed to House amendment.

Public Law 94-573
94th Congress

An Act

To revise and extend the provisions of title XII of the Public Health Services Act relating to emergency medical services systems, and for other purposes.

Oct. 21, 1976

[S. 2548]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Emergency
Medical Services
Amendments of
1976.

SHORT TITLE AND REFERENCES IN ACT

SECTION 1. (a) This Act may be cited as the "Emergency Medical Services Amendments of 1976".

42 USC 201 note.

(b) Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

42 USC 201 note.

DEFINITIONS

SEC. 2. Paragraphs (4) and (5) of section 1201 are amended to read as follows:

42 USC 300d.

"(4) The term 'section 1521 State health planning and development agency' means the agency of a State designated under section 1521 (b) (3).

42 USC 300m.

"(5) The term 'section 1515 health systems agency' means a health systems agency designated under section 1515, and the term 'health systems plan' means a health systems plan referred to in section 1513 (b) (2)."

42 USC 300l-4.

42 USC 300l-2.

STUDY AND PLANNING GRANTS

SEC. 3. (a) Section 1202 is amended—

42 USC 300d-1.

(1) by inserting "(1)" in subsection (a) after "(a)";

(2) by striking out "projects" in subsection (a) and all that follows through "such a system" and inserting in lieu thereof "projects which include both studying the feasibility of and planning (A) the establishment and operation of an emergency medical services system, (B) the expansion and improvement of such a system, or (C) both";

(3) by redesignating subsection (b) as paragraph (2) of subsection (a);

(4) by striking out "this section" each place it appears in paragraph (2) (as so redesignated) of subsection (a) and inserting in lieu thereof "paragraph (1)"; and

(5) by inserting after subsection (a) the following new subsection:

"(b) (1) The Secretary may make a grant to or enter into a contract with an eligible entity (as defined in section 1206(a)) with respect to an emergency medical services system for the purpose of enabling the entity—

42 USC 300d-5.

"(A) to study the feasibility of, or plan for, the expansion and improvement of such system to provide for the use in such system of advanced life-support techniques, or

“(B) if such system is the system of a State for which system a study and planning grant or contract has been made or entered into under subsection (a) and if the entity is that State, to update the plan of such system to improve the delivery of emergency medical services in rural areas and to medically underserved populations of the State.

Certain
geographical
areas, exclusion.

“(2) If the Secretary makes a grant or enters into a contract under paragraph (1) respecting an emergency medical services system for a particular geographical area, the Secretary may not make any other grant or enter into any other contract under paragraph (1) respecting such system, or respecting any other such system for the same area or for an area which includes (in whole or substantial part) such area.”.

42 USC 300d-1.

(b) Section 1202 is amended—

(1) by amending subsection (c) to read as follows:

Reports to HEW
and Interagency
Committee on
Emergency
Medical Services.
42 USC 300d-8.

“(c) An eligible entity which has received a grant from or entered into a contract with the Secretary under this section shall submit to the Secretary and the Interagency Committee on Emergency Medical Services (established under section 1209) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of such grant or contract not later than one year after the date the grant was made or the contract was entered into, as the case may be.”;

(2) by amending paragraph (1) of subsection (d) to read as follows:

“(1) demonstrate to the satisfaction of the Secretary the need of the area for the emergency medical services system for which the application is made;”;

42 USC 300d-4.

(3) by amending clause (A) of subsection (d)(3) to read as follows: “(A) with each section 1515 health systems agency whose health systems plan covers or will cover (in whole or in part) such area, and”; and

(4) by adding at the end thereof the following new subsection:

“(f) The Secretary may not obligate or expend in any fiscal year for grants and contracts made or entered into under subsection (b)(1) an amount greater than 50 per centum of the sums appropriated in such year for grants and contracts made or entered into under this section.”.

INITIAL OPERATION AND ESTABLISHMENT GRANTS

42 USC 300d-2.

SEC. 4. Section 1203 is amended—

(1) by inserting “at least” in subsection (c)(2) before “nine months”, and by striking out “his” in such subsection and inserting in lieu thereof “its”;

(2) by striking out “June 30, 1976” in subsection (c)(3) and inserting in lieu thereof “September 30, 1979”; and

(3) by adding at the end thereof the following new subsections:

“(d) A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances of the participation in and support of the system by the public, private, and volunteer organizations and entities which are associated with and involved in activities essential to the effective provision of emergency medical services in the system’s service area.

“(e)(1) A first grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances, from the executive or legisla-

tive governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of each such bodies' support of and cooperation with the system.

"(2) A second grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

"(A) the Secretary has made the required determination under subsection (c) (2) ;

"(B) the application for such grant or contract includes specific plans for the step-by-step achievement of compliance with each of the requirements of section 1206(b)(4)(C) within the period specified in section 1206(b)(4)(B)(i) ; and 42 USC 300d-5.

"(C) the application for such grant or contract includes assurances, evidenced by copies of formal resolutions, proclamations, or other acts of the executive or legislative governmental bodies of political subdivisions located in the system's service area which govern a substantial proportion of the population residing in such area, of such bodies'—

"(i) continued support and cooperation with the system, and

"(ii) financial support of the system, in the year after the conclusion of the period of support under the grant or contract, sufficient to maintain the system at the level at which such system is to be maintained during the period of the grant or contract.

"(f) An eligible entity which has received a grant from or has entered into a contract with the Secretary under this section shall submit to the Secretary and the Interagency Committee on Emergency Medical Services (established under section 1209) a report on the results of such grant or contract at such intervals as the Secretary may prescribe, and shall submit to the Secretary and such Committee a final report on the results of grants made to or contracts entered into with the entity under this section not later than one year after the completion of the second such grant or contract under this section."

Report to HEW and the Interagency Committee on Emergency Medical Services.
42 USC 300d-8.

EXPANSION AND IMPROVEMENT GRANTS

SEC. 5. Section 1204 is amended by striking out subsection (b) and inserting in lieu thereof the following: 42 USC 300d-3.

"(b)(1) Each grant or contract for a project under this section shall be made for the project's costs of expansion and improvement in the year for which the grant or contract is made or entered into. If a grant or contract is made or entered into under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of at least the first nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the expansion and improvement of the system in accordance with the plan contained in its application (pursuant to section 1206(b)(4)) for the first grant or contract.

Additional grant or contract.

"(2) Subject to section 1206(f)—

"(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii)

First grant or contract, cost limitation.

Second grant or contract, cost limitation.

in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and

“(B) the amount of the second grant or contract under this section for a system may not exceed (i) 25 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year.

“(c) A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless the entity submits with its application for such grant or contract assurances of the participation and support of the system by the public, private, and volunteer organizations and entities which are associated with and involved in activities essential to the effective provision of emergency medical services in the system’s service area.

“(d) (1) A grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

42 USC 300d-5.

“(A) the application for such grant or contract includes specific plans for the step-by-step achievement of compliance with each of the requirements of section 1206(b) (4) (C) within the period specified in section 1206(b) (4) (B) (i); and

“(B) the application for such grant or contract includes assurances, evidenced by copies of formal resolutions, proclamations, or other acts of the executive or legislative governmental bodies of political subdivisions located in the system’s service area which govern a substantial proportion of the population residing in such area, of such bodies’—

“(i) support and cooperation with the system, and

“(ii) endorsement and support of a specific financial plan which provides for the maintenance of the financial support of the system, after the conclusion of the period of the grant or contract, at the level required to maintain the level of expanded or improved activity to be achieved during the period of the grant or contract.

“(2) A second grant or contract may not be made to or entered into with an entity under this section with respect to an emergency medical services system unless—

“(A) the Secretary has made the required determination under subsection (b) (1), and

“(B) the application for such grant or contract includes assurances, of the executive or legislative governmental bodies of political subdivisions located in the system’s service area which govern a substantial proportion of the population residing in such area, that substantial progress is being made toward achieving the financial support to implement the plan described in paragraph (1) (B) (ii).

Report to HEW and the Interagency Committee on Emergency Medical Services.

“(e) An eligible entity which has received a grant from or has entered into a contract with the Secretary under this section shall submit to the Secretary and the Interagency Committee on Emergency Medical Services (established under section 1209) a report on the results of such grant or contract at such intervals as the Secretary

may prescribe, and shall submit to the Secretary and such Committee a final report on the results of grants made to or contracts entered into with the entity under this section not later than one year after the completion of the second such grant or contract under this section.”.

RESEARCH GRANTS

SEC. 6. Section 1205 is amended—

42 USC 300d-4.

(1) by inserting “and enter into contracts with” in subsection (a) before “public”;

(2) by inserting “and especially research which emphasizes the identification and utilization of techniques and methods to apply the results of such research to improve the delivery of emergency medical services in such areas” in subsection (a) after “in rural areas”;

(3) by inserting at the end of subsection (c) the following new sentence: “Such reports shall contain recommendations and a plan of action for applying the results of the research assisted by such grant or contract to improve the delivery of emergency medical services.”; and

(4) by adding at the end thereof the following new subsection:

“(d) (1) Before any grant or contract may be made or entered into by the Secretary under this section the Secretary shall consult, concerning such grant or contract, with the identifiable administrative unit described in section 1208.

Post, p. 2715.

“(2) No regulation, guideline, funding priority, or application form shall be established under this section without the full participation in the development of such regulation, guideline, priority, or form, by the identifiable administrative unit described in section 1208.”.

GENERAL PROVISIONS

SEC. 7. Section 1206 is amended—

42 USC 300d-5.

(1) by inserting “(A)” in subsection (b) (1) before “No grant”;

(2) by inserting after subsection (b) (1) the following new subparagraph:

“(B) No applicant may receive more than a total of five years of grant or contract assistance under this part, except that, in determining the number of years of grant or contract assistance which an applicant received under this part, the Secretary shall not include any period during which the applicant received grant or contract assistance under section 1202(b) (1) or section 1205.”;

42 USC 300d-1,
300d-4.

(3) by amending clauses (i) and (ii) of subsection (b) (3) (D) to read as follows:

“(i) section 1521 State health planning and development agency of each State in which the service area of the emergency medical services system for which the application is submitted will be located, and

42 USC 300m.

“(ii) section 1515 health systems agency whose health systems plan covers or will cover (in whole or in part) the service area of such system.”;

42 USC 300l-4.

(4) by striking out “An” in subsection (b) (4) (A) and inserting in lieu thereof “No”, and by striking out “not” after “section 1203 or 1204 may” in such subsection;

42 USC 300d-2,
300d-3.

(5) by inserting “the respective section and of” in subsection (b) (4) (A) (i) after “requirements of”;

(6) by striking out “(A)” in subsection (b) (4) (B) (i) and inserting in lieu thereof “(C)”;

(7) by striking out “the period of the grant or contract for which application is made” in subsection (b) (4) (B) (i) and inserting in lieu thereof “the total period of eligibility for assistance under the section for which the application for assistance is made”;

(8) by striking out “and” before “(III)” in clause (iii) of subsection (b) (4) (C), and by inserting before the semicolon at the end of such clause the following: “, (IV) will have the capability to communicate with individuals having auditory handicaps and to communicate in the language of the predominant population groups with limited English-speaking ability in the system’s service area, and (V) makes maximum use of communications equipment and systems acquired under any highway safety program approved under chapter 4 of title 23, United States Code, and of such equipment and system acquired under title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.)”;

(9) by inserting “(making maximum use of vehicles acquired under any highway safety program approved under chapter 4 of title 23, United States Code)” in subsection (b) (4) (C) (iv) after “include”;

(10) by striking out “standardized” in subsection (b) (4) (C) (xi) and inserting in lieu thereof “coordinated”;

(11) by amending clause (xiii) of subsection (b) (4) (C) to read as follows:

“(xiii) provide the Secretary with such information as he may require to conduct periodic, comprehensive, and independent reviews and evaluations of the extent and quality of the emergency health care services provided in the system’s service area, and submit to the Secretary the results of any review or evaluation which may be conducted by such system of the extent and quality of the emergency health care services provided in the system’s service area.”;

(12) by striking out “section 1207 or title VII” in subsection (e) and inserting in lieu thereof “section 301, title IV, title VII, section 1207, or section 1221”;

(13) by striking out “1207” in clause (1) of subsection (e) and inserting in lieu thereof “1207(a)”;

(14) by inserting “(other than basic training of emergency medical technicians, training of paramedics, and short-term specialized training or retraining of physicians, nurses, and other health care professionals)” in subsection (f) (2) after “training program”;

(15) by inserting “(A) has” in subsection (f) (2) after “unless the applicant”; and

(16) by inserting before the period at the end of paragraph (2) of subsection (f) the following: “, or (B) has demonstrated to the satisfaction of the Secretary that the filing of such an application would be futile or unreasonably burdensome”.

23 USC 401 *et seq.*

Review or
evaluation;
submitted to
HEW.

42 USC 241,
281, 292, 300d-
6.
Post, p. 2718.

AUTHORIZATION OF APPROPRIATIONS

42 USC 300d-6.

SEC. 8. (a) Subsection (a) of section 1207 is amended—

(1) by striking out “and” after “1974,” and inserting after “1975” the following: “, \$35,000,000 for the fiscal year ending

June 30, 1976, \$5,083,000 for the period beginning July 1, 1976, and ending September 30, 1976, \$45,000,000 for the fiscal year ending September 30, 1977, and \$55,000,000 for the fiscal year ending September 30, 1978”;

(2) by striking out “for the fiscal year ending June 30, 1976, there are authorized to be appropriated \$70,000,000” and inserting in lieu thereof “, there are authorized to be appropriated \$70,000,000 for the fiscal year ending September 30, 1979”; and

(3) by adding at the end thereof the following new paragraph:

“(5) (A) Of the sums appropriated under paragraph (1) for the fiscal year ending September 30, 1977, and for the succeeding fiscal year, at least 2½ per centum but not more than 5 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 1202.

42 USC 300d-1.

“(B) Of the sums appropriated under paragraph (1) for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years, (i) not less than 20 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 1203, and (ii) not less than 20 per centum of such sums for each such fiscal year shall be used for grants and contracts under section 1204.”.

42 USC 300d-2.

42 USC 300d-3.

42 USC 300d-6.

(b) Section 1207(b) is amended by striking out “two” and inserting in lieu thereof “five”.

ADMINISTRATION

SEC. 9. Section 1208 is amended to read as follows:

42 USC 300d-7.

“SEC. 1208. (a) The Secretary shall administer the program of grants and contracts (except for grants and contracts under section 1205) authorized by this part through an identifiable administrative unit specializing in emergency medical services within the Department of Health, Education, and Welfare.

42 USC 300d-4.

“(b) Such administrative unit shall—

“(1) be responsible for collecting, analyzing, cataloging, and disseminating all data useful in the development and operation of emergency medical services systems, including data derived from reviews and evaluations of emergency medical services systems assisted under sections 1202, 1203, and 1204;

“(2) publish suggested criteria for collecting necessary information for the evaluation of projects and programs funded under this title;

“(3) participate fully in the development of regulations, guidelines, funding priorities, and application forms relating to activities carried out under sections 776, 1205, and 1221;

42 USC 295f-6,
300d-4.

“(4) be consulted in advance of the awarding of grants and contracts under sections 776, 1205, and 1221;

Post, p. 2718.

“(5) be consulted in advance of the issuance of regulations, guidelines, and funding priorities relating to research or training in the area of emergency medical services carried out under any other authority of this Act;

“(6) provide technical assistance (with special consideration for applicants in rural areas) and monitoring with respect to grant and contract activities under sections 1202, 1203, 1204, and 1221; and

“(7) provide for periodic, independent evaluations of the effectiveness of, and coordination between, the programs carried out

- under this part and the programs carried out under sections 776 and 1221.
- 42 USC 295f-6.
Post, p. 2718. “(c) In addition, such administrative unit shall, through the Inter-agency Committee on Emergency Medical Services (established under section 1209)—
- 42 USC 300d-8. “(1) study on a continuing basis (including evaluating the adequacy, technical soundness, and redundancy of) the roles, resources, and responsibilities of all Federal programs and activities relating to emergency medical services;
- Infra*. “(2) annually update (A) the Federal emergency medical services funding and resource-sharing plan, (B) the description of sources of Federal support, and (C) the recommended uniform standards with respect to emergency medical services equipment and training, all initially developed and published by the Committee under section 1209(b);
- “ (3) make recommendations to the Secretary respecting steps he might take, using the authorities available to him, to encourage States to implement the recommended uniform standards described in paragraph (2)(C); and
- “ (4) make recommendations to the Secretary respecting the administration of, and regulations under, the programs of grants and contracts under this title.
- Report to Congress. Such unit shall report to the Congress the results of studies made under paragraph (1). The first such report shall be made not later than June 15, 1977, the second such report shall be made not later than February 1, 1978, and subsequent reports shall be made not later than February 1 of each year after 1978.”

INTERAGENCY COMMITTEE

- 42 USC 300d-8. SEC. 10. (a) The second sentence of subsection (a) of section 1209 is amended to read as follows: “The Committee shall coordinate and provide for the communication and exchange of information among all Federal programs and activities relating to emergency medical services, and shall carry out its responsibilities under section 1208(c).”
- Ante*, p. 2715. (b) Section 1209(b) is amended by striking out “the National Academy of Sciences,” and inserting “and from the National Academy of Sciences” after “Education, and Welfare”).
- (c) Section 1209(e) is amended by striking out “1203” and inserting in lieu thereof “1202, 1203.”
- (d) Section 1209 is amended by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively, and by inserting after subsection (a) the following new subsection:
- “ (b) The Committee shall, not later than July 1, 1977, develop and publish:
- Federal emergency medical services funding and resource-sharing plan. “(1) A coordinated, comprehensive Federal emergency medical services funding and resource-sharing plan, designed to promote the coordination between, and enhance the effectiveness of, Federal, State, and local funding and operation of programs and agencies relating to emergency medical services and related activities (including communication and transportation systems of public safety agencies).
- “ (2) A description of sources of Federal support for the purchase of vehicles and communications equipment and for training activities related to emergency medical services.

“(3) Recommended uniform standards of quality, health, and safety with respect to all equipment (including communications and transportation equipment) and training related to emergency medical services.

The plan described in paragraph (1) shall include a report containing recommendations for any legislation which would enhance the capability of Federal, State, and local governments to provide an integrated response in medical emergencies. The description described in paragraph (2) shall be disseminated to the regional offices of Federal agencies which provide financial support in the purchase of vehicles and equipment or in training activities related to emergency medical services for distribution to appropriate entities and the public.” Report.

ANNUAL REPORTS

SEC. 11. Section 1210 is amended by inserting at the end thereof the following: “The report under this section covering the fiscal year ending June 30, 1976, shall also cover the period beginning July 1, 1976, and ending September 30, 1976, and shall be submitted to Congress not later than February 1, 1977. The report under this section covering the fiscal year ending September 30, 1977, and each report covering each subsequent fiscal year, shall be submitted to Congress not later than February 1, in the fiscal year following each such fiscal year.” 42 USC 300d-9.

TRAINING GRANTS

SEC. 12. (a) Section 776(a) is amended—

42 USC 295f-6.

(1) by inserting “(1)” after “(a)”;

(2) by inserting “hospitals having training programs which meet requirements established by the Secretary,” before “schools of medicine”;

(3) by striking out “and” before “other appropriate”;

(4) by inserting “, and other appropriate public entities (as defined in paragraph (2))” after “educational entities”;

(5) by inserting “and to assist in meeting the cost of training, and establishment of programs for the training, of physicians in emergency medicine” after “ambulance service”; and

(6) by adding at the end thereof the following new paragraph:

“(2) For the purposes of paragraph (1), the term ‘other appropriate public entity’ means a State, unit of general local government, or any other public entity which—

“Other appropriate public entity.”

“(A) has established an emergency medical services system (as defined in section 1201(1)), and

42 USC 300d.

“(B) except with respect to the basic training of emergency medical technicians, has entered into an agreement with an appropriate educational entity for a training program under this section.”

(b) Section 776 is amended—

(1) by redesignating subsection (e) as subsection (g) and amending such subsection (as so redesignated)—

(A) by inserting “(1)” after “(g)”;

(B) by inserting “, and each of the next five fiscal years” after “1974”; and

(C) by inserting at the end thereof the following new paragraph:

“(2) Not less than 30 percent of the funds appropriated under paragraph (1) for any fiscal year shall be used in that fiscal year to

assist in meeting the cost of training, and of establishment of programs for the training, of physicians in emergency medicine.”; and

(2) by inserting after subsection (d) the following new subsections:

“(e) No regulation, guideline, funding priority, or application form shall be established with respect to this section without the full participation in the development of such regulation, guideline, priority, or form, by the administrative unit described in section 1208.

Ante, p. 2715.

“(f) To the maximum extent practicable, the Secretary shall establish a uniform funding cycle so as to coordinate the submission and review of applications for grants and contracts under title XII and under this section and to coordinate funding policies among programs carried out under such authorities.”.

42 USC 300d.

EXPENSES OF ADMINISTRATION

42 USC 300d-7
note.

SEC. 13. Not later than 60 days after the date of enactment of the annual appropriations Act making appropriations for the programs under title XII of the Public Health Service Act for each fiscal year ending after September 30, 1976, the Secretary of Health, Education, and Welfare shall allocate an amount of expenditures and a number of personnel positions sufficient for the identifiable administrative unit (described in section 1208 of such Act) to—

(1) provide support (including salaries of unit personnel and costs of administration, data gathering and dissemination, technical assistance, monitoring, and independent evaluation) for it to carry out its functions under title XII of such Act for such fiscal year; and

42 USC 300d-8.

(2) provide support for the Interagency Committee on Emergency Medical Services established under section 1209 of such Act for such fiscal year,

Report to
congressional
committees.

and shall immediately report to the appropriate Committees of Congress a statement of the amount of expenditures and the number of personnel positions so allocated for such fiscal year.

BURN INJURY PROGRAM AND CONFORMING AMENDMENTS

42 USC 300d.

SEC. 14. Title XII is amended—

(1) by inserting “PART A—ASSISTANCE FOR EMERGENCY MEDICAL SERVICES SYSTEMS” after the heading for the title;

42 USC 300d,
300d-5.

(2) by striking out “this title” each place it appears in section 1201 and in subsections (b) and (e) of section 1206 and inserting in lieu thereof “this part”; and

42 USC 300d-9.

(3) by inserting after section 1210 the following new part:

“PART B—BURN INJURIES

“PROGRAMS RELATING TO BURN INJURIES

Grants and
contracts.
42 USC 300d-21.

“SEC. 1221. (a) (1) The Secretary may make grants to, and enter into contracts with, public or private nonprofit entities for the support of, and may conduct, programs for the establishment, operation, and improvement of activities to (A) demonstrate the effectiveness of different methods for the treatment and rehabilitation of individuals injured by burns, (B) conduct research in the treatment and rehabilitation of such individuals, and (C) provide training in such treatment and rehabilitation and in such research.

“(2) The Secretary may enter into contracts with entities and individuals for the support of research in the treatment and rehabilitation of individuals injured by burns.

“(b) No grant or contract may be made or entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be submitted in such form and manner and contain such information as the Secretary may require. In considering applications under this section, the Secretary shall give priority to applications for programs which (1) will provide services within a geographical area in which services are not currently being adequately provided, and (2) are in or accessible to the service area of an emergency medical services system (as defined in section 1201(1)).

Applications.

“(c) For purposes of carrying out subsection (a), there are authorized to be appropriated \$5,000,000 for the fiscal year ending September 30, 1977, \$7,500,000 for the fiscal year ending September 30, 1978, and \$10,000,000 for the fiscal year ending September 30, 1979.”

42 USC 300d.
Appropriation
authorization.

TRANSFER OF EQUIPMENT

SEC. 15. Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare may vest title to equipment purchased—

42 USC 242b
note.

(1) with funds under the seven contracts for emergency medical services demonstration projects entered into in 1972 and 1973 under section 304 of the Public Health Service Act (as in effect at the time the contracts were entered into), and

42 USC 242b.

(2) by contractors with the United States under such contracts or subcontractors under such contracts, in such contractors or subcontractors without further obligation to the Government or on such terms as the Secretary considers appropriate.

UNIFORM PATIENT REPORTING SYSTEM

SEC. 16. The Secretary of Health, Education, and Welfare shall conduct studies to identify the categories of patients which should be included in a uniform reporting system to be used to evaluate the effectiveness of emergency medical services systems and burn injury programs supported under title XII of the Public Health Service Act in reducing death and disability. Not later than 18 months after the date of enactment of this Act, the Secretary shall report to the Congress the results of such studies. Such report shall include such recommendations for legislation relating to such a uniform reporting system as the Secretary determines are appropriate.

42 USC 300d-9
note.

42 USC 300d.

EXTENSION OF ARTHRITIS COMMISSION

SEC. 17. Section 3(j)(2) of the National Arthritis Act of 1974 (Public Law 93-640) is amended to read as follows:

“(2) The Commission shall cease to exist on December 31, 1976.”

42 USC 289c-1
note.

EXTENSION OF THE COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS

SEC. 18. (a) Section 204(d) of the National Research Act (Public Law 93-348) is amended by striking out “24-month period” each place it appears and inserting in lieu thereof “36-month period”.

42 USC 289f-1
note.

42 USC 218 note. (b) Section 211(b) of such Act is amended by striking out "January 1, 1977" and inserting in lieu thereof "January 1, 1978".

REVIEW OF ALCOHOLISM GRANTS

SEC. 19. (a) Section 311(c)(2) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4577) is amended—

- (1) by inserting "(A)" after "(2)";
- (2) by striking out the last two sentences thereof; and
- (3) by inserting at the end thereof the following new subparagraph:

Submittal to
National
Advisory Council
on Alcohol
Abuse and
Alcoholism.

"(B)(i) Except as provided in clause (ii), each application for a grant under this section shall be submitted by the Secretary to the National Advisory Council on Alcohol Abuse and Alcoholism for his review. The Secretary may approve an application for a grant under this section only if it is recommended for approval by such Council.

"(ii) Clause (i) shall not apply to an application for a grant under this section for a project or program for any period of 12 consecutive months for which period payments under such grant will be less than \$250,000, if an application for a grant under this section for such project or program and for a period of time which includes such 12-month period has been submitted to, and approved by, the Secretary."

Effective date.
42 USC 4577
note.

(b) The amendment made by subsection (a) shall apply with respect to applications for grants under section 311 of such Act after June 30, 1976.

EFFECTIVE DATE

42 USC 300d
note.

SEC. 20. Amendments and repeals made to the Public Health Service Act by this Act shall not apply with respect to grants made or contracts entered into before the date of enactment of this Act, except that the amendments made by sections 4(3) and 5 of this Act with respect to adding a new subsection (f) to section 1203 and a new subsection (e) to section 1204, respectively, of the Public Health Service Act shall apply to grants made and contracts entered into after June 1, 1976.

Ante, p. 2710.

Ante, p. 2711.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1089 accompanying H.R. 12664 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-889 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 10, considered and passed Senate.

Aug. 24, considered and passed House, amended, in lieu of H.R. 12664.

Oct. 1, Senate agreed to House amendments with an amendment; House agreed to Senate amendment.

Public Law 94-574
94th Congress

An Act

To amend chapter 7, title 5, United States Code, with respect to procedure for judicial review of certain administrative agency action, and for other purposes.

Oct. 21, 1976

[S. 800]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 702 and 703 of title 5, United States Code, are amended to read as follows:

Administrative
agency action.
Judicial review
procedures.

“§ 702. Right of review

“A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States: *Provided*, That any mandatory or injunctive decree shall specify the Federal officer or officers (by name or by title), and their successors in office, personally responsible for compliance. Nothing herein (1) affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground; or (2) confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought.

“§ 703. Form and venue of proceeding

“The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. If no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement.”

SEC. 2. Section 1331(a) of title 28, United States Code, is amended by striking the final period and inserting a comma and adding thereafter the following: “except that no such sum or value shall be required in any such action brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.”

District courts,
civil action
amounts.

SEC. 3. The first paragraph of section 1391(e) of title 28, United States Code, is amended to read as follows:

District courts,
venue.

“(e) A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States,

28 USC app.

or the United States, may, except as otherwise provided by law, be brought in any judicial district in which (1) a defendant in the action resides, or (2) the cause of action arose, or (3) any real property involved in the action is situated, or (4) the plaintiff resides if no real property is involved in the action. Additional persons may be joined as parties to any such action in accordance with the Federal Rules of Civil Procedure and with such other venue requirements as would be applicable if the United States or one of its officers, employees, or agencies were not a party.”.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1656 (Comm. on the Judiciary).
SENATE REPORT No. 94-996 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 122 (1976):

July 1, considered and passed Senate, amended.
Oct. 1, considered and passed House.

Public Law 94-575
94th Congress

An Act

To amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes.

Oct. 21, 1976
[H.R. 13828]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Records
Management
Amendments of
1976.
44 USC 2901
note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Records Management Amendments of 1976".

AMENDMENT OF CHAPTER 29, TITLE 44, UNITED STATES CODE

SEC. 2. (a) Chapter 29 of title 44, United States Code, is amended—
(1) by striking out sections 2901 and 2902 of such chapter and inserting in lieu thereof the following:

“§ 2901. Definitions

44 USC 2901.

“As used in this chapter, and chapters 21, 25, 27, 31, and 33 of this title—

“(1) the term ‘records’ has the meaning given it by section 3301 of this title;

“(2) the term ‘records management’ means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition;

“(3) the term ‘records creation’ means the production or reproduction of any record;

“(4) the term ‘records maintenance and use’ means any activity involving—

“(A) location of records of a Federal agency;

“(B) storage, retrieval, and handling of records kept at office file locations by or for a Federal agency;

“(C) processing of mail by a Federal agency; or

“(D) selection and utilization of equipment and supplies associated with records and copying;

“(5) the term ‘records disposition’ means any activity with respect to—

“(A) disposal of temporary records no longer necessary for the conduct of business by destruction or donation;

“(B) transfer of records to Federal agency storage facilities or records centers;

“(C) transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation; or

“(D) transfer of records from one Federal agency to any other Federal agency;

“(6) the term ‘records center’ means an establishment maintained and operated by the Administrator or by another Federal agency primarily for the storage, servicing, security, and processing of records which need to be preserved for varying periods of time and need not be retained in office equipment or space;

“(7) the term ‘records management study’ means an investigation and analysis of any Federal agency records, or records management practices or programs (whether manual or automated), with a view toward rendering findings and recommendations with respect thereto;

“(8) the term ‘inspection’ means reviewing any Federal agency’s records or records management practices or programs with respect to effectiveness and compliance with records management laws and making necessary recommendations for correction or improvement of records management;

“(9) the term ‘servicing’ means making available for use information in records and other materials in the custody of the Administrator, or in a records center—

“(A) by furnishing the records or other materials, or information from them, or copies or reproductions thereof, to any Federal agency for official use, or to the public; or

“(B) by making and furnishing authenticated or unauthenticated copies or reproductions of the records or other materials;

“(10) the term ‘unauthenticated copies’ means exact copies or reproductions of records or other materials that are not certified as such under seal and that need not be legally accepted as evidence;

“(11) the term ‘National Archives of the United States’ means those official records which have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government, and which have been accepted by the Administrator for deposit in his custody;

“(12) the term ‘Administrator’ means the Administrator of General Services;

“(13) the terms ‘executive agency’ and ‘Federal agency’ shall have the meanings given such terms by subsections (a) and (b), respectively, of section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472 (a) and (b)).

44 USC 2902.

“§ 2902. Objectives of records management

“It is the purpose of this chapter, and chapters 21, 31, and 33 of this title, to require the establishment of standards and procedures to assure efficient and effective records management. Such records management standards and procedures shall seek to implement the following goals:

“(1) Accurate and complete documentation of the policies and transactions of the Federal Government.

“(2) Control of the quantity and quality of records produced by the Federal Government.

“(3) Establishment and maintenance of mechanisms of control with respect to records creation in order to prevent the creation of unnecessary records and with respect to the effective and economical operations of an agency.

“(4) Simplification of the activities, systems, and processes of records creation and of records maintenance and use.

“(5) Judicious preservation and disposal of records.

“(6) Direction of continuing attention on records from their initial creation to their final disposition, with particular emphasis on the prevention of unnecessary Federal paperwork.

“(7) Establishment and maintenance of such other systems or techniques as the Administrator considers necessary to carry out the purposes of this chapter, and chapters 21, 31, and 33 of this title.”;

(2) by striking out section 2904 of such chapter and inserting in lieu thereof the following:

“§ 2904. General responsibilities of Administrator

44 USC 2904.

“The Administrator shall provide guidance and assistance to Federal agencies with respect to records creation, records maintenance and use, and records disposition. In providing such guidance and assistance, the Administrator shall have responsibility to—

“(1) promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies for records management;

“(2) promulgate standards, procedures, and guidelines with respect to records management and records management studies; Standards and guidelines.

“(3) conduct research with respect to the improvement of records management practices and programs;

“(4) serve as a clearinghouse for information with respect to records management and as a central source for reference and training materials with respect to records management;

“(5) establish such interagency committees and boards as may be necessary to provide an exchange of information among Federal agencies with respect to records management;

“(6) disseminate information with respect to technological development in records management;

“(7) direct the continuing attention of Federal agencies and the Congress on the burden placed on the Federal Government by unnecessary paperwork, and on the need for adequate policies governing records creation, maintenance and use, and disposition;

“(8) conduct records management studies and, in his discretion, designate the heads of executive agencies to conduct records management studies with respect to establishing systems and techniques designed to save time and effort in records management, with particular attention given to standards and procedures governing records creation; Studies.

“(9) conduct inspections or records management studies which involve a review of the programs and practices of more than one Federal agency and which examine interaction among and relationships between Federal agencies with respect to records and records management; and

“(10) report to the Congress and to the Director of the Office of Management and Budget each year, at such time or times as he may deem desirable, on the results of the foregoing activities, including evaluations of responses by Federal agencies to any recommendations resulting from studies or inspections conducted by him.”; Report to Congress and Director of OMB.

(3) by striking out sections 2906 and 2907 of such chapter and inserting in lieu thereof the following:

“§ 2906. Inspection of agency records

44 USC 2906.

“(a)(1) In carrying out his duties and responsibilities under this chapter, the Administrator of General Services or his designee may inspect the records or the records management practices and programs of any Federal agency solely for the purpose of rendering recommendations for the improvement of records management practices and programs. Officers and employees of such agencies shall

cooperate fully in such inspections, subject to the provisions of paragraphs (2) and (3) of this subsection.

“(2) Records, the use of which is restricted by law or for reasons of national security or the public interest, shall be inspected, in accordance with regulations promulgated by the Administrator, subject to the approval of the head of the agency concerned or of the President.

5 USC 552a.

“(3) If the Administrator or his designee inspects a record, as provided in this subsection, which is contained in a system of records which is subject to section 552a of title 5, such record shall be—

“(A) maintained by the Administrator or his designee as a record contained in a system of records; or

“(B) deemed to be a record contained in a system of records for purposes of subsections (b), (c), and (i) of section 552a of title 5.

“(b) In conducting the inspection of agency records provided for in subsection (a) of this section, the Administrator or his designee shall, in addition to complying with the provisions of law cited in subsection (a)(3), comply with all other Federal laws and be subject to the sanctions provided therein.

44 USC 2907.

“§ 2907. Records centers and centralized microfilming services

“The Administrator may establish, maintain, and operate records centers and centralized microfilming services for Federal agencies.”; and

Repeal.

44 USC 2910.

(4) by striking out section 2910.

(b) The table of sections for chapter 29 of title 44, United States Code, is amended to read as follows:

“2901. Definitions.

“2902. Objectives of records management.

“2903. Custody and control of property.

“2904. General responsibilities of Administrator.

“2905. Establishment of standards for selective retention of records; security measures.

“2906. Inspection of agency records.

“2907. Records centers and centralized microfilming services.

“2908. Regulations.

“2909. Retention of records.”.

AMENDMENT OF CHAPTER 31, TITLE 44, UNITED STATES CODE

SEC. 3. (a) Chapter 31 of title 44, United States Code, is amended—

(1) by striking out “, maintenance,” in section 3102 and inserting lieu thereof “and over the maintenance”;

(2) by striking out “2901, 2903–2909” in section 3102(3) and inserting in lieu thereof “2901–2909”;

(3) by striking out section 3103 of such chapter and inserting in lieu thereof the following:

44 USC 3103.

“§ 3103. Transfer of records to records centers

“When the head of a Federal agency determines that such action may affect substantial economies or increased operating efficiency, he shall provide for the transfer of records to a records center maintained and operated by the Administrator, or, when approved by the Administrator, to a center maintained and operated by the head of the Federal agency.”; and

(4) by striking out, in the text of section 3107, everything preceding the word “title” and inserting in lieu thereof “Chapters 21, 25, 27, 29, and 31 of this”.

(b) The table of sections for chapter 31 of title 44, United States Code, is amended by striking out the item relating to section 3103 and inserting in lieu thereof the following:

“3103. Transfer of records to records centers.”.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 4. (a) Chapter 21 of title 44, United States Code, is amended by striking out “section 3106” each place it appears in sections 2103(4) and 2108 (b) and (c), and inserting in lieu thereof “section 2107”.

(b) Chapter 21 of such title is further amended by striking out “or 31” in section 2111(b) and “and 31” in section 2112, and inserting in lieu thereof “31, or 33” and “31, and 33”, respectively.

(c) Chapter 33 of such title is amended—

(1) by striking out “; approval by President” in the table of sections item relating to section 3302 and in the heading of such section; and

(2) by inserting “machine readable materials,” immediately after “photographs,” in section 3301.

EFFECT ON OTHER LAWS

SEC. 5. (a) The provisions of this Act relating to the authority of the Administrator of General Services do not limit or repeal additional authorities provided by statute or otherwise recognized by law. 44 USC 2901 note.

(b) The provisions of this Act do not limit or repeal the authority or responsibilities of the Joint Committee on Printing or the Government Printing Office under chapters 1 through 19 of title 44, United States Code.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1426 (Comm. on Government Operations).

SENATE REPORT No. 94-1326 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 24, considered and passed House.

Sept. 28, considered and passed Senate, amended; proceedings vacated.

Oct. 1, considered and passed Senate, amended; House agreed to Senate amendment.

Public Law 94-576
94th Congress

An Act

Oct. 21, 1976
[H.R. 15563]

To amend the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 4601-17(c)), and for other purposes.

Dams and
reservoirs.
Recreational,
public uses.
16 USC
4601-17.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(d) of the Act of July 9, 1965 (79 Stat. 213; 16 U.S.C. 460 L-17(c)) is amended by inserting after "Authority," "but the Authority is authorized to recognize and provide for recreational and other public uses at any dams and reservoirs heretofore or hereafter constructed in a manner consistent with the promotion of navigation, flood control, and the generation of electrical energy, as otherwise required by law,".

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1608 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1353 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 22, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 1, House agreed to Senate amendment with an amendment; Senate agreed to House amendment.

Public Law 94-577
94th Congress

An Act

To improve judicial machinery by further defining the jurisdiction of United States magistrates, and for other purposes.

Oct. 21, 1976

[S. 1283]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 636(b) of title 28, United States Code, is amended to read as follows:

U.S. magistrates.
Jurisdiction,
definition.

“(b) (1) Notwithstanding any provision of law to the contrary—

“(A) a judge may designate a magistrate to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate’s order is clearly erroneous or contrary to law.

“(B) a judge may also designate a magistrate to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for posttrial relief made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.

“(C) the magistrate shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate. The judge may also receive further evidence or recommit the matter to the magistrate with instructions.

“(2) A judge may designate a magistrate to serve as a special master pursuant to the applicable provisions of this title and the Federal Rules of Civil Procedure for the United States district courts. A judge may designate a magistrate to serve as a special master in any civil case, upon consent of the parties, without regard to the provisions of rule 53(b) of the Federal Rules of Civil Procedure for the United States district courts.

28 USC app.

“(3) A magistrate may be assigned such additional duties as are not inconsistent with the Constitution and laws of the United States.

“(4) Each district court shall establish rules pursuant to which the magistrates shall discharge their duties.”.

28 USC app.

SEC. 2. (a) (1) Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts is amended to read as follows:

“(b) FUNCTION OF THE MAGISTRATE.—

“(1) When designated to do so in accordance with 28 U.S.C. § 636(b), a magistrate may conduct hearings, including evidentiary hearings, on the petition, and submit to a judge of the court proposed findings of fact and recommendations for disposition.

“(2) The magistrate shall file proposed findings and recommendations with the court and a copy shall forthwith be mailed to all parties.

“(3) Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.

“(4) A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify in whole or in part any findings or recommendations made by the magistrate.”.

28 USC app.

(2) Rule 8(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts is amended to read as follows:

“(b) FUNCTION OF THE MAGISTRATE.—

“(1) When designated to do so in accordance with 28 U.S.C. § 636(b), a magistrate may conduct hearings, including evidentiary hearings, on the motion, and submit to a judge of the court proposed findings and recommendations for disposition.

“(2) The magistrate shall file proposed findings and recommendations with the court and a copy shall forthwith be mailed to all parties.

“(3) Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.

“(4) A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify in whole or in part any findings or recommendations made by the magistrate.”.

(b)(1) Rule 8(c) of such Rules Governing Section 2254 Cases is amended by striking out “and shall conduct the hearing” and inserting in lieu thereof the following: “and the hearing shall be conducted”. 28 USC app.

(2) Rule 8(c) of such Rules Governing Section 2255 Proceedings is amended by striking out “and shall conduct the hearing” and inserting in lieu thereof the following: “and the hearing shall be conducted”.

(c) The amendments made by this section shall take effect with respect to petitions under section 2254 and motions under section 2255 of title 28 of the United States Code filed on or after February 1, 1977. Effective date.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1609 (Comm. on the Judiciary).

SENATE REPORT No. 94-625 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 5, considered and passed Senate.

Oct. 1, considered and passed House, amended; Senate agreed to House amendments.

Public Law 94-578
94th Congress

An Act

Oct. 21, 1976

[H.R. 13713]

To provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Park
System.
Appropriation
ceilings increase;
boundary
changes.

TITLE I—ACQUISITION CEILING INCREASES

SEC. 101. The limitations on appropriations for the acquisition of lands and interests therein within units of the National Park System contained in the following Acts are amended as follows:

- (1) Arches National Park, Utah: section 7 of the Act of November 12, 1971 (85 Stat. 422), is amended by changing “\$125,000” to “\$275,000”;
- (2) Assateague Island National Seashore, Maryland and Virginia: section 11 of the Act of September 21, 1965 (79 Stat. 824), as amended (16 U.S.C. 459f), is further amended by changing “\$21,050,000” to “\$22,400,000”;
- (3) Buffalo National River, Arkansas: section 7 of the Act of March 1, 1972 (86 Stat. 44), is amended by changing “\$16,115,000” to “\$30,071,500”;
- (4) Capitol Reef National Park, Utah: section 7 of the Act of December 18, 1971 (85 Stat. 739), is amended by changing “\$423,000” to “\$2,173,000”;
- (5) Fire Island National Seashore, New York: section 10 of the Act of September 11, 1964 (78 Stat. 928), is amended by changing “\$16,000,000” to “\$18,000,000”;
- (6) Gulf Islands National Seashore, Florida and Mississippi: section 11 of the Act of January 8, 1971 (84 Stat. 1967), is amended by changing “\$3,462,000” to “\$22,162,000”;
- (7) Lincoln Home National Historic Site, Illinois: section 3 of the Act of August 18, 1971 (85 Stat. 347), is amended by changing “\$2,003,000” to “\$3,059,000”;
- (8) Mesa Verde National Park, Colorado: section 3 of the Act of December 23, 1963 (77 Stat. 473), is amended by changing “\$125,000” to “\$193,233”;
- (9) North Cascades National Park and Lake Chelan National Recreation Area, Washington: section 506 of the Act of October 2, 1968 (82 Stat. 926), is amended by changing “\$3,500,000” to “\$4,500,000”;
- (10) Saint-Gaudens National Historic Site, New Hampshire: section 6 of the Act of August 31, 1964 (78 Stat. 749), is amended by adding a new sentence as follows: “For the acquisition of lands or interest therein, there is authorized to be appropriated not to exceed \$80,000.”;
- (11) Scotts Bluff National Monument, Nebraska: section 3 of the Act of June 30, 1961 (75 Stat. 148), is amended by changing “\$15,000” to “\$145,000”;
- (12) Canyonlands National Park, Utah: section 8 of the Act of September 12, 1964 (78 Stat. 934) as amended (85 Stat. 421) is further amended by changing “\$16,000” to “\$104,500”; and

(13) Padre Island National Seashore, Texas: section 8 of the Act of September 28, 1962 (76 Stat. 650) is amended by changing “\$5,000,000” to “\$5,350,000”. 16 USC 459d-7.

TITLE II—DEVELOPMENT CEILING INCREASES

SEC. 201. The limitations on appropriations for development of units of the National Park System contained in the following Acts are amended as follows:

(1) Andrew Johnson National Historic Site, Tennessee: section 3 of the Act of December 11, 1963 (77 Stat. 350), is amended by changing “\$66,000” to “\$266,000”; 16 USC 461 note.

(2) Arkansas Post National Memorial, Arkansas: section 3 of the Act of July 6, 1960 (74 Stat. 334), as amended (80 Stat. 339), is further amended by changing “\$550,000” to “\$2,750,000”; 16 USC 431 note.

(3) Chamizal National Memorial, Texas: section 5 of the Act of June 30, 1966 (80 Stat. 232), is amended by changing “\$2,060,000” to “\$5,063,000”; 16 USC 431 note.

(4) Fort Larned National Historic Site, Kansas: section 3 of the Act of August 31, 1964 (78 Stat. 748), is amended by changing “\$1,273,000” to “\$4,273,000”; 16 USC 461 note.

(5) Golden Spike National Historic Site, Utah: section 3 of the Act of July 30, 1965 (79 Stat. 426), is amended by changing “\$1,168,000” to “\$5,422,000”; 16 USC 461 note.

(6) Jefferson National Expansion Memorial National Historic Site, Missouri: section 4 of the Act of May 17, 1954 (68 Stat. 98), as amended (16 U.S.C. 450jj), is further amended by changing “\$23,250,000” to “\$32,750,000”; 16 USC 450jj note.

(7) Saint Gaudens National Historic Site, New Hampshire: section 6 of the Act of August 31, 1964 (78 Stat. 749), is amended by changing “\$210,000” to “\$2,677,000”; 16 USC 461 note.

(8) Vicksburg National Military Park, Mississippi: section 3 of the Act of June 4, 1963 (77 Stat. 55), is amended by changing “\$2,050,000” to “\$3,850,000”; 16 USC 430h-5.

(9) Channel Islands National Monument, California: paragraph (1) of section 201 of the Act of October 26, 1974 (88 Stat. 1445, 1446), is amended by changing “\$2,936,000” to “\$5,452,000”; and

(10) Nez Perce National Historical Park, Idaho: section 7 of the Act of May 15, 1965 (79 Stat. 110) is amended by changing “\$1,337,000” to “\$4,100,000”. 16 USC 281f.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. The Act of September 21, 1965 (79 Stat. 824), as amended (16 U.S.C. 459f), providing for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, is further amended by repealing sections 7 and 9 in their entirety, and by adding the following new section 12: Repeal.
16 USC 459f-6,
459f-8.

“SEC. 12. (a) Within two years of the date of enactment of this section, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives a comprehensive plan for the protection, management, and use of the seashore, to include but not be limited to the following considerations: Comprehensive plan, transmittal to congressional committees.
16 USC 459f-11.

“(1) measures for the full protection and management of the natural resources and natural ecosystems of the seashore;

"(2) present and proposed uses of the seashore and the lands and waters adjacent or related thereto, the uses of which would reasonably be expected to influence the administration, use, and environmental quality of the seashore;

"(3) plans for the development of facilities necessary and appropriate for visitor use and enjoyment of the seashore, with identification of resource and user carrying capacities, along with the anticipated costs for all proposed development;

"(4) plans for visitor transportation systems integrated and coordinated with lands and facilities adjacent to, but outside of, the seashore; and

"(5) plans for fostering the development of cooperative agreements and land and resource use patterns outside the seashore which would be compatible with the protection and management of the seashore.

"(b) Notwithstanding any other provision of law, no Federal loan, grant, license, or other form of assistance for any project which, in the opinion of the Secretary would significantly adversely affect the administration, use, and environmental quality of the seashore shall be made, issued, or approved by the head of any Federal agency without first consulting with the Secretary to determine whether or not such project is consistent with the plan developed pursuant to this section and allowing him at least thirty days to comment in writing on such proposed action."

Publication in
Federal Register.

SEC. 302. (a) The Secretary of the Interior is authorized to designate by publication of a map or other boundary description in the Federal Register certain areas of scenic, historic, and geological significance including portions of No Thorroughfare Canyon and Red Canyon, but not to exceed two thousand eight hundred acres, for addition to Colorado National Monument, Colorado. Within the areas so designated the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange. Property so acquired and any Federal property so designated shall thereupon become part of the Colorado National Monument, subject to the laws and regulations applicable to the monument.

Land acquisition.

Appropriation
authorization.

(b) There is authorized to be appropriated not to exceed \$460,000 for the acquisition of lands and interests therein.

16 USC 431 note.

SEC. 303. Section 4 of the Act approved August 31, 1965 (79 Stat. 588), as amended (87 Stat. 456), providing for the commemoration of certain historical events in the State of Kansas, is further amended by changing "\$1,420,000" to "\$2,000,000".

SEC. 304. (a) In order to facilitate the administration of certain areas of the National Park System located in Montgomery County, Maryland, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") may transfer, without monetary reimbursement, to the jurisdiction of the Director of the National Park Service in Montgomery County, Maryland, as set forth in the drawing entitled "Transfer of Land for Washington Aqueduct Shops and Storehouse Projects", numbered 40.1—103.3—1, and dated January 30, 1970 (a copy of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior), and which the Secretary of the Army has had use of under a permit dated March 5, 1965, issued by the Director of the National Park Service.

Land transfer.

(b) The Secretary of the Army may transfer, without monetary reimbursement, to the jurisdiction of the Secretary the land located in Montgomery County, Maryland, administered by the Secretary of the Army as part of the Washington Aqueduct at the Dalecarlia Shops

area, as set forth in the drawing of January 30, 1970, specified in subsection (a).

SEC. 305. Section 2(c) of the Act of October 4, 1961 (75 Stat. 780), providing for the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland, as amended (88 Stat. 1304), is further amended by changing the fifth sentence by deleting "parcels A, B, C, and D" and inserting in lieu thereof "parcels A, B, and C".

SEC. 306. Section 3 of the Act of August 31, 1964 (78 Stat. 749), authorizing the establishment of the Saint-Gaudens National Historic Site, New Hampshire, is amended by adding the following sentence: "Following such establishment the Secretary may acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed sixty-four acres of lands and interests therein which he deems necessary for addition to the national historical site and which, when acquired, shall become a part of the site."

Land acquisition.
16 USC 461 note.

SEC. 307. (a) The boundary of the Saguaro National Monument is hereby revised to include the area as generally depicted on the map entitled "Boundary Map, Saguaro National Monument, Pima County, Arizona", numbered 151-91,001-C, and dated July 1976, which map shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior. The Secretary of the Interior may acquire property within the revised boundary by donation, purchase, transfer from any other Federal agency, exchange, or by any other means. The monument shall hereafter be administered in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

Saguaro National
Monument, Ariz.,
boundary
revision.

(b) There is authorized to be appropriated not to exceed \$1,700,000 in the acquisition of lands and interests added to the Saguaro Monument pursuant to subsection (a).

Appropriation
authorization.

SEC. 308. (a) The Appomattox Court House National Historical Park shall hereafter comprise the area depicted on the map entitled "Boundary Map, Appomattox Court House National Historical Park", numbered 340-20,000A, and dated September 1976, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Appomattox
Court House
National
Historical Park,
Va.
16 USC 450e-1.

(b) Within the boundaries of the park, the Secretary may acquire lands and interests in lands, by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the State of Virginia or its political subdivisions may be acquired only by donation.

Land acquisition.

(c) (1) The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition, less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law

Property retained.

Fair market
value.

Termination.

"Improved property."

upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(2) As used in this Act, the term "improved property" means a detached, single-family dwelling, construction of which was begun before June 8, 1976, which is used for noncommercial residential purposes, together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

42 USC
4623-4626.

(3) Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 101(6) of such Act.

Administration.

(d) The Secretary shall administer the park in accordance with the Acts of August 25, 1916 (39 Stat. 535), as amended and supplemented, and August 21, 1935 (49 Stat. 666) as amended.

Repeals.
16 USC 450b,
450c, 450d,
450d-1, 450e.
Appropriation
authorization.
Bandelier
National
Monument,
N. Mex., land
acquisition.

(e) The Acts of June 18, 1930 (46 Stat. 777), August 13, 1935 (49 Stat. 613), and July 17, 1953 (67 Stat. 181), are repealed.

(f) There are authorized to be appropriated not to exceed \$1,335,000 to carry out the purposes of this Act.

SEC. 309. (a) That the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange approximately four thousand two hundred and thirty-four acres comprising part of the Canada de Cochiti Grant adjacent to the southern boundary of Bandelier National Monument, New Mexico, and approximately three thousand and seventy-six acres containing the headwaters of the Rito de los Frijoles adjacent to the northwestern boundary for addition to the monument. Lands and interests therein owned by the State of New Mexico or any political subdivision thereof may be acquired only by donation or exchange.

(b) Lands and interests therein acquired pursuant to this Act shall thereupon become part of Bandelier National Monument and subject to all laws and regulations applicable thereto.

Appropriation
authorization.
16 USC 460m-14.

(c) There are hereby authorized to be appropriated not to exceed \$1,463,000 for the acquisition of land.

SEC. 310. Section 7 of the Act of March 1, 1972 (86 Stat. 44) which establishes the Buffalo National River, is amended by deleting "For development of the national river, there are authorized to be appropriated not more than \$283,000 in fiscal year 1974; \$2,923,000 in fiscal year 1975; \$3,643,000 in fiscal year 1976; \$1,262,000 in fiscal year 1977; and \$1,260,000 in fiscal year 1978. The sums appropriated each year shall remain available until expended." and inserting in lieu thereof "For development of the national river, there are authorized to be appropriated not to exceed \$9,371,000."

SEC. 311. The Act of September 5, 1962 (76 Stat. 428) which designates the Edison National Historic Site, is amended (a) by deleting the words "accept the donation of" in section 2 and substituting the words "acquire, by donation, or purchase with donated or appropriated funds,"; and (b) by adding the following new section:

Appropriation
authorization.

"SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed

\$75,000 for acquisition of lands or interests therein, and \$1,695,000 for development.”

SEC. 312. The Act of September 13, 1961 (75 Stat. 489), authorizing the establishment of the Fort Smith National Historic Site, Arkansas, is amended as follows:

16 USC 461 note.

(a) in section 1, after “adjoining” insert “or related” in the first sentence, and add the following after the second sentence: “The total area so designed for the purposes of this Act may not exceed seventy-five acres.”;

(b) in section 2, change the colon at the end of the second sentence to a period and delete the remainder of the section (through the second proviso); and

(c) revise section 4 to read as follows:

“SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, \$1,719,000 for land acquisition and not to exceed \$4,580,000 for the development of Fort Smith National Historic Site undertaken after the effective date of this section.”

Appropriation
authorization.

SEC. 313. The Act of September 13, 1960 (74 Stat. 881) which designates and establishes that portion of the Hawaii National Park on the island of Maui, in the State of Hawaii, as the Haleakala National Park, is amended by adding the following new section:

16 USC 396b.

“SEC. 2. (a) Notwithstanding any limitations on land acquisition as provided by the Act of June 20, 1938 (52 Stat. 781), the Secretary of the Interior may acquire for addition to the park any land on the island of Maui within the boundaries of the area generally depicted on the map entitled ‘Haleakala National Park, Segment 03,’ numbered 162-30,000-G, and dated May 1972, by donation, purchase with donated or appropriated funds, or exchange. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Land acquisition.
16 USC 396c.

“(b) There is authorized to be appropriated such sums but not to exceed \$920,000 as may be necessary to carry out the purposes of this section.”

Appropriation
authorization.

SEC. 314. The second sentence of subsection (e) of section 6 of the John F. Kennedy Center Act (72 Stat. 1698), as amended, is amended to read as follows: “There is authorized to be appropriated to carry out this subsection not to exceed \$4,000,000 for the fiscal year ending September 30, 1978, and not to exceed \$4,300,000 for the fiscal year ending September 30, 1979.”

20 USC 76l.

SEC. 315. The Act of September 18, 1964 (78 Stat. 957), entitled “An Act to authorize the addition of lands to Morristown National Historical Park in the State of New Jersey, and for other purposes”, as amended by the Act of October 26, 1974 (88 Stat. 1447), is amended by changing “465 acres” in both places in which it appears in the first section to “600 acres”.

16 USC 409g.

SEC. 316. The first sentence of section 15 of the Act of March 23, 1972 (86 Stat. 102; 16 U.S.C. 460z-13) which establishes the Oregon Dunes National Recreation Area, is hereby amended to read as follows: “There are hereby authorized to be appropriated for the acquisition of lands, waters, and interests therein such sums as are necessary, not to exceed \$5,750,000.”

Appropriation
authorization.

SEC. 317. The boundary of the Pecos National Monument is hereby revised to include the area as generally depicted on the map entitled “Boundary Map, Pecos National Monument, New Mexico”, numbered 430-20017, and dated December 1975, which map shall be on file and

Pecos National
Monument,
N. Mex.,
boundary
revision.

Zion National
Park, Utah,
boundary
revision.
16 USC 346a-4.

available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 318. The boundary of Zion National Park is hereby revised to include the area as generally depicted on the map entitled "Land Ownership Types, Zion National Park, Utah", numbered 116-80,003, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior may acquire the property included by this section by donation only.

SEC. 319. The Act of June 21, 1934 (48 Stat. 1198; 16 U.S.C. 430j) is amended as follows:

(1) In section 1:

(a) change "national military park" to "national battlefield" and

(b) change "Monocacy National Military Park" to "Monocacy National Battlefield" (hereinafter referred to as "the battlefield"). The battlefield shall comprise the area generally depicted on the drawing entitled "Boundary, Monocacy National Battlefield", numbered 894-40,000 and dated May 1976, and delete the remainder of the sentence.

16 USC 430k.

(2) In section 2, change "Monocacy National Military Park" to "battlefield" wherever it occurs.

16 USC 430l.

(3) In section 3, delete "enter into leases with the owners of such of the lands, works, defenses, and buildings thereon within the Monocacy National Military Park, as in his discretion it is unnecessary to forthwith acquire title to, and such leases shall be on such terms and conditions as the Secretary of the Interior may prescribe, and may contain options to purchase, subject to later acceptance, if, in the judgment of the Secretary of the Interior, it is as economical to purchase as condemn title to property: *Provided*, That the Secretary of the Interior may enter into agreements upon such nominal terms as he may prescribe, permitting the present owners or their tenants to occupy or cultivate their present holdings, upon condition", and insert in lieu thereof, "lease to the immediately preceding owner or owners any lands acquired pursuant to an agreement that such lessee or lessees will occupy such lands in a manner consistent with the purposes of this Act and".

16 USC 430m.

(4) Change section 4 to read:

"SEC. 4. The administration, development, preservation, and maintenance of the battlefield shall be exercised by the Secretary of the Interior in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666)."

Repeal.

16 USC 430n.

16 USC 430o.

(5) Repeal all of section 5.

(6) In section 6:

(a) delete "said Office of National Parks, Buildings, and Reservations, acting through the", and

(b) change "Monocacy National Military Park:" to "battlefield", delete the remainder of the sentence and insert in lieu thereof "for carrying out the provisions of this Act."

16 USC 430p.

(7) In section 7:

(a) change "Monocacy National Military Park" to "battlefield", and

(b) delete the comma and "which approval shall be based on formal written reports made to him in each case by the Office of National Parks, Buildings, and Reservations; *Provided*," and insert in lieu thereof "*Provided further*,".

(8) In section 8, change the comma to a period and delete "of not less than \$5 nor more than \$500."

16 USC 430q.

(9) Change section 10 to read:

Appropriation
authorization.
16 USC 430s.

"SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary, but not more than \$3,525,000 for the acquisition of lands and interests in lands, and not to exceed \$500,000 for the development of essential public facilities. Within three years from the date of the enactment of this section, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the battlefield consistent with the preservation objectives of this Act, indicating:

Final master
plan, submittal to
congressional
committees.

"(1) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public;

"(2) the location and estimated cost of all facilities; and

"(3) the projected need for any additional facilities within the battlefield.

No funds authorized to be appropriated pursuant to this section shall be available prior to October 1, 1977."

SEC. 320. (a) The boundaries of Olympic National Park as established by the Act of June 29, 1938 (52 Stat. 1241), and as revised by proclamation pursuant to that Act and by or pursuant to the Act of December 22, 1942 (56 Stat. 1070), and the Act of June 11, 1958 (72 Stat. 185), are hereby revised to include the lands, privately owned aquatic lands, and interests therein within the boundaries depicted on the map entitled "Boundary Map, Olympic National Park, Washington," numbered 149-80-001-B, and dated January 1976, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

Olympic National
Park, Wash.,
boundary
revision.
16 USC 251e.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall, beginning within thirty days after the date of enactment of this Act, consult with the Governor of the State of Washington, the Board of Commissioners of Clallam County, and the affected landowners, and shall locate a boundary encompassing all of the shoreline of Lake Ozette, including privately owned aquatic lands not within the boundary of the park on the date of enactment of this Act: *Provided*, That such boundary shall be located not less than two hundred feet set back from the ordinary high-water mark of Lake Ozette: *Provided further*, That the privately owned lands encompassed within the park by such boundary shall not exceed one thousand five hundred acres. The Secretary shall, within one hundred and eighty days after the date of enactment of this Act, and following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives of his intention to do so, publish in the Federal Register a detailed description of the boundary located pursuant to this subsection. Upon such publication the Secretary is authorized to revise the map on file pursuant to subsection (a) of this section accordingly, and such revised map shall have the same force and effect as if included in this Act.

Consultation.
16 USC 251f.

(c) Section 5 of the said Act of June 29, 1938, is amended by deleting the second sentence, and inserting in lieu thereof: "The boundaries of Olympic National Park may be revised only by Act of Congress."

16 USC 255.

(d) Notwithstanding any other provision of law, within the boundaries of the park as revised by and pursuant to this Act, the Secretary is authorized to acquire lands, privately owned aquatic lands, and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any Federal agency. Property so acquired shall become part of Olympic National Park and shall be administered by the Secretary subject to the laws and regulations

Land acquisition.
16 USC 251g.

Notice to
congressional
committees;
publication in
Federal Register.

Study and
investigation.

Study results,
transmittal to
President and
Congress.

applicable to such park. The Secretary is authorized and directed to exclude from the boundaries of the park such private lands and publicly owned and maintained roads within Grays Harbor County which are near and adjacent to Lake Quinault, and which do not exceed two thousand, one hundred and sixty-eight acres in total. Prior to excluding such lands from the park, the Secretary shall study and investigate current and prospective uses of the private lands, as well as the implications of their exclusion both for the lands involved and for Olympic National Park. The results of such study shall be transmitted to the President and to the Congress within two years of the enactment of this Act, and shall take effect unless disapproved by simple majority vote of the House of Representatives or the Senate of the United States of America within ninety legislative days of their submission to the Congress. Property excluded from the boundaries of the park by this Act may be exchanged for non-Federal property within the boundaries; or it may be transferred to the jurisdiction of any Federal agency or to the State of Washington or a political subdivision thereof, without monetary consideration, as the Secretary may deem appropriate. Any such Federal property transferred to the jurisdiction of the Secretary of Agriculture for national forest purposes shall upon such transfer become part of the national forest and subject to the laws and regulations pertaining thereto. Any property excluded from the park by this Act which is within the boundaries of an Indian reservation may be transferred in trust to such Indian tribe, subject, however, to the express condition that any concessioner providing public services shall be permitted to continue to provide such services in such manner and for such period as set forth in his concession contract, that the Secretary of the Interior is authorized to pay all franchise fees collected from the concessioner under the contract to said Indian Tribe, and that in the event his contract is terminated, the United States shall purchase his possessory interest in accordance with the Act of October 9, 1965 (79 Stat. 969). The acquisition of lands by the United States in trust for an Indian tribe pursuant to this title shall not confer any hunting or fishing rights upon such tribe which were not vested in such tribe prior to the acquisition of such lands.

Property retained.
16 USC 251h.

Fair market
value.

"Improved
property."

(e)(1) Any owner or owners of improved property within the boundaries of the park, as revised by and pursuant to this Act may, on the date of its acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for such non-commercial residential purposes as existed on or before January 1, 1976, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(2) As used in this title, the term "improved property" shall mean any single-family dwelling on which construction was begun before January 1, 1976, together with so much of the land on which the dwelling is situated (such land being in the same ownership as the dwelling) as shall be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, as the Secretary shall designate. The amount of the land so designated shall in every case be not more than three acres in area: *Provided*, That the Secretary may exclude from the land so designated any beach or water, together with so much of the land adjoining any such beach or water, as he may deem necessary for public access thereto.

(f) The Secretary is directed to acquire in fee all other privately owned lands added to the park by and pursuant to this Act, and to acquire within three years of adoption of this Act so much of such lands as can be acquired by donation, exchange, or purchase, to the extent of available funds, and to report to Congress on the third anniversary of adoption of this Act the estimated amount of appropriations which would be necessary to acquire the remainder, if any, of such lands by condemnation. The compensation for such lands shall be their fair market value on the date of their acquisition, taking into account applicable land use regulations in effect on January 1, 1976.

Land acquisition,
report to
Congress.
16 USC 251i.

(g) Notwithstanding the provisions of the preceding subsection, any noncorporate owner or owners, as of January 1, 1976, of property adjacent to Lake Ozette may retain title to such property: *Provided*, That such owner or owners consent to acquisition by the Secretary or scenic easements or other interests that allow only those improvements that the Secretary finds to be reasonably necessary for continued use and occupancy. Any such owner or owners who elects to improve his property or a portion thereof shall submit to the Secretary a plan which shall set forth the manner in which the property is to be improved and the use to which it is proposed to be put. If, upon review of such plan, the Secretary determines that it is compatible with the limitations of this subsection, he in his discretion may issue a permit to such owner and a certificate to that effect. Upon issuance of any such certificate and so long as such property is maintained and used in conformity therewith, the authority of the Secretary to acquire such property or interest therein without the consent of the owner shall be suspended.

Property retained.
16 USC 251j.

(h) In order to minimize economic dislocation in acquiring property within the park, the Secretary may acquire with the consent of the owner, lands and interests in lands outside the boundaries of the park, but within the State of Washington, and with the concurrence of the Secretary of Agriculture, he may utilize lands and interests therein within a national forest in the State of Washington hereby authorized to be transferred to the Secretary, for the purpose of exchanging lands and interests so acquired or transferred for property within the park.

Land acquisition.
16 USC 251k.

(i) Effective upon acceptance thereof by the State of Washington (1) the jurisdiction which the United States acquired over those lands excluded from the boundaries of Olympic National Park by subsection 1(a) of this Act is hereby retroceded to the State: *Provided*, That the lands restored to the Quileute Indian Reservation shall be subject to the same State and Tribal jurisdiction as all other trust lands within said Reservation; and (2) there is hereby retroceded to such State concurrent legislative jurisdiction, as the Governor of the State of Washington and the Secretary shall determine, over and within all territory within the boundaries of the park as revised by this Act.

16 USC 251l.

(j) There is hereby authorized to be appropriated not to exceed \$13,000,000 for the acquisition of lands, privately owned aquatic lands, or interests therein in accordance with the provisions of this title. No funds authorized to be appropriated pursuant to this title shall be available prior to October 1, 1977.

Appropriation
authorization.
16 USC 251m.

SEC. 321. Section 403 of the Act of October 26, 1974 (88 Stat. 1447), is amended by adding the following new subsection (c):

“(c) To carry out the priority repairs as determined by the study performed in accordance with subsection (a) of this section, and to complete additional detailed studies to accomplish the work so identified, there are authorized to be appropriated such sums as may be necessary, but not more than \$2,733,000. No funds authorized to

be appropriated pursuant to this subsection shall be available prior to October 1, 1977.”

16 USC 698b.

SEC. 322. Section 3(b) of the Act of October 11, 1974 (88 Stat. 1254; 16 U.S.C. 698(b)), is amended by deleting “detached, one-family dwelling,” and inserting in lieu thereof “detached year-round one-family dwelling which serves as the owner’s permanent place of abode at the time of acquisition, and”.

16 USC 460ff-1.

SEC. 323. The Act of December 27, 1974 (88 Stat. 1784) entitled “An Act to provide for the establishment of the Cuyahoga Valley National Recreation Area” is amended as follows:

(a) In subsection 2(a) strike out “Boundary Map, Cuyahoga Valley National Recreation Area, Ohio, numbered NRA-CUYA-20,000-A, and dated December 1974,” and insert in lieu thereof “Boundary Map, Cuyahoga Valley National Recreation Area, Ohio, numbered 90,000-A, and dated September 1976,”.

16 USC 460ff-5.

(b) In subsection 6(a) strike out “\$34,500,000” and insert in lieu thereof “\$41,100,000”.

16 USC 460ff-5
note.

(c) No funds authorized by this section in excess of those sums previously authorized by the Act of December 27, 1974, shall be available for expenditure before October 1, 1977.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1162 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1158 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 8, considered and passed House.

Aug. 26, considered and passed Senate, amended.

Sept. 29, House concurred in certain Senate amendments and in others with amendments.

Oct. 1, Senate agreed to certain House amendments and to one with an amendment; House agreed to Senate amendment.

Public Law 94-579
94th Congress

An Act

To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

Oct. 21, 1976

[S. 507]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Land
Policy and
Management
Act of 1976.

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TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

43 USC 1701
 note.

SEC. 101. This Act may be cited as the “Federal Land Policy and Management Act of 1976”.

DECLARATION OF POLICY

43 USC 1701.

SEC. 102. (a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the provisions of this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis

of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposals in excess of a specified acreage;

(11) regulations and plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

DEFINITIONS

SEC. 103. Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in, or amended by, this Act, as used in this Act—

43 USC 1702.

(a) The term "areas of critical environmental concern" means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

(b) The term "holder" means any State or local governmental entity, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title V of this Act.

(c) The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to

provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) The term "public involvement" means the opportunity for participation by affected citizens in rulemaking, decisionmaking, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) lands located on the Outer Continental Shelf; and

(2) lands held for the benefit of Indians, Aleuts, and Eskimos.

Post, p. 2776.

(f) The term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purpose listed in title V of this Act.

(g) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

Post, p. 2785.

(i) The term "wilderness" as used in section 603 shall have the same meaning as it does in section 2(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131-1136).

(j) The term "withdrawal" means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472) from one department, bureau or agency to another department, bureau or agency.

(k) An "allotment management plan" means a document prepared in consultation with the lessees or permittees involved, which applies to livestock operations on the public lands or on lands within National Forests in the eleven contiguous Western States and which:

(1) prescribes the manner in, and extent to, which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic and other needs and objectives as determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management; and

(3) contains such other provisions relating to livestock grazing and other objectives found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(l) The term "principal or major uses" includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term "department" means a unit of the executive branch of the Federal Government which is headed by a member of the President's Cabinet and the term "agency" means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term "Bureau" means the Bureau of Land Management.

(o) The term "eleven contiguous Western States" means the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(p) The term "grazing permit and lease" means any document authorizing use of public lands or lands in National Forests in the eleven contiguous western States for the purpose of grazing domestic livestock.

TITLE II—LAND USE PLANNING; LAND ACQUISITION AND DISPOSITION

INVENTORY AND IDENTIFICATION

SEC. 201. (a) The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands. 43 USC 1711.

(b) As funds and manpower are made available, the Secretary shall ascertain the boundaries of the public lands; provide means of public identification thereof including, where appropriate, signs and maps; and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity of such public lands.

LAND USE PLANNING

SEC. 202. (a) The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses. 43 USC 1712.

(b) In the development and revision of land use plans, the Secretary of Agriculture shall coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approved tribal land resource management programs.

(c) In the development and revision of land use plans, the Secretary shall—

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) rely, to the extent it is available, on the inventory of the public lands, their resources, and other values;

(5) consider present and potential uses of the public lands;

(6) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(7) weigh long-term benefits to the public against short-term benefits;

(8) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located, including, but not limited to, the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended, and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

(d) Any classification of public lands or any land use plan in effect on the date of enactment of this Act is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section. The Secretary may modify or terminate any such classification consistent with such land use plans.

(e) The Secretary may issue management decisions to implement

16 USC 460l-4
note.

land use plans developed or revised under this section in accordance with the following:

(1) Such decisions, including but not limited to exclusions (that is, total elimination) of one or more of the principal or major uses made by a management decision shall remain subject to reconsideration, modification, and termination through revision by the Secretary or his delegate, under the provisions of this section, of the land use plan involved.

(2) Any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate. If within ninety days from the giving of such notice (exclusive of days on which either House has adjourned for more than three consecutive days), the Congress adopts a concurrent resolution of nonapproval of the management decision or action, then the management decision or action shall be promptly terminated by the Secretary. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the management decision or action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same management decision or action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) Withdrawals made pursuant to section 204 of this Act may be used in carrying out management decisions, but public lands shall be removed from or restored to the operation of the Mining Law of 1872, as amended (R.S. 2318-2352; 30 U.S.C. 21 et seq.) or transferred to another department, bureau, or agency only by withdrawal action pursuant to section 204 or other action pursuant to applicable law: *Provided*, That nothing in this section shall prevent a wholly owned Government corporation from acquiring and holding rights as a citizen under the Mining Law of 1872.

(f) The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment

upon and participate in the formulation of plans and programs relating to the management of the public lands.

SALES

43 USC 1713.

SEC. 203. (a) A tract of the public lands (except land in units of the National Wilderness Preservation System, National Wild and Scenic Rivers Systems, and National System of Trails) may be sold under this Act where, as a result of land use planning required under section 202 of this Act, the Secretary determines that the sale of such tract meets the following disposal criteria :

(1) such tract because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency ; or

(2) such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose ; or

(3) disposal of such tract will serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

(b) Where the Secretary determines that land to be conveyed under clause (3) of subsection (a) of this section is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of this section or in accordance with other existing law.

Notice.

(c) Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation to the Senate and the House of Representatives, and then only if the Congress has not adopted a concurrent resolution stating that such House does not approve of such designation. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the designation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same designation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the

consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Sales of public lands shall be made at a price not less than their fair market value as determined by the Secretary.

(e) The Secretary shall determine and establish the size of tracts of public lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract which is judged by the Secretary to be chiefly valuable for agriculture is sold, its size shall be no larger than necessary to support a family-sized farm.

(f) Sales of public lands under this section shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper in order (1) to assure equitable distribution among purchasers of lands, or (2) to recognize equitable considerations or public policies, including but not limited to, a preference to users, he may sell those lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

- (1) the State in which the land is located;
- (2) the local government entities in such State which are in the vicinity of the land;
- (3) adjoining landowners;
- (4) individuals; and
- (5) any other person.

(g) The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bidding at his invitation no later than thirty days after the receipt of such offer or, in the case of a tract in excess of two thousand five hundred acres, at the end of thirty days after the end of the ninety-day period provided in subsection (c) of this section, whichever is later, unless the offeror waives his right to a decision within such thirty-day period. Prior to the expiration of such periods the Secretary may refuse to accept any offer or may withdraw any land or interest in land from sale under this section when he determines that consummation of the sale would not be consistent with this Act or other applicable law.

WITHDRAWALS

SEC. 204. (a) On and after the effective date of this Act the Secretary is authorized to make, modify, extend, or revoke withdrawals but only in accordance with the provisions and limitations of this section. The Secretary may delegate this withdrawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.

43 USC 1714.

(b) (1) Within thirty days of receipt of an application for withdrawal, and whenever he proposes a withdrawal on his own motion, the Secretary shall publish a notice in the Federal Register stating that the application has been submitted for filing or the proposal has been made and the extent to which the land is to be segregated while the application is being considered by the Secretary. Upon publication of such notice the land shall be segregated from the operation of the public land laws to the extent specified in the notice. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of lands by the Secre-

Application.
Publication in
Federal Register.

tary, or (c) the expiration of two years from the date of the notice.

(2) The publication provisions of this subsection are not applicable to withdrawals under subsection (e) hereof.

Notification
to Congress.

(c) (1) On and after the dates of approval of this Act a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal or any other withdrawal involving in the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than twenty years by the Secretary on his own motion or upon request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become ineffective at the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, if the Congress has adopted a concurrent resolution stating that such House does not approve the withdrawal. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(2) With the notices required by subsection (c) (1) of this section and within three months after filing the notice under subsection (e) of this section, the Secretary shall furnish to the committees—

(1) a clear explanation of the proposed use of the land involved which led to the withdrawal;

(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation;

(3) an identification of present users of the land involved, and how they will be affected by the proposed use;

(4) an analysis of the manner in which existing and potential resource uses are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;

(5) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

(6) a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

(9) a statement of the expected length of time needed for the withdrawal;

(10) the time and place of hearings and of other public involvement concerning such withdrawal;

(11) the place where the records on the withdrawal can be examined by interested parties; and

(12) a report prepared by a qualified mining engineer, engineering geologist, or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands.

(d) A withdrawal aggregating less than five thousand acres may be made under this subsection by the Secretary on his own motion or upon request by a department or an agency head—

(1) for such period of time as he deems desirable for a resource use; or

(2) for a period of not more than twenty years for any other use, including but not limited to use for administrative sites, location of facilities, and other proprietary purposes; or

(3) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

(e) When the Secretary determines, or when the Committee on Interior and Insular Affairs of either the House of Representatives or the Senate notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost, the Secretary notwithstanding the provisions of subsections (c) (1) and (d) of this section, shall immediately make a withdrawal and file notice of such emergency withdrawal with the Committees on Interior and Insular Affairs of the Senate and the House of Representatives. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed three years and may not be extended except under the provisions of subsection (c) (1) or (d), whichever is applicable, and (b) (1) of this section. The information required in subsection (c) (2) of this subsection shall be furnished the committees within three months after filing such notice.

(f) All withdrawals and extensions thereof, whether made prior to or after approval of this Act, having a specific period shall be reviewed by the Secretary toward the end of the withdrawal period and may be extended or further extended only upon compliance with the provisions of subsection (c) (1) or (d), whichever is applicable, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period. The Secretary shall report on such review and extensions to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate.

Report to
congressional
committees.

(g) All applications for withdrawal pending on the date of approval of this Act shall be processed and adjudicated to conclusion within fifteen years of the date of approval of this Act, in accordance with the provisions of this section. The segregative effect of any application not so processed shall terminate on that date.

Hearing.

(h) All new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (e) of this section) shall be promulgated after an opportunity for a public hearing.

(i) In the case of lands under the administration of any department or agency other than the Department of the Interior, the Secretary shall make, modify, and revoke withdrawals only with the consent of the head of the department or agency concerned, except when the provisions of subsection (e) of this section apply.

(j) The Secretary shall not make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431-433); or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to the date of approval of this Act or which thereafter adds lands to that System under the terms of this Act. Nothing in this Act is intended to modify or change any provision of the Act of February 27, 1976 (90 Stat. 199; 16 U.S.C. 668dd(a)).

Appropriation
authorization.

(k) There is hereby authorized to be appropriated the sum of \$10,000,000 for the purpose of processing withdrawal applications pending on the effective date of this Act, to be available until expended.

(l) (1) The Secretary shall, within fifteen years of the date of enactment of this Act, review withdrawals existing on the date of approval of this Act, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of (1) all Federal lands other than withdrawals of the public lands administered by the Bureau of Land Management and of lands which, on the date of approval of this Act, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service, the National Wild and Scenic Rivers System, and the National System of Trails; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive or natural areas or designated as national recreation areas) which closed the lands to appropriation under the Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.) or to leasing under the Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(2) In the review required by paragraph (1) of this subsection, the Secretary shall determine whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of the other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, or for legislation. The

Report to
President.

Transmittal
to Congress.

Secretary may act to terminate withdrawals other than those made by Act of the Congress in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives the Congress has adopted a concurrent resolution indicating otherwise. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) There are hereby authorized to be appropriated not more than \$10,000,000 for the purpose of paragraph (1) of this subsection to be available until expended to the Secretary and to the heads of other departments and agencies which will be involved.

Appropriation
authorization.

ACQUISITIONS

SEC. 205. (a) Notwithstanding any other provisions of law, the Secretary, with respect to the public lands and the Secretary of Agriculture, with respect to the acquisition of access over non-Federal lands to units of the National Forest System, are authorized to acquire pursuant to this Act by purchase, exchange, donation, or eminent domain, lands or interests therein: *Provided*, That with respect to the public lands, the Secretary may exercise the power of eminent domain only if necessary to secure access to public lands, and then only if the lands so acquired are confined to as narrow a corridor as is necessary to serve such purpose. Nothing in this subsection shall be construed as expanding or limiting the authority of the Secretary of Agriculture to acquire land by eminent domain within the boundaries of units of the National Forest System.

43 USC 1715.

(b) Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable departmental land-use plans.

(c) Lands and interests in lands acquired by the Secretary pursuant to this section or section 206 shall, upon acceptance of title, become public lands, and, for the administration of public land laws not repealed by this Act, shall remain public lands. If such acquired lands

or interests in lands are located within the exterior boundaries of a grazing district established pursuant to the first section of the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315) (commonly known as the "Taylor Grazing Act"), they shall become a part of that district. Lands and interests in lands acquired pursuant to this section which are within boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable thereto.

(d) Lands and interests in lands acquired by the Secretary of Agriculture pursuant to this section shall, upon acceptance of title, become National Forest System lands subject to all the laws, rules, and regulations applicable thereto.

EXCHANGES

43 USC 1716.

SEC. 206. (a) A tract of public land or interests therein may be disposed of by exchange by the Secretary under this Act and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture under applicable law where the Secretary concerned determines that the public interest will be well served by making that exchange: *Provided*, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

Non-Federal
lands.

(b) In exercising the exchange authority granted by subsection (a) or by section 205(a) of this Act, the Secretary may accept title to any non-Federal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land or interest to be acquired. For the purposes of this subsection, unsurveyed school sections which, upon survey by the Secretary, would become State lands, shall be considered as "non-Federal lands". The values of the lands exchanged by the Secretary under this Act and by the Secretary of Agriculture under applicable law relating to lands within the National Forest System either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. The Secretary concerned shall try to reduce the amount of the payment of money to as small an amount as possible.

(c) Lands acquired by exchange under this section by the Secretary which are within the boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable to the National Forest System. Lands acquired by exchange by the Secretary under this section which are within the boundaries of National Park, Wildlife Refuge, Wild and Scenic Rivers, Trails, or any other System established by Act of Congress may be transferred to the appropriate agency head for administration as part of such System and in accordance with the laws, rules, and regulations applicable to such System.

QUALIFIED CONVEYEEES

SEC. 207. No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any State or of the United States. 43 USC 1717.

CONVEYANCES

SEC. 208. The Secretary shall issue all patents or other documents of conveyance after any disposal authorized by this Act. The Secretary shall insert in any such patent or other document of conveyance he issues, except in the case of land exchanges, for which the provisions of subsection 206(b) of this Act shall apply, such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest: *Provided*, That a conveyance of lands by the Secretary, subject to such terms, covenants, conditions, and reservations, shall not exempt the grantee from compliance with applicable Federal or State law or State land use plans: *Provided further*, That the Secretary shall not make conveyances of public lands containing terms and conditions which would, at the time of the conveyance, constitute a violation of any law or regulation pursuant to State and local land use plans, or programs. 43 USC 1718.

RESERVATION AND CONVEYANCE OF MINERALS

SEC. 209. (a) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 206, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that if the Secretary makes the findings specified in subsection (b) of this section, the minerals may then be conveyed together with the surface to the prospective surface owner as provided in subsection (b). 43 USC 1719.

(b)(1) The Secretary, after consultation with the appropriate department or agency head, may convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, regardless of which Federal entity may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate non-mineral development of the land and that such development is a more beneficial use of the land than mineral development.

(2) Conveyance of mineral interests pursuant to this section shall be made only to the existing or proposed record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(3) Before considering an application for conveyance of mineral interests pursuant to this section—

(i) the Secretary shall require the deposit by the applicant of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance: *Provided*, That, if the administrative

Administrative costs.

costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(ii) the applicant, with the consent of the Secretary, shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(4) Moneys paid to the Secretary for administrative costs pursuant to this subsection shall be paid to the agency which rendered the service and deposited to the appropriation then current.

COORDINATION WITH STATE AND LOCAL GOVERNMENTS

Notification.
43 USC 1720.

SEC. 210. At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

OMITTED LANDS

43 USC 1721.

SEC. 211. OMITTED LANDS.—(a) The Secretary is hereby authorized to convey to States or their political subdivisions under the Recreation and Public Purposes Act (44 Stat. 741 as amended; 43 U.S.C. 869 et seq.), as amended, but without regard to the acreage limitations contained therein, unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey: *Provided, however,* That such island may be surveyed at the request of the applicant State or its political subdivision if such State or subdivision donates money or services to the Secretary for such survey, the Secretary accepts such money or services, and such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management. Any such island so surveyed shall not be conveyed without approval of such survey by the Secretary prior to the conveyance.

43 USC 869.

(b) (1) The Secretary is authorized to convey to States and their political subdivisions under the Recreation and Public Purposes Act, but without regard to the acreage limitations contained therein, lands other than islands determined by him after survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys (hereinafter referred to as "omitted lands"). Any such conveyance shall not be made without a survey: *Provided,* That the prospective recipient may donate money or services to the Secretary for the surveying necessary prior to conveyance if the Secretary accepts such money or services, such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management, and such survey is approved by the Secretary prior to the conveyance.

(2) The Secretary is authorized to convey to the occupant of any omitted lands which, after survey, are found to have been occupied and developed for a five-year period prior to January 1, 1975, if the

Secretary determines that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership. Conveyance under this subparagraph shall be made at not less than the fair market value of the land, as determined by the Secretary, and upon payment in addition of administrative costs, including the cost of making the survey, the cost of appraisal, and the cost of making the conveyance.

(c) (1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262) and/or title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103-4) have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

42 USC 3334.
42 USC 4231.

(2) The provisions of section 210 of this Act shall be applicable to all conveyances under this section.

(d) The final sentence of section 1(c) of the Recreation and Public Purposes Act shall not be applicable to conveyances under this section.

43 USC 869.

(e) No conveyance pursuant to this section shall be used as the basis for determining the baseline between Federal and State ownership, the boundary of any State for purposes of determining the extent of a State's submerged lands or the line of demarcation of Federal jurisdiction, or any similar or related purpose.

(f) The provisions of this section shall not apply to any lands within the National Forest System, defined in the Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System.

(g) Nothing in this section shall supersede the provisions of the Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), as amended, and the Act of May 31, 1962 (76 Stat. 89), or any other Act authorizing the sale of specific omitted lands.

RECREATION AND PUBLIC PURPOSES ACT

SEC. 212. The Recreation and Public Purposes Act of 1926 (44 Stat. 741, as amended; 43 U.S.C. 869-4), as amended, is further amended as follows:

(a) The second sentence of subsection (a) of the first section of that Act (43 U.S.C. 869(a)) is amended to read as follows: "Before the land may be disposed of under this Act it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under this Act, including public hearings or meetings where he deems it appropriate to provide public comments, and shall hold at least one public meeting on any proposed disposal of more than six hundred forty acres under this Act."

Public hearings
or meetings.

(b) Subsection (b)(1) of the first section of that Act (43 U.S.C. 869(b)) is amended to read as follows:

“(b) Conveyances made in any one calendar year shall be limited as follows:

“(i) For recreational purposes:

“(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, hereinafter referred to as the State, or to any political subdivision of such State, six thousand four hundred acres, and such additional acreage as may be needed for small roadside parks and rest sites of not more than ten acres each.

“(B) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

“(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under this Act in any one State per calendar year. Should any State or political subdivision, however, fail to secure, in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year.”.

(c) Section 2(a) of that Act (43 U.S.C. 869-1) is amended by inserting “or recreational purposes” immediately after “historic-monument purposes”.

(d) Section 2(b) of that Act (43 U.S.C. 869-1) is amended by adding “, except that leases of such lands for recreational purposes shall be made without monetary consideration” after the phrase “reasonable annual rental”.

NATIONAL FOREST TOWNSITES

SEC. 213. The Act of July 31, 1958 (72 Stat. 438, 7 U.S.C. 1012a, 16 U.S.C. 478a), is amended to read as follows: “When the Secretary of Agriculture determines that a tract of National Forest System land in Alaska or in the eleven contiguous Western States is located adjacent to or contiguous to an established community, and that transfer of such land would serve indigenous community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof: *Provided, however,* That the Secretary may condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands.”

Public notice.

UNINTENTIONAL TRESPASS ACT

43 USC 1722.

SEC. 214. (a) Notwithstanding the provisions of the Act of September 26, 1968 (82 Stat. 870; 43 U.S.C. 1431-1435), hereinafter called

the "1968 Act", with respect to applications under the 1968 Act which were pending before the Secretary as of the effective date of this subsection and which he approves for sale under the criteria prescribed by the 1968 Act, he shall give the right of first refusal to those having a preference right under section 2 of the 1968 Act. The Secretary shall offer such lands to such preference right holders at their fair market value (exclusive of any values added to the land by such holders and their predecessors in interest) as determined by the Secretary as of September 26, 1973.

(b) Within three years after the date of approval of this Act, the Secretary shall notify the filers of applications subject to paragraph (a) of this section whether he will offer them the lands applied for and at what price; that is, their fair market value as of September 26, 1973, excluding any value added to the lands by the applicants or their predecessors in interest. He will also notify the President of the Senate and the Speaker of the House of Representatives of the lands which he has determined not to sell pursuant to paragraph (a) of this section and the reasons therefor. With respect to such lands which the Secretary determined not to sell, he shall take no other action to convey those lands or interests in them before the end of ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the date the Secretary has submitted such notice to the Senate and House of Representatives. If, during that ninety-day period, the Congress adopts a concurrent resolution stating the length of time such suspension of action should continue, he shall continue such suspension for the specified time period. If the committee to which a resolution has been referred during the said ninety-day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the suspension of action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same suspension of action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Notification.

Notification
to Congress.

(c) Within five years after the date of approval of this Act, the Secretary shall complete the processing of all applications filed under the 1968 Act and hold sales covering all lands which he has determined to sell thereunder.

TITLE III—ADMINISTRATION

BLM DIRECTORATE AND FUNCTIONS

43 USC 1731.

SEC. 301. (a) The Bureau of Land Management established by Reorganization Plan Numbered 3, of 1946 (5 U.S.C. App. 519) shall have as its head a Director. Appointments to the position of Director shall hereafter be made by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management. He shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of lands and resources under his jurisdiction according to the applicable provisions of this Act and any other applicable law.

(b) Subject to the discretion granted to him by Reorganization Plan Numbered 3 of 1950 (43 U.S.C. 1451 note), the Secretary shall carry out through the Bureau all functions, powers, and duties vested in him and relating to the administration of laws which, on the date of enactment of this section, were carried out by him through the Bureau of Land Management established by section 403 of Reorganization Plan Numbered 3 of 1946. The Bureau shall administer such laws according to the provisions thereof existing as of the date of approval of this Act as modified by the provisions of this Act or by subsequent law.

5 USC 101
et seq.

(c) In addition to the Director, there shall be an Associate Director of the Bureau and so many Assistant Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter 3 of chapter 53 of such title relating to classification and General Schedule pay rates.

5 USC 5101
et seq., 5331.

(d) Nothing in this section shall affect any regulation of the Secretary with respect to the administration of laws administered by him through the Bureau on the date of approval of this section.

MANAGEMENT OF USE, OCCUPANCY, AND DEVELOPMENT

43 USC 1732.

SEC. 302. (a) The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 202 of this Act when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.

(b) In managing the public lands, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands, including, but not limited to, long-term leases to permit individuals to utilize public lands for habitation, cultivation, and the development of small trade or manufacturing concerns: *Provided*, That unless otherwise provided for by law, the Secretary may permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way under section 507 of this Act, withdrawals under section 204 of this Act, and, where the pro-

posed use and development are similar or closely related to the programs of the Secretary for the public lands involved, cooperative agreements under subsection (b) of section 307 of this Act: *Provided further*, That nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as enlarging or diminishing the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public land and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species. Except as provided in section 314, section 603, and subsection (f) of section 601 of this Act and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

17 Stat. 91.
Regulation.

(c) The Secretary shall insert in any instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with applicable State or Federal air or water quality standard or implementation plan: *Provided*, That such violation occurred on public lands covered by such instrument and occurred in connection with the exercise of rights and privileges granted by it: *Provided further*, That the Secretary shall terminate any such suspension no later than the date upon which he determines the cause of said violation has been rectified: *Provided further*, That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect health or safety or the environment: *Provided further*, That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail.

ENFORCEMENT AUTHORITY

SEC. 303. (a) The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than \$1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for

Regulations.
43 USC 1733.

that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

(c) (1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor if he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

(d) In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

(e) Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 601 of this Act for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of subsection (c) of this section.

(f) Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

(g) The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible

authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS

SEC. 304. (a) Notwithstanding any other provision of law, the Secretary may establish reasonable filing and service fees and reasonable charges, and commissions with respect to applications and other documents relating to the public lands and may change and abolish such fees, charges, and commissions. 43 USC 1734.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for reasonable costs with respect to applications and other documents relating to such lands. The moneys received for reasonable costs under this subsection shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. As used in this section "reasonable costs" include, but are not limited to, the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities. In determining whether costs are reasonable under this section, the Secretary may take into consideration actual costs (exclusive of management overhead), the monetary value of the rights or privileges sought by the applicant, the efficiency to the government processing involved, that portion of the cost incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant, the public service provided, and other factors relevant to determining the reasonableness of the costs.

"Reasonable costs."

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of public lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

DEPOSITS AND FORFEITURES

SEC. 305. (a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement. 43 USC 1735.

Appropriation authorization.

(b) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), shall be expended for the benefit of such land only.

(c) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work

authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

WORKING CAPITAL FUND

Establishment.
43 USC 1736.

40 USC 471
note.

SEC. 306. (a) There is hereby established a working capital fund for the management of the public lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, as amended), and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

Appropriation
authorization.

(d) There is hereby authorized to be appropriated a sum not to exceed \$3,000,000 as initial capital of the working capital fund.

STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS

43 USC 1737.

SEC. 307. (a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands.

(b) Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

Appropriation
authorization.

CONTRACTS FOR SURVEYS AND RESOURCE PROTECTION

SEC. 308. (a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred. 43 USC 1738.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

ADVISORY COUNCILS AND PUBLIC PARTICIPATION

SEC. 309. (a) The Secretary is authorized to establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens' interests concerning the problems relating to land use planning or the management of the public lands located within the area for which an advisory council is established. At least one member of each council shall be an elected official of general purpose government serving the people of such area. To the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. App. 1). 43 USC 1739

(b) Notwithstanding the provisions of subsection (a) of this section, each advisory council established by the Secretary under this section shall meet at least once a year with such meetings being called by the Secretary.

(c) Members of advisory councils shall serve without pay, except travel and per diem will be paid each member for meetings called by the Secretary.

(d) An advisory council may furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established and such other matters as may be referred to it by the Secretary.

(e) In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands.

RULES AND REGULATIONS

SEC. 310. The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act and of other laws applicable to the public lands, and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be 43 USC 1740.

governed by the provisions of chapter 5 of title 5 of the United States Code, without regard to section 553 (a) (2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practical.

PUBLIC LANDS PROGRAM REPORT

Submittal to
Congress.
43 USC 1741.

SEC. 311. (a) For the purpose of providing information that will aid Congress in carrying out its oversight responsibilities for public lands programs and for other purposes, the Secretary shall prepare a report in accordance with subsections (b) and (c) and submit it to the Congress no later than one hundred and twenty days after the end of each fiscal year beginning with the report for fiscal year 1979.

(b) A list of programs and specific information to be included in the report as well as the format of the report shall be developed by the Secretary after consulting with the Committees on Interior and Insular Affairs of the House and Senate and shall be provided to the committees prior to the end of the second quarter of each fiscal year.

(c) The report shall include, but not be limited to, program identification information, program evaluation information, and program budgetary information for the preceding current and succeeding fiscal years.

SEARCH AND RESCUE

43 USC 1742.

SEC. 312. Where in his judgment sufficient search, rescue, and protection forces are not otherwise available, the Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperating in the protection and rescue of, persons or animals endangered by an act of God, and (c) in transporting deceased persons or persons seriously ill or injured to the nearest place where interested parties or local authorities are located.

SUNSHINE IN GOVERNMENT

Written
statement.
43 USC 1743.

SEC. 313. (a) Each officer or employee of the Secretary and the Bureau who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit, lease, or right-of-way under, or (B) applies for or acquires any land or interests therein under, or (C) is otherwise subject to the provisions of, this Act,

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

Public
availability.

(b) The Secretary shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term “known financial interests” for the purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

Report to
Congress.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

Penalty.

RECORDATION OF MINING CLAIMS AND ABANDONMENT

SEC. 314. (a) The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the three-year period following the date of the approval of this Act and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after the date of this Act shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

43 USC 1744.

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, on a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701; 30 U.S.C. 28-1), relating thereto.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

(b) The owner of an unpatented lode or placer mining claim or mill or tunnel site located prior to the date of approval of this Act shall, within the three-year period following the date of approval of this Act, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill or tunnel site located after the date of approval of this Act shall, within ninety days after the date of location of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground.

(c) The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an abandonment of the mining claim or mill or tunnel site by the owner; but it shall not be considered a failure to file if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill or tunnel site.

(d) Such recordation or application by itself shall not render valid any claim which would not be otherwise valid under applicable law. Nothing in this section shall be construed as a waiver of the assessment and other requirements of such law.

RECORDABLE DISCLAIMERS OF INTEREST IN LAND

43 USC 1745.

SEC. 315. (a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document or disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be deposited to the then-current appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

CORRECTION OF CONVEYANCE DOCUMENTS

43 USC 1746.

SEC. 316. The Secretary may correct patents or documents of conveyance issued pursuant to section 208 of this Act or to other Acts relating to the disposal of public lands where necessary in order to eliminate errors. In addition, the Secretary may make corrections of errors in any documents of conveyance which have heretofore been issued by the Federal Government to dispose of public lands.

MINERAL REVENUES

30 USC 191.

SEC. 317. (a) Section 35 of the Act of February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. 181, 191), as amended, is further amended to read as follows: "All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this Act and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof, shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this Act, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those

30 USC 1001
note.

from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska as soon as practicable after March 31 and September 30 of each year, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this Act and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as 'miscellaneous receipts', as provided by the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252). All moneys received under the provisions of this Act and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts."

43 USC 391
note.

30 USC 1001
note.

(b) Funds now held pursuant to said section 35 by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as C-A; C-B; U-A and U-B shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services.

30 USC 191
note.

(c) (1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended. Such loans shall be confined to the uses specified for the 50 per centum of mineral revenues to be received by such States and subdivisions pursuant to section 35 of such Act. All loans shall bear interest at a rate not to exceed 3 per centum and shall be for such amounts and durations as the Secretary shall determine. The Secretary shall limit the amounts of such loans to all States except Alaska to the anticipated mineral revenues to be received by the recipients of said loans and to Alaska to 55 per centum of anticipated mineral revenues to be received by it pursuant to said section 35 for any prospective 10-year period. Such loans shall be repaid by the loan recipients from mineral revenues to be derived from said section 35 by such recipients, as the Secretary determines.

Loans.
43 USC 1747.

Interest rate.

(2) The Secretary, after consultation with Governors of the affected States, shall allocate such loans among the States and their subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(3) Loans under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to assure that the purpose of this subsection will be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

Regulations.

APPROPRIATION AUTHORIZATION

SEC. 318. (a) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after October 1, 1978, any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of the date of approval of this Act or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

43 USC 1748.

31 USC 1301
note.

(b) Consistent with section 607 of the Congressional Budget Act of 1974, beginning May 15, 1977, and not later than May 15 of each second even numbered year thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the four-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to the Office of Management and Budget, the funding levels which he determines can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

(c) Nothing in this section shall apply to the distribution of receipts of the Bureau from the disposal of lands, natural resources, and interests in lands in accordance with applicable law, nor to the use of contributed funds, private deposits for public survey work, and townsite trusteeships, nor to fund allocations from other Federal agencies, reimbursements from both Federal and non-Federal sources, and funds expended for emergency firefighting and rehabilitation.

(d) In exercising the authority to acquire by purchase granted by subsection (a) of section 205 of this Act, the Secretary may use the Land and Water Conservation Fund to purchase lands which are necessary for proper management of public lands which are primarily of value for outdoor recreation purposes.

TITLE IV—RANGE MANAGEMENT

GRAZING FEES

Study.
43 USC 1751.

Report to
Congress.

SEC. 401. (a) The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after the date of approval of this Act, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after the date of approval of this Act, the grazing fee charge then in effect shall not be altered and shall remain the same until such report has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

(b)(1) Congress finds that a substantial amount of the Federal range lands is deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum

of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.) and the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181d), and on lands in National Forests in the eleven contiguous Western States under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other range management. Such rehabilitation, protection, and improvements shall include all forms of range land betterment including, but not limited to, seeding and reseedling, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with user representatives. The annual distribution and use of range betterment funds authorized by this paragraph shall not be considered a major Federal action requiring a detailed statement pursuant to section 4332(c) of title 42 of the United States Code.

(2) The first clause of section 10(b) of the Taylor Grazing Act (48 Stat. 1269), as amended by the Act of August 6, 1947 (43 U.S.C. 315i), is hereby repealed. All distributions of moneys made under section 401(b)(1) of this Act shall be in addition to distributions made under section 10 of the Taylor Grazing Act and shall not apply to distribution of moneys made under section 11 of that Act. The remaining moneys received by the United States as fees for grazing domestic livestock on the public lands shall be deposited in the Treasury as miscellaneous receipts.

43 USC 1751.

43 USC 315j.

(3) Section 3 of the Taylor Grazing Act, as amended (43 U.S.C. 315), is further amended by—

43 USC 315b.

(a) Deleting the last clause of the first sentence thereof, which begins with “and in fixing,” deleting the comma after “time”, and adding to that first sentence the words “in accordance with governing law”.

(b) Deleting the second sentence thereof.

GRAZING LEASES AND PERMITS

Sec. 402. (a) Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on public lands issued by the Secretary under the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315 et seq.) or the Act of August 28, 1937 (50 Stat. 874, as amended; 43 U.S.C. 1181a–1181j), or by the Secretary of Agriculture, with respect to lands within National Forests in the eleven contiguous Western States, shall be for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or

43 USC 1752.

lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years; or

(3) it will be in the best interest of sound land management to specify a shorter term: *Provided*, That the absence from an allotment management plan of details the Secretary concerned would like to include but which are undeveloped shall not be the basis for establishing a term shorter than ten years.

(c) So long as (1) the lands for which the permit or lease is issued remain available for domestic livestock grazing in accordance with land use plans prepared pursuant to section 202 of this Act or section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477; 16 U.S.C. 1601), (2) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the permit or lease specified by the Secretary concerned, and (3) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

16 USC 1604.

(d) All permits and leases for domestic livestock grazing issued pursuant to this section, with the exceptions authorized in subsection (e) of this section, on and after October 1, 1988, may incorporate an allotment management plan developed by the Secretary concerned in consultation with the lessees or permittees involved. Prior to that date, allotment management plans shall be incorporated in grazing permits and leases when they are completed. The Secretary concerned may revise such plans from time to time after such consultation.

(e) Prior to October 1, 1988, or thereafter, in all cases where the Secretary concerned has not completed an allotment management plan or determines that an allotment management plan is not necessary for management of livestock operations and will not be prepared, the Secretary concerned shall incorporate in grazing permits and leases such terms and conditions as he deems appropriate for management of the permitted or leased lands pursuant to applicable law. The Secretary concerned shall also specify therein the numbers of animals to be grazed and the seasons of use and that he may reexamine the condition of the range at any time and, if he finds on reexamination that the condition of the range requires adjustment in the amount or other aspect of grazing use, that the permittee or lessee shall adjust his use to the extent the Secretary concerned deems necessary. Such readjustment shall be put into full force and effect on the date specified by the Secretary concerned.

(f) Allotment management plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are intermingled with, or, with the consent of the permittee or lessee involved, associated with, the Federal lands subject to the plan. The Secretary concerned under appropriate regulations shall grant to lessees and permittees the right of appeal from decisions which specify the terms and conditions of allotment management plans. The preceding sentence of this subsection shall not be construed as limiting any other right of appeal from decisions of such officials.

(g) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by

the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(h) Nothing in this Act shall be construed as modifying in any way law existing on the date of approval of this Act with respect to the creation of right, title, interest or estate in or to public lands or lands in National Forests by issuance of grazing permits and leases.

GRAZING ADVISORY BOARDS

SEC. 403. (a) For each Bureau district office and National Forest headquarters office in the eleven contiguous Western States having jurisdiction over more than five hundred thousand acres of lands subject to commercial livestock grazing (hereinafter in this section referred to as "office"), the Secretary and the Secretary of Agriculture, upon the petition of a simple majority of the livestock lessees and permittees under the jurisdiction of such office, shall establish and maintain at least one grazing advisory board of not more than fifteen advisers. 43 USC 1753.

(b) The function of grazing advisory boards established pursuant to this section shall be to offer advice and make recommendations to the head of the office involved concerning the development of allotment management plans and the utilization of range-betterment funds.

(c) The number of advisers on each board and the number of years an adviser may serve shall be determined by the Secretary concerned in his discretion. Each board shall consist of livestock representatives who shall be lessees or permittees in the area administered by the office concerned and shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary concerned.

(d) Each grazing advisory board shall meet at least once annually.

(e) Except as may be otherwise provided by this section, the provisions of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. App. 1) shall apply to grazing advisory boards.

(f) The provisions of this section shall expire December 31, 1985.

MANAGEMENT OF CERTAIN HORSES AND BURROS

SEC. 404. Sections 9 and 10 of the Act of December 15, 1971 (85 Stat. 649, 651; 16 U.S.C. 1331, 1339-1340) are renumbered as sections 10 and 11, respectively, and the following new section is inserted after section 8:

"SEC. 9. In administering this Act, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary." 16 USC 1338a.

TITLE V—RIGHTS-OF-WAY

AUTHORIZATION TO GRANT RIGHTS-OF-WAY

43 USC 1761.

SEC. 501. (a) The Secretary, with respect to the public lands and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791);

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities on lands in the National Forest System; or

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through such lands.

(b) (1) The Secretary concerned shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose those plans, contracts, agreements, or other information reasonably related to the use, or intended use, of the right-of-way, including its effect on competition, which he deems necessary to a determination, in accordance with the provisions of this Act, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary concerned, prior to granting a right-to-way pursuant to this title, shall require the applicant to disclose the identity of the participants in the entity, when he deems it necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. Such disclosures shall include, where applicable: (A) the name and address of each partner; (B) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate

controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

COST-SHARE ROAD AUTHORIZATION

SEC. 502. (a) The Secretary, with respect to the public lands, is authorized to provide for the acquisition, construction, and maintenance of roads within and near the public lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of timber and other products from the public lands, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That, where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from public lands shall not, except when the provisions of the second proviso of this subsection apply, be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further*, That when timber is offered with the condition that the purchaser thereof will build a road or roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads. 43 USC 1762.

Financing.

(b) Copies of all instruments affecting permanent interests in land executed pursuant to this section shall be recorded in each county where the lands are located.

(c) The Secretary may require the user or users of a road, trail, land, or other facility administered by him through the Bureau, including purchasers of Government timber and other products, to maintain such facilities in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a facility to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: *And provided further*, That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded. Maintenance.

(d) Whenever the agreement under which the United States has obtained for the use of, or in connection with, the public lands a right-

of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

RIGHT-OF-WAY CORRIDORS

43 USC 1763.

SEC. 503. In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

Regulations.

GENERAL PROVISIONS

43 USC 1764.

SEC. 504. (a) The Secretary concerned shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way shall be limited to the ground which the Secretary concerned determines (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be necessary for the operation or maintenance of the project, (3) to be necessary to protect the public safety, and (4) will do no unnecessary damage to the environment. The Secretary concerned may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

Limitation.

(b) Each right-of-way or permit granted, issued, or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project. In determining the duration of a right-of-way the Secretary concerned shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The right-of-way shall specify whether it is or is not renewable and the terms and conditions applicable to the renewal.

(c) Rights-of-way shall be granted, issued, or renewed pursuant to this title under such regulations or stipulations, consistent with the provisions of this title or any other applicable law, and shall also be subject to such terms and conditions as the Secretary concerned may prescribe regarding extent, duration, survey, location, construction, maintenance, transfer or assignment, and termination.

Right-of-way,
plan submittal.

(d) The Secretary concerned prior to granting or issuing a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by that Secretary, including the terms and conditions required under section 505 of this Act.

(e) The Secretary concerned shall issue regulations with respect to the terms and conditions that will be included in rights-of-way pursuant to section 505 of this title. Such regulations shall be regularly revised as needed. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this title and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this title. Regulations.

(f) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(g) The holder of a right-of-way shall pay annually in advance the fair market value thereof as determined by the Secretary granting, issuing, or renewing such right-of-way: *Provided*, That when the annual rental is less than \$100, the Secretary concerned may require advance payment for more than one year at a time: *Provided further*, That the Secretary concerned may waive rentals where a Fair market value, annual payment.

a right-of-way is granted, issued, or renewed in reciprocation for a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder. The Secretary concerned may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however*, That the Secretary concerned need not secure reimbursement in any situation where there is in existence a cooperative cost share right-of-way program between the United States and the holder of a right-of-way. Rights-of-way may be granted, issued, or renewed to a Federal, State, or local government or any agency or instrumentality thereof, to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, or to a holder where he provides without or at reduced charges a valuable benefit to the public or to the programs of the Secretary concerned, or to a holder in connection with the authorized use or occupancy of Federal land for which the United States is already receiving compensation for such lesser charge, including free use as the Secretary concerned finds equitable and in the public interest. Such rights-of-way issued at less than fair market value are not assignable except with the approval of the Secretary issuing the right-of-way. The moneys received for reimbursement of reasonable costs shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. Waiver. Reimbursement.

(h) (1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this title shall be liable to the United States for damage or injury incurred by the United States caused by the use and occupancy of the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims caused by their use and occupancy of the rights-of-way. Regulations.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage

or injury in excess of this amount shall be determined by ordinary rules of negligence.

(i) Where he deems it appropriate, the Secretary concerned may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to him to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary concerned.

(j) The Secretary concerned shall grant, issue, or renew a right-of-way under this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

TERMS AND CONDITIONS

43 USC 1765.

SEC. 505. Each right-of-way shall contain—

(a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards; and

(b) such terms and conditions as the Secretary concerned deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto.

SUSPENSION OR TERMINATION OF RIGHTS-OF-WAY

43 USC 1766.

SEC. 506. Abandonment of a right-of-way or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary concerned may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and, and with respect to easements, an appropriate administrative proceeding pursuant to section 554 of title 5 of the United States Code, the Secretary concerned determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary concerned determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way

Notice.

the Secretary concerned shall give written notice to the holder of the grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way, except that where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary concerned is not required to commence proceedings to suspend or terminate the right-of-way.

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

SEC. 507. (a) The Secretary concerned may provide under applicable provisions of this title for the use of any department or agency of the United States a right-of-way over, upon, under or through the land administered by him, subject to such terms and conditions as he may impose. 43 USC 1767.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

CONVEYANCE OF LANDS

SEC. 508. If under applicable law the Secretary concerned decides to transfer out of Federal ownership any lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576; 30 U.S.C. 185), the lands may be conveyed subject to the right-of-way; however, if the Secretary concerned determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be carried out, the terms and conditions of the right-of-way complied with, or the lands protected, he shall (a) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (b) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents. 43 USC 1768.

EXISTING RIGHTS-OF WAY

SEC. 509. (a) Nothing in this title shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted, or permitted. However, with the consent of the holder thereof, the Secretary concerned may cancel such a right-of-way or right-of-use and in its stead issue a right-of-way pursuant to the provisions of this title. 43 USC 1769.

Cancellation.

(b) When the Secretary concerned issues a right-of-way under this title for a railroad and appurtenant communication facilities in connection with a realignment of a railroad on lands under his jurisdiction by virtue of a right-of-way granted by the United States, he may, when he considers it to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value, notwithstanding the provisions of this title, provide in the new right-of-way the same terms and conditions as applied to the por-

tion of the existing right-of-way relinquished to the United States with respect to the payment of annual rental, duration of the right-of-way, and the nature of the interest in lands granted. The Secretary concerned or his delegate shall take final action upon all applications for the grant, issue, or renewal of rights-of-way under subsection (b) of this section no later than six months after receipt from the applicant of all information required from the applicant by this title.

EFFECT ON OTHER LAWS

43 USC 1770.

SEC. 510. (a) Effective on and after the date of approval of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, under, or through such lands except under and subject to the provisions, limitations, and conditions of this title: *Provided*, That nothing in this title shall be construed as affecting or modifying the provisions of the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532-538) and in the event of conflict with, or inconsistency between, this title and the Act of October 13, 1964, the latter shall prevail: *Provided further*, That nothing in this Act should be construed as making it mandatory that, with respect to forest roads, the Secretary of Agriculture limit rights-of-way grants or their term of years or require disclosure pursuant to Section 501 (b) or impose any other condition contemplated by this Act that is contrary to present practices of that Secretary under the Act of October 13, 1964. Any pending application for a right-of-way under any other law on the effective date of this section shall be considered as an application under this title. The Secretary concerned may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of lands covered by this title for highway purposes pursuant to sections 107 and 317 of title 23 of the United States Code.

(c) (1) Nothing in this title shall be construed as exempting any holder of a right-of-way issued under this title from any provision of the antitrust laws of the United States.

"Antitrust laws."

(2) For the purposes of this subsection, the term "antitrust laws" includes the Act of July 2, 1890 (26 Stat. 15 U.S.C. 1 et seq.); the Act of October 15, 1914 (38 Stat. 730, 15 U.S.C. 12 et seq.); the Federal Trade Commission Act (38 Stat. 717; 15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894.

15 USC 8, 9.

COORDINATION OF APPLICATIONS

43 USC 1771.

SEC. 511. Applicants before Federal departments and agencies other than the Department of the Interior or Agriculture seeking a license, certificate, or other authority for a project which involve a right-of-way over, upon, under, or through public land or National Forest System lands must simultaneously apply to the Secretary concerned for the appropriate authority to use public lands or National Forest System lands and submit to the Secretary concerned all information furnished to the other Federal department or agency.

TITLE VI—DESIGNATED MANAGEMENT AREAS

CALIFORNIA DESERT CONSERVATION AREA

43 USC 1781.

SEC. 601. (a) The Congress finds that—

(1) the California desert contains historical, scenic, archeologi-

cal, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population;

(2) the California desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the California desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use, which are certain to intensify because of the rapidly growing population of southern California;

(4) the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plan to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the public lands in the California desert; and

(6) to insure further study of the relationship of man and the California desert environment, preserve the unique and irreplaceable resources, including archeological values, and conserve the use of the economic resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided to the Secretary to facilitate effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality.

(c) (1) For the purpose of this section, the term "California desert" means the area generally depicted on a map entitled "California Desert Conservation Area—Proposed" dated April 1974, and described as provided in subsection (c) (2).

"California desert."

(2) As soon as practicable after the date of approval of this Act, the Secretary shall file a revised map and a legal description of the California Desert Conservation Area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and a map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

Revised map filed with congressional committees.

(d) The Secretary, in accordance with section 202 of this Act, shall prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Conservation Area. Such plan shall take into account the principles of multiple use and sustained yield in providing for resource use and development, including, but not limited to, maintenance of environmental quality, rights-of-way, and mineral development. Such plan shall be completed and implementation thereof initiated on or before September 30, 1980.

Ante, p. 2747.

Interim
program.

(e) During the period beginning on the date of approval of this Act and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage, use, and protect the public lands, and their resources now in danger of destruction, in the California Desert Conservation Area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

Mining claims.
Regulations.

(f) Subject to valid existing rights, nothing in this Act shall affect the applicability of the United States mining laws on the public lands within the California Desert Conservation Area, except that all mining claims located on public lands within the California Desert Conservation Area shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this section. Any patent issued on any such mining claim shall recite this limitation and continue to be subject to such regulations. Such regulations shall provide for such measures as may be reasonable to protect the scenic, scientific, and environmental values of the public lands of the California Desert Conservation Area against undue impairment, and to assure against pollution of the streams and waters within the California Desert Conservation Area.

California Desert
Conservation
Area Advisory
Committee.
Establishment.

(g) (1) The Secretary, within sixty days after the date of approval of this Act, shall establish a California Desert Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 309 of this Act.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

Management.

(h) The Secretary of Agriculture and the Secretary of Defense shall manage lands within their respective jurisdictions located in or adjacent to the California Desert Conservation Area, in accordance with the laws relating to such lands and wherever practicable, in a manner consonant with the purpose of this section. The Secretary, the Secretary of Agriculture, and the Secretary of Defense are authorized and directed to consult among themselves and take cooperative actions to carry out the provisions of this subsection, including a program of law enforcement in accordance with applicable authorities to protect the archeological and other values of the California Desert Conservation Area and adjacent lands.

Consultation.

Report to
Congress.

(i) The Secretary shall report to the Congress no later than two years after the date of approval of this Act, and annually thereafter, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

Appropriation
authorization.

(j) There are authorized to be appropriated for fiscal years 1977 through 1981 not to exceed \$40,000,000 for the purpose of this section, such amount to remain available until expended.

KING RANGE

16 USC 460y-8.

SEC. 602. Section 9 of the Act of October 21, 1970 (84 Stat. 1067), is amended by adding a new subsection (c), as follows:

"(c) In addition to the lands described in subsection (a) of this section, the land identified as the Punta Gorda Addition and the Southern Additions on the map entitled 'King Range National Con-

servation Area Boundary Map No. 2, dated July 29, 1975, is included in the survey and investigation area referred to in the first section of this Act.”

BUREAU OF LAND MANAGEMENT WILDERNESS STUDY

SEC. 603. (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness: *Provided*, That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present in such areas: *Provided further*, That the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedure specified in section 3(d) of the Wilderness Act.

Review;
report to
President.
43 USC 1782.

(b) The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

Report to
President.

Recommendations
to President
of the Senate
and Speaker
of the House.

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act: *Provided*, That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act, and mineral development, access, exchange of lands, and ingress and egress for mining claimants and occupants.

Regulation.

Ante, p. 2751.

16 USC 1131
note.

16 USC 1133.

TITLE VII—EFFECT ON EXISTING RIGHTS; REPEAL OF EXISTING LAWS; SEVERABILITY

EFFECT ON EXISTING RIGHTS

43 USC 1701
note.

SEC. 701. (a) Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act.

(b) Notwithstanding any provision of this Act, in the event of conflict with or inconsistency between this Act and the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), and May 24, 1939 (53 Stat. 753), insofar as they relate to management of timber resources, and disposition of revenues from lands and resources, the latter Acts shall prevail.

(c) All withdrawals, reservations, classifications, and designations in effect as of the date of approval of this Act shall remain in full force and effect until modified under the provisions of this Act or other applicable law.

(d) Nothing in this Act, or in any amendments made by this Act, shall be construed as permitting any person to place, or allow to be placed, spent oil shale, overburden, or byproducts from the recovery of other minerals found with oil shale, on any Federal land other than Federal land which has been leased for the recovery of shale oil under the Act of February 25, 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(e) Nothing in this Act shall be construed as modifying, revoking, or changing any provision of the Alaska Native Claims Settlement Act (85 Stat. 688, as amended; 43 U.S.C. 1601 et seq.).

(f) Nothing in this Act shall be deemed to repeal any existing law by implication.

(g) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

(5) as modifying the terms of any interstate compact;

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands; or as amending, limiting, or infringing the existing laws providing grants of lands to the States.

(h) All actions by the Secretary concerned under this Act shall be subject to valid existing rights.

43 USC 1701
note.

(b) Nothing in section 706 (a), except as it pertains to rights-of-way, may be construed as affecting the authority of the Secretary of Agriculture under the Act of June 4, 1897 (30 Stat. 35, as amended, 16 U.S.C. 551); the Act of July 22, 1937 (50 Stat. 525, as amended, 7 U.S.C. 1010-1212); or the Act of September 3, 1954 (68 Stat. 1146, 43 U.S.C. 931c).

SEVERABILITY

43 USC 1701
note.

SEC. 707. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1163 accompanying H.R. 13777 (Comm. on Interior and Insular Affairs) and No. 94-1724 (Comm. of Conference).

SENATE REPORT No. 94-583 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 23, 25, considered and passed Senate.

July 22, considered and passed House, amended, in lieu of H.R. 13777.

Sept. 30, House agreed to conference report.

Oct. 1, Senate agreed to conference report.

Public Law 94-580
94th Congress

An Act

To provide technical and financial assistance for the development of management plans and facilities for the recovery of energy and other resources from discarded materials and for the safe disposal of discarded materials, and to regulate the management of hazardous waste.

Oct. 21, 1976
[S. 2150]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Resource
Conservation and
Recovery Act of
1976.

SHORT TITLE

SECTION 1. This Act may be cited as the "Resource Conservation and Recovery Act of 1976".

42 USC 6901
note.

AMENDMENT OF SOLID WASTE DISPOSAL ACT

SEC. 2. The Solid Waste Disposal Act (42 U.S.C. 3251 and following) is amended to read as follows:

"TITLE II—SOLID WASTE DISPOSAL

"Subtitle A—General Provisions

"SHORT TITLE AND TABLE OF CONTENTS

"SEC. 1001. This title (hereinafter in this title referred to as 'this Act'), together with the following table of contents, may be cited as the 'Solid Waste Disposal Act':

42 USC 6901
note.

"Subtitle A—General Provisions

- "Sec. 1001. Short title and table of contents.
- "Sec. 1002. Congressional findings.
- "Sec. 1003. Objectives.
- "Sec. 1004. Definitions.
- "Sec. 1005. Governmental cooperation.
- "Sec. 1006. Application of Act and integration with other Acts.
- "Sec. 1007. Financial disclosure.
- "Sec. 1008. Solid waste management information and guidelines.

"Subtitle B—Office of Solid Waste; Authorities of the Administrator

- "Sec. 2001. Office of Solid Waste.
- "Sec. 2002. Authorities of Administrator.
- "Sec. 2003. Resource recovery and conservation panels.
- "Sec. 2004. Grants for discarded tire disposal.
- "Sec. 2005. Annual report.
- "Sec. 2006. General authorization.

"Subtitle C—Hazardous Waste Management

- "Sec. 3001. Identification and listing of hazardous waste.
- "Sec. 3002. Standards applicable to generators of hazardous waste.
- "Sec. 3003. Standards applicable to transporters of hazardous waste.
- "Sec. 3004. Standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities.
- "Sec. 3005. Permits for treatment, storage, or disposal of hazardous waste.
- "Sec. 3006. Authorized State hazardous waste programs.
- "Sec. 3007. Inspections.

"Subtitle C—Hazardous Waste Management—Continued

- "Sec. 3008. Federal enforcement.
- "Sec. 3009. Retention of State authority.
- "Sec. 3010. Effective date.
- "Sec. 3011. Authorization of assistance to States.

"Subtitle D—State or Regional Solid Waste Plans

- "Sec. 4001. Objectives of subtitle.
- "Sec. 4002. Federal guidelines for plans.
- "Sec. 4003. Minimum requirements for approval of plans.
- "Sec. 4004. Criteria for sanitary landfills; sanitary landfills required for all disposal.
- "Sec. 4005. Upgrading of open dumps.
- "Sec. 4006. Procedure for development and implementation of State plan.
- "Sec. 4007. Approval of State plan; Federal assistance.
- "Sec. 4008. Federal assistance.
- "Sec. 4009. Rural communities assistance.

"Subtitle E—Duties of the Secretary of Commerce in Resource and Recovery

- "Sec. 5001. Functions.
- "Sec. 5002. Development of specifications for secondary materials.
- "Sec. 5003. Development of markets for recovered materials.
- "Sec. 5004. Technology promotion.

"Subtitle F—Federal Responsibilities

- "Sec. 6001. Application of Federal, State, and local law to Federal facilities.
- "Sec. 6002. Federal procurement.
- "Sec. 6003. Cooperation with Environmental Protection Agency.
- "Sec. 6004. Applicability of solid waste disposal guidelines to executive agencies.

"Subtitle G—Miscellaneous Provisions

- "Sec. 7001. Employee protection.
- "Sec. 7002. Citizen suits.
- "Sec. 7003. Imminent hazard.
- "Sec. 7004. Petition for regulations; public participation.
- "Sec. 7005. Separability.
- "Sec. 7006. Judicial review.
- "Sec. 7007. Grants or contracts for training projects.
- "Sec. 7008. Payments.
- "Sec. 7009. Labor standards.

"Subtitle H—Research, Development, Demonstration, and Information

- "Sec. 8001. Research, demonstrations, training, and other activities.
- "Sec. 8002. Special studies; plans for research, development, and demonstrations.
- "Sec. 8003. Coordination, collection, and dissemination of information.
- "Sec. 8004. Full-scale demonstration facilities.
- "Sec. 8005. Special study and demonstration projects on recovery of useful energy and materials.
- "Sec. 8006. Grants for resource recovery systems and improved solid waste disposal facilities.
- "Sec. 8007. Authorization of appropriations.

"CONGRESSIONAL FINDINGS

42 USC 6901.

"SEC. 1002. (a) **SOLID WASTE.**—The Congress finds with respect to solid waste—

"(1) that the continuing technological progress and improvement in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase, and in a change in the characteristics, of the mass material discarded by the purchaser of such products;

"(2) that the economic and population growth of our Nation, and the improvements in the standard of living enjoyed by our population, have required increased industrial production to meet

our needs, and have made necessary the demolition of old buildings, the construction of new buildings, and the provision of highways and other avenues of transportation, which, together with related industrial, commercial, and agricultural operations, have resulted in a rising tide of scrap, discarded, and waste materials;

“(3) that the continuing concentration of our population in expanding metropolitan and other urban areas has presented these communities with serious financial, management, intergovernmental, and technical problems in the disposal of solid wastes resulting from the industrial, commercial, domestic, and other activities carried on in such areas;

“(4) that while the collection and disposal of solid wastes should continue to be primarily the function of State, regional, and local agencies, the problems of waste disposal as set forth above have become a matter national in scope and in concern and necessitate Federal action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid-waste disposal practices.

“(b) ENVIRONMENT AND HEALTH.—The Congress finds with respect to the environment and health, that—

“(1) although land is too valuable a national resource to be needlessly polluted by discarded materials, most solid waste is disposed of on land in open dumps and sanitary landfills;

“(2) disposal of solid waste and hazardous waste in or on the land without careful planning and management can present a danger to human health and the environment;

“(3) as a result of the Clean Air Act, the Water Pollution Control Act, and other Federal and State laws respecting public health and the environment, greater amounts of solid waste (in the form of sludge and other pollution treatment residues) have been created. Similarly, inadequate and environmentally unsound practices for the disposal or use of solid waste have created greater amounts of air and water pollution and other problems for the environment and for health;

“(4) open dumping is particularly harmful to health, contaminates drinking water from underground and surface supplies, and pollutes the air and the land;

“(5) hazardous waste presents, in addition to the problems associated with non-hazardous solid waste, special dangers to health and requires a greater degree of regulation than does non-hazardous solid waste; and

“(6) alternatives to existing methods of land disposal must be developed since many of the cities in the United States will be running out of suitable solid waste disposal sites within five years unless immediate action is taken;

“(c) MATERIALS.—The Congress finds with respect to materials, that—

“(1) millions of tons of recoverable material which could be used are needlessly buried each year;

“(2) methods are available to separate usable materials from solid waste; and

“(3) the recovery and conservation of such materials can reduce the dependence of the United States on foreign resources and reduce the deficit in its balance of payments.

42 USC 1857
note.

33 USC 1251
note.

“(d) **ENERGY.**—The Congress finds with respect to energy, that—

“(1) solid waste represents a potential source of solid fuel, oil, or gas that can be converted into energy;

“(2) the need exists to develop alternative energy sources for public and private consumption in order to reduce our dependence on such sources as petroleum products, natural gas, nuclear and hydroelectric generation; and

“(3) technology exists to produce usable energy from solid waste.

“OBJECTIVES

42 USC 6902.

“SEC. 1003. The objectives of this Act are to promote the protection of health and the environment and to conserve valuable material and energy resources by—

“(1) providing technical and financial assistance to State and local governments and interstate agencies for the development of solid waste management plans (including resource recovery and resource conservation systems) which will promote improved solid waste management techniques (including more effective organizational arrangements), new and improved methods of collection, separation, and recovery of solid waste, and the environmentally safe disposal of nonrecoverable residues;

“(2) providing training grants in occupations involving the design, operation, and maintenance of solid waste disposal systems;

“(3) prohibiting future open dumping on the land and requiring the conversion of existing open dumps to facilities which do not pose a danger to the environment or to health;

“(4) regulating the treatment, storage, transportation, and disposal of hazardous wastes which have adverse effects on health and the environment;

“(5) providing for the promulgation of guidelines for solid waste collection, transport, separation, recovery, and disposal practices and systems;

“(6) promoting a national research and development program for improved solid waste management and resource conservation techniques, more effective organizational arrangements, and new and improved methods of collection, separation, and recovery, and recycling of solid wastes and environmentally safe disposal of nonrecoverable residues;

“(7) promoting the demonstration, construction, and application of solid waste management, resource recovery, and resource conservation systems which preserve and enhance the quality of air, water, and land resources; and

“(8) establishing a cooperative effort among the Federal, State, and local governments and private enterprise in order to recover valuable materials and energy from solid waste.

“DEFINITIONS

42 USC 6903.

“SEC. 1004. As used in this Act:

“(1) The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) The term ‘construction,’ with respect to any project of construction under this Act, means (A) the erection or building of new structures and acquisition of lands or interests therein, or the acquisition, replacement, expansion, remodeling, alteration, modernization.

or extension of existing structures, and (B) the acquisition and installation of initial equipment of, or required in connection with, new or newly acquired structures or the expanded, remodeled, altered, modernized or extended part of existing structures (including trucks and other motor vehicles, and tractors, cranes, and other machinery) necessary for the proper utilization and operation of the facility after completion of the project; and includes preliminary planning to determine the economic and engineering feasibility and the public health and safety aspects of the project, the engineering, architectural, legal, fiscal, and economic investigations and studies, and any surveys, designs, plans, working drawings, specifications, and other action necessary for the carrying out of the project, and (C) the inspection and supervision of the process of carrying out the project to completion.

“(2A) The term ‘demonstration’ means the initial exhibition of a new technology process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness.

“(3) The term ‘disposal’ means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

“(4) The term ‘Federal agency’ means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

“(5) The term ‘hazardous waste’ means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may—

“(A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

“(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

“(6) The term ‘hazardous waste generation’ means the act or process of producing hazardous waste.

“(7) The term ‘hazardous waste management’ means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

“(8) For purposes of Federal financial assistance (other than rural communities assistance), the term ‘implementation’ does not include the acquisition, leasing, construction, or modification of facilities or equipment or the acquisition, leasing, or improvement of land and after December 31, 1979, such term does not include salaries of employees due pursuant to subtitle D of this Act.

Post, p. 2813.

“(9) The term ‘intermunicipal agency’ means an agency established by two or more municipalities with responsibility for planning or administration of solid waste.

“(10) The term ‘interstate agency’ means an agency of two or more municipalities in different States, or an agency established by two or more States, with authority to provide for the disposal of solid wastes and serving two or more municipalities located in different States.

“(11) The term ‘long-term contract’ means, when used in relation to solid waste supply, a contract of sufficient duration to assure the

viability of a resource recovery facility (to the extent that such viability depends upon solid waste supply).

"(12) The term 'manifest' means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

"(13) The term 'municipality' (A) means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law, with responsibility for the planning or administration of solid waste management, or an Indian tribe or authorized tribal organization or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

"(14) The term 'open dump' means a site for the disposal of solid waste which is not a sanitary landfill within the meaning of section 4004.

"(15) The term 'person' means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

"(16) The term 'procurement item' means any device, good, substance, material, product, or other item whether real or personal property which is the subject of any purchase, barter, or other exchange made to procure such item.

"(17) The term 'procuring agency' means any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract.

"(18) The term 'recoverable' refers to the capability and likelihood of being recovered from solid waste for a commercial or industrial use.

"(19) The term 'recovered material' means material which has been collected or recovered from solid waste.

"(20) The term 'recovered resources' means material or energy recovered from solid waste.

"(21) The term 'resource conservation' means reduction of the amounts of solid waste that are generated, reduction of overall resource consumption, and utilization of recovered resources.

"(22) The term 'resource recovery' means the recovery of material or energy from solid waste.

"(23) The term 'resource recovery system' means a solid waste management system which provides for collection, separation, recycling, and recovery of solid wastes, including disposal of nonrecoverable waste residues.

"(24) The term 'resource recovery facility' means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

"(25) The term 'regional authority' means the authority established or designated under section 4006.

"(26) The term 'sanitary landfill' means a facility for the disposal of solid waste which meets the criteria published under section 4004.

"(26A) The term 'sludge' means any solid, semisolid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control

facility or any other such waste having similar characteristics and effects.

“(27) The term ‘solid waste’ means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

33 USC 1342.
42 USC 2011
note.

“(28) The term ‘solid waste management’ means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

“(29) The term ‘solid waste management facility’ includes (A) any resource recovery system or component thereof, (B) any system, program, or facility for resource conservation, and (C) any facility for the treatment of solid wastes, including hazardous wastes, whether such facility is associated with facilities generating such wastes or otherwise.

“(30) The terms ‘solid waste planning’, ‘solid waste management’, and ‘comprehensive planning’ include planning or management respecting resource recovery and resource conservation.

“(31) The term ‘State’ means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(32) The term ‘State authority’ means the agency established or designated under section 4007.

Post, p. 2817.

“(33) The term ‘storage’, when used in connection with hazardous waste, means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

“(34) The term ‘treatment’, when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

“(35) The term ‘virgin material’ means a raw material, including previously unused copper, aluminum, lead, zinc, iron, or other metal or metal ore, any undeveloped resource that is, or with new technology will become, a source of raw materials.

“GOVERNMENTAL COOPERATION

“SEC. 1005. (a) INTERSTATE COOPERATION.—The provisions of this Act to be carried out by States may be carried out by interstate agencies and provisions applicable to States may apply to interstate regions where such agencies and regions have been established by the respective

42 USC 6904.

States and approved by the Administrator. In any such case, action required to be taken by the Governor of a State, respecting regional designation shall be required to be taken by the Governor of each of the respective States with respect to so much of the interstate region as is within the jurisdiction of that State.

“(b) CONSENT OF CONGRESS TO COMPACTS.—The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for—

“(1) cooperative effort and mutual assistance for the management of solid waste or hazardous waste (or both) and the enforcement of their respective laws relating thereto, and

“(2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts.

No such agreement or compact shall be binding or obligatory upon any State a party thereto unless it is agreed upon by all parties to the agreement and until it has been approved by the Administrator and the Congress.

“APPLICATION OF ACT AND INTEGRATION WITH OTHER ACTS

42 USC 6905.

“SEC. 1006. (a) APPLICATION OF ACT.—Nothing in this Act shall be construed to apply to (or to authorize any State, interstate, or local authority to regulate) any activity or substance which is subject to the Federal Water Pollution Control Act (33 U.S.C. 1151 and following), the Safe Drinking Water Act (42 U.S.C. 300f and following), the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 and following), or the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following) except to the extent that such application (or regulation) is not inconsistent with the requirements of such Acts.

33 USC 1251
note.

“(b) INTEGRATION WITH OTHER ACTS.—The Administrator shall integrate all provisions of this Act for purposes of administration and enforcement and shall avoid duplication, to the maximum extent practicable, with the appropriate provisions of the Clean Air Act (42 U.S.C. 1857 and following), the Federal Water Pollution Control Act (33 U.S.C. 1151 and following), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 and following), the Safe Drinking Water Act (42 U.S.C. 300f and following), the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 and following) and such other Acts of Congress as grant regulatory authority to the Administrator. Such integration shall be effected only to the extent that it can be done in a manner consistent with the goals and policies expressed in this Act and in the other acts referred to in this subsection.

33 USC 1251
note.

“FINANCIAL DISCLOSURE

42 USC 6906.

“SEC. 1007. (a) STATEMENT.—Each officer or employee of the Administrator who—

“(1) performs any function or duty under this Act; and

“(2) has any known financial interest in any person who applies for or receives financial assistance under this Act shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

“(b) ACTION BY ADMINISTRATOR.—The Administrator shall—

“(1) act within ninety days after the date of enactment of this Act—

“(A) to define the term ‘known financial interest’ for purposes of subsection (a) of this section; and

“(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

“(2) report to the Congress on June 1, 1978, and of each succeeding calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

Report to Congress.

“(c) EXEMPTION.—In the rules prescribed under subsection (b) of this section, the Administrator may identify specific positions within the Environmental Protection Agency which are of a nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

“(d) PENALTY.—Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

“SOLID WASTE MANAGEMENT INFORMATION AND GUIDELINES

“SEC. 1008. (a) GUIDELINES.—Within one year of enactment of this section, and from time to time thereafter, the Administrator shall, in cooperation with appropriate Federal, State, municipal, and intermunicipal agencies, and in consultation with other interested persons, and after public hearings, develop and publish suggested guidelines for solid waste management. Such suggested guidelines shall—

42 USC 6907.

“(1) provide a technical and economic description of the level of performance that can be attained by various available solid waste management practices (including operating practices) which provide for the protection of public health and the environment;

“(2) not later than two years after the enactment of this section, describe levels of performance, including appropriate methods and degrees of control, that provide at a minimum for (A) protection of public health and welfare; (B) protection of the quality of ground waters and surface waters from leachates; (C) protection of the quality of surface waters from runoff through compliance with effluent limitations under the Federal Water Pollution Control Act, as amended; (D) protection of ambient air quality through compliance with new source performance standards or requirements of air quality implementation plans under the Clean Air Act, as amended; (E) disease and vector control; (F) safety; and (G) esthetics; and

33 USC 1251 note.

42 USC 1857 note.

“(3) provide minimum criteria to be used by the States to define those solid waste management practices which constitute the open dumping of solid waste or hazardous waste and are to be prohibited under title IV of this Act.

Minimum criteria of management practices.

Where appropriate, such suggested guidelines also shall include minimum information for use in deciding the adequate location, design, and construction of facilities associated with solid waste management

Notification to congressional committees.

practices, including the consideration of regional, geographic, demographic, and climatic factors.

“(b) NOTICE.—The Administrator shall notify the Committee on Public Works of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a reasonable time before publishing any suggested guidelines, pursuant to this section of the content of such proposed suggested guidelines.

“Subtitle B—Office of Solid Waste; Authorities of the Administrator

“OFFICE OF SOLID WASTE

Establishment.
42 USC 6911.

“SEC. 2001. The Administrator shall establish within the Environmental Protection Agency an Office of Solid Waste (hereinafter referred to as the ‘Office’) to be headed by a Deputy Assistant Administrator of the Environmental Protection Agency. The duties and responsibilities (other than duties and responsibilities relating to research and development) of the Administrator under this Act (as modified by applicable reorganization plans) shall be carried out through the Office.

“AUTHORITIES OF ADMINISTRATOR

42 USC 6912.

“SEC. 2002. (a) AUTHORITIES.—In carrying out this Act, the Administrator is authorized to—

“(1) prescribe, in consultation with Federal, State, and regional authorities, such regulations as are necessary to carry out his functions under this Act;

“(2) consult with or exchange information with other Federal agencies undertaking research, development, demonstration projects, studies, or investigations relating to solid waste;

“(3) provide technical and financial assistance to States or regional agencies in the development and implementation of solid waste plans and hazardous waste management programs;

“(4) consult with representatives of science, industry, agriculture, labor, environmental protection and consumer organizations, and other groups, as he deems advisable; and

“(5) utilize the information, facilities, personnel and other resources of Federal agencies, including the National Bureau of Standards and the National Bureau of the Census, on a reimbursable basis, to perform research and analyses and conduct studies and investigations related to resource recovery and conservation and to otherwise carry out the Administrator’s functions under this Act.

“(b) REVISION OF REGULATIONS.—Each regulation promulgated under this Act shall be reviewed and, where necessary, revised not less frequently than every three years.

“RESOURCE RECOVERY AND CONSERVATION PANELS

Technical assistance by personnel teams.
42 USC 6913.

“SEC. 2003. The Administrator shall provide teams of personnel, including Federal, State, and local employees or contractors (hereinafter referred to as ‘Resource Conservation and Recovery Panels’) to provide States and local governments upon request with technical assistance on solid waste management, resource recovery, and resource conservation. Such teams shall include technical, marketing, financial,

and institutional specialists, and the services of such teams shall be provided without charge to States or local governments.

"GRANTS FOR DISCARDED TIRE DISPOSAL

"SEC. 2004. (a) GRANTS.—The Administrator shall make available grants equal to 5 percent of the purchase price of tire shredders (including portable shredders attached to tire collection trucks) to those eligible applicants best meeting criteria promulgated under this section. An eligible applicant may be any private purchaser, public body, or public-private joint venture. Criteria for receiving grants shall be promulgated under this section and shall include the policy to offer any private purchaser the first option to receive a grant, the policy to develop widespread geographic distribution of tire shredding facilities, the need for such facilities within a geographic area, and the projected risk and viability of any such venture. In the case of an application under this section from a public body, the Administrator shall first make a determination that there are no private purchasers interested in making an application before approving a grant to a public body.

Eligible
applicants.
42 USC 6914.

"(b) AUTHORIZATION.—There is authorized to be appropriated \$750,000 for each of the fiscal years 1978 and 1979 to carry out this section.

"ANNUAL REPORT

"SEC. 2005. The Administrator shall transmit to the Congress and the President, not later than ninety days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Office during the preceding fiscal year. Each such report shall include—

42 USC 6915.

"(1) a statement of specific and detail objectives for the activities and programs conducted and assisted under this Act;

"(2) statements of the Administrator's conclusions as to the effectiveness of such activities and programs in meeting the stated objectives and the purposes of this Act, measured through the end of such fiscal year;

"(3) a summary of outstanding solid waste problems confronting the Administrator, in order of priority;

"(4) recommendations with respect to such legislation which the Administrator deems necessary or desirable to assist in solving problems respecting solid waste;

"(5) all other information required to be submitted to the Congress pursuant to any other provision of this Act; and

"(6) the Administrator's plans for activities and programs respecting solid waste during the next fiscal year.

"GENERAL AUTHORIZATION

"SEC. 2006. (a) GENERAL ADMINISTRATION.—There are authorized to be appropriated to the Administrator for the purpose of carrying out the provisions of this Act, \$35,000,000 for the fiscal year ending September 30, 1977, \$38,000,000 for the fiscal year ending September 30, 1978, and \$42,000,000 for the fiscal year ending September 30, 1979.

42 USC 6916.

"(b) RESOURCE RECOVERY AND CONSERVATION PANELS.—Not less than 20 percent of the amount appropriated under subsection (a) shall be used only for purposes of Resource Recovery and Conservation Panels established under section 2003 (including travel expenses incurred by such panels in carrying out their functions under this Act).

Infra. “(c) **HAZARDOUS WASTE.**—Not less than 30 percent of the amount appropriated under subsection (a) shall be used only for purposes of carrying out subtitle C of this Act (relating to hazardous waste) other than section 3011.

“Subtitle C—Hazardous Waste Management

“IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

42 USC 6921. “SEC. 3001. (a) **CRITERIA FOR IDENTIFICATION OR LISTING.**—Not later than eighteen months after the date of the enactment of this Act, the Administrator shall, after notice and opportunity for public hearing, and after consultation with appropriate Federal and State agencies, develop and promulgate criteria for identifying the characteristics of hazardous waste, and for listing hazardous waste, which should be subject to the provisions of this subtitle, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics. Such criteria shall be revised from time to time as may be appropriate.

Regulations. “(b) **IDENTIFICATION AND LISTING.**—Not later than eighteen months after the date of enactment of this section, and after notice and opportunity for public hearing, the Administrator shall promulgate regulations identifying the characteristics of hazardous waste, and listing particular hazardous wastes (within the meaning of section 1004(5)), which shall be subject to the provisions of this subtitle. Such regulations shall be based on the criteria promulgated under subsection (a) and shall be revised from time to time thereafter as may be appropriate.

Ante, p. 2799. “(c) **PETITION BY STATE GOVERNOR.**—At any time after the date eighteen months after the enactment of this title, the Governor of any State may petition the Administrator to identify or list a material as a hazardous waste. The Administrator shall act upon such petition within ninety days following his receipt thereof and shall notify the Governor of such action. If the Administrator denies such petition because of financial considerations, in providing such notice to the Governor he shall include a statement concerning such considerations.

“STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Regulations. 42 USC 6922. “SEC. 3002. Not later than eighteen months after the date of the enactment of this section, and after notice and opportunity for public hearings and after consultation with appropriate Federal and State agencies, the Administrator shall promulgate regulations establishing such standards, applicable to generators of hazardous waste identified or listed under this subtitle, as may be necessary to protect human health and the environment. Such standards shall establish requirements respecting—

“(1) recordkeeping practices that accurately identify the quantities of such hazardous waste generated, the constituents thereof which are significant in quantity or in potential harm to human health or the environment, and the disposition of such wastes;

“(2) labeling practices for any containers used for the storage, transport, or disposal of such hazardous waste such as will identify accurately such waste;

“(3) use of appropriate containers for such hazardous waste;

“(4) furnishing of information on the general chemical compo-

sition of such hazardous waste to persons transporting, treating, storing, or disposing of such wastes;

“(5) use of a manifest system to assure that all such hazardous waste generated is designated for treatment, storage, or disposal in treatment, storage, or disposal facilities (other than facilities on the premises where the waste is generated) for which a permit has been issued as provided in this subtitle; and

“(6) submission of reports to the Administrator (or the State agency in any case in which such agency carries out an authorized permit program pursuant to this subtitle at such times as the Administrator (or the State agency if appropriate) deems necessary, setting out—

Reports.

“(A) the quantities of hazardous waste identified or listed under this subtitle that he has generated during a particular time period; and

“(B) the disposition of all hazardous waste reported under subparagraph (A).

“STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

“SEC. 3003. (a) STANDARDS.—Not later than eighteen months after the date of enactment of this section, and after opportunity for public hearings, the Administrator, after consultation with the Secretary of Transportation and the States, shall promulgate regulations establishing such standards, applicable to transporters of hazardous waste identified or listed under this subtitle, as may be necessary to protect human health and the environment. Such standards shall include but need not be limited to requirements respecting—

Regulations.
42 USC 6923.

“(1) recordkeeping concerning such hazardous waste transported, and their source and delivery points;

“(2) transportation of such waste only if properly labeled;

“(3) compliance with the manifest system referred to in section 3002(5); and

“(4) transportation of all such hazardous waste only to the hazardous waste treatment, storage, or disposal facilities which the shipper designates on the manifest form to be a facility holding a permit issued under this subtitle.

“(b) COORDINATION WITH REGULATIONS OF SECRETARY OF TRANSPORTATION.—In case of any hazardous waste identified or listed under this subtitle which is subject to the Hazardous Materials Transportation Act (88 Stat. 2156; 49 U.S.C. 1801 and following), the regulations promulgated by the Administrator under this subtitle shall be consistent with the requirements of such Act and the regulations thereunder. The Administrator is authorized to make recommendations to the Secretary of Transportation respecting the regulations of such hazardous waste under the Hazardous Materials Transportation Act and for addition of materials to be covered by such Act.

Recommendations.

“STANDARDS APPLICABLE TO OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

“SEC. 3004. Not later than eighteen months after the date of enactment of this section, and after opportunity for public hearings and after consultation with appropriate Federal and State agencies, the Administrator shall promulgate regulations establishing such performance standards, applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste identified or

Regulations.
42 USC 6924.

listed under this subtitle, as may be necessary to protect human health and the environment. Such standards shall include, but need not be limited to, requirements respecting—

“(1) maintaining records of all hazardous wastes identified or listed under this title which is treated, stored, or disposed of, as the case may be, and the manner in which such wastes were treated, stored, or disposed of;

“(2) satisfactory reporting, monitoring, and inspection and compliance with the manifest system referred to in section 3002(5);

“(3) treatment, storage, or disposal of all such waste received by the facility pursuant to such operating methods, techniques, and practices as may be satisfactory to the Administrator;

“(4) the location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;

“(5) contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of any such hazardous waste;

“(6) the maintenance of operation of such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable; and

“(7) compliance with the requirements of section 3005 respecting permits for treatment, storage, or disposal.

No private entity shall be precluded by reason of criteria established under paragraph (6) from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services where such entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.

“PERMITS FOR TREATMENT, STORAGE, OR DISPOSAL OF HAZARDOUS WASTE

Regulations.
42 USC 6925.

“SEC. 3005. (a) PERMIT REQUIREMENTS.—Not later than eighteen months after the date of the enactment of this section, the Administrator shall promulgate regulations requiring each person owning or operating a facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subtitle to have a permit issued pursuant to this section. Such regulations shall take effect on the date provided in section 3010 and upon and after such date the disposal of any such hazardous waste is prohibited except in accordance with such a permit.

“(b) REQUIREMENTS OF PERMIT APPLICATION.—Each application for a permit under this section shall contain such information as may be required under regulations promulgated by the Administrator, including information respecting—

“(1) estimates with respect to the composition, quantities, and concentrations of any hazardous waste identified or listed under this subtitle, or combinations of any such hazardous waste and any other solid waste, proposed to be disposed of, treated, transported, or stored, and the time, frequency, or rate of which such waste is proposed to be disposed of, treated, transported, or stored; and

“(2) the site at which such hazardous waste or the products of treatment of such hazardous waste will be disposed of, treated, transported to, or stored.

“(c) **PERMIT ISSUANCE.**—Upon a determination by the Administrator (or a State, if applicable), of compliance by a facility for which a permit is applied for under this section with the requirements of this section and section 3004, the Administrator (or the State) shall issue a permit for such facilities. In the event permit applicants propose modification of their facilities, or in the event the Administrator (or the State) determines that modifications are necessary to conform to the requirements under this section and section 3004, the permit shall specify the time allowed to complete the modifications.

“(d) **PERMIT REVOCATION.**—Upon a determination by the Administrator (or by a State, in the case of a State having an authorized hazardous waste program under section 3006) of noncompliance by a facility having a permit under this title with the requirements of this section or section 3004, the Administrator (or State, in the case of a State having an authorized hazardous waste program under section 3006) shall revoke such permit.

“(e) **INTERIM STATUS.**—Any person who—

“(1) owns or operates a facility required to have a permit under this section which facility is in existence on the date of enactment of this Act,

“(2) has complied with the requirements of section 3010(a), and

“(3) has made an application for a permit under this section shall be treated as having been issued such permit until such time as final administrative disposition of such application is made, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

“AUTHORIZED STATE HAZARDOUS WASTE PROGRAMS

“SEC. 3006. (a) **FEDERAL GUIDELINES.**—Not later than eighteen months after the date of enactment of this Act, the Administrator, after consultation with State authorities, shall promulgate guidelines to assist States in the development of State hazardous waste programs. 42 USC 6926.

“(b) **AUTHORIZATION OF STATE PROGRAM.**—Any State which seeks to administer and enforce a hazardous waste program pursuant to this subtitle may develop and, after notice and opportunity for public hearing, submit to the Administrator an application, in such form as he shall require, for authorization of such program. Within ninety days following submission of an application under this subsection, the Administrator shall issue a notice as to whether or not he expects such program to be authorized, and within ninety days following such notice (and after opportunity for public hearing) he shall publish his findings as to whether or not the conditions listed in items (1), (2), and (3) below have been met. Such State is authorized to carry out such program in lieu of the Federal program under this subtitle in such State and to issue and enforce permits for the storage, treatment, or disposal of hazardous waste unless, within ninety days following submission of the application the Administrator notifies such State that such program may not be authorized and, within ninety days following such notice and after opportunity for public hearing, he finds that (1) such State program is not equivalent to the Federal program under this subtitle, (2) such program is not consistent with the Federal or State programs applicable in other States, or (3) such

Notice and hearing.

program does not provide adequate enforcement of compliance with the requirements of this subtitle.

“(c) **INTERIM AUTHORIZATION.**—Any State which has in existence a hazardous waste program pursuant to State law before the date ninety days after the date required for promulgation of regulations under sections 3002, 3003, 3004, and 3005, submit to the Administrator evidence of such existing program and may request a temporary authorization to carry out such program under this subtitle. The Administrator shall, if the evidence submitted shows the existing State program to be substantially equivalent to the Federal program under this subtitle, grant an interim authorization to the State to carry out such program in lieu of the Federal program pursuant to this subtitle for a twenty-four month period beginning on the date six months after the date required for promulgation of regulations under sections 3002 through 3005.

“(d) **EFFECT OF STATE PERMIT.**—Any action taken by a State under a hazardous waste program authorized under this section shall have the same force and effect as action taken by the Administrator under this subtitle.

“(e) **WITHDRAWAL OF AUTHORIZATION.**—Whenever the Administrator determines after public hearing that a State is not administering and enforcing a program authorized under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this subtitle. The Administrator shall not withdraw authorization of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

“INSPECTIONS

42 USC 6927.

“SEC. 3007. (a) **ACCESS ENTRY.**—For purposes of developing or assisting in the development of any regulation or enforcing the provisions of this subtitle, any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous wastes shall, upon request of any officer or employee of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer employee of a State having an authorized hazardous waste program, furnish or permit such person at all reasonable times to have access to, and to copy all records relating to such wastes. For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this title, such officers or employees are authorized—

“(1) to enter at reasonable times any establishment or other place maintained by any person where hazardous wastes are generated, stored, treated, or disposed of;

“(2) to inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results

of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

“(b) **AVAILABILITY TO PUBLIC.**—Any records, reports, or information obtained from any person under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or particular part thereof, to which the Administrator (or the State, as the case may be) has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, the Administrator (or the State, as the case may be) shall consider such information or particular portion thereof confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act.

“FEDERAL ENFORCEMENT

“**SEC. 3008. (a) COMPLIANCE ORDERS.**—(1) Except as provided in paragraph (2), whenever on the basis of any information the Administrator determines that any person is in violation of any requirement of this subtitle, the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day after the Administrator's notification, the Administrator may issue an order requiring compliance within a specified time period or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction. 42 USC 6928.

“(2) In the case of a violation of any requirement of this subtitle where such violation occurs in a State which is authorized to carry out a hazardous waste program under section 3006, the Administrator shall give notice to the State in which such violation has occurred thirty days prior to issuing an order or commencing a civil action under this section.

“(3) If such violator fails to take corrective action within the time specified in the order, he shall be liable for a civil penalty of not more than \$25,000 for each day of continued noncompliance and the Administrator may suspend or revoke any permit issued to the violator (whether issued by the Administrator or the State). Penalty.

“(b) **PUBLIC HEARING.**—Any order or any suspension or revocation of a permit shall become final unless, no later than thirty days after the order or notice of the suspension or revocation is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures. Subpenas.

“(c) **REQUIREMENTS OF COMPLIANCE ORDERS.**—Any order issued under this section shall state with reasonable specificity the nature of the violation and specify a time for compliance and assess a penalty, if any, which the Administrator determines is reasonable taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements. Penalty.

“(d) **CRIMINAL PENALTY.**—Any person who knowingly—

“(1) transports any hazardous waste listed under this subtitle to a facility which does not have a permit under section 3005 (or 3006 in the case of a State program),

“(2) disposes of any hazardous waste listed under this subtitle without having obtained a permit therefor under this subtitle,

“(3) makes any false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with this subtitle.

shall, upon conviction, be subject to a fine of not more than \$25,000 for each day of violation, or to imprisonment not to exceed one year, or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than two years, or by both.

“RETENTION OF STATE AUTHORITY

42 USC 6929.

“SEC. 3009. Upon the effective date of regulations under this subtitle no State or political subdivision may impose any requirements less stringent than those authorized under this subtitle respecting the same matter as governed by such regulations, except that if application of a regulation with respect to any matter under this subtitle is postponed or enjoined by the action of any court, no State or political subdivision shall be prohibited from acting with respect to the same aspect of such matter until such time as such regulation takes effect.

“EFFECTIVE DATE

42 USC 6930.

“SEC. 3010. (a) **PRELIMINARY NOTIFICATION.**—Not later than ninety days after promulgation or revision of regulations under section 3001 identifying by its characteristics or listing any substance as hazardous waste subject to this subtitle, any person generating or transporting such substance or owning or operating a facility for treatment, storage, or disposal of such substance shall file with the Administrator (or with States having authorized hazardous waste permit programs under section 3006) a notification stating the location and general description of such activity and the identified or listed hazardous wastes handled by such person. Not more than one such notification shall be required to be filed with respect to the same substance. No identified or listed hazardous waste subject to this subtitle may be transported, treated, stored, or disposed of unless notification has been given as required under this subsection.

“(b) **EFFECTIVE DATE OF REGULATION.**—The regulations under this subtitle respecting requirements applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste (including requirements respecting permits for such treatment, storage, or disposal) shall take effect on the date six months after the date of promulgation thereof (or six months after the date of revision in the case of any regulation which is revised after the date required for promulgation thereof).

“AUTHORIZATION OF ASSISTANCE TO STATES

42 USC 6931.

SEC. 3011. (a) **AUTHORIZATION.**—There is authorized to be appropriated \$25,000,000 for each of the fiscal years 1978 and 1979 to be used to

make grants to the States for purposes of assisting the States in the development and implementation of authorized State hazardous waste programs.

“(b) **ALLOCATION.**—Amounts authorized to be appropriated under subsection (a) shall be allocated among the States on the basis of regulations promulgated by the Administrator, after consultation with the States, which take into account, the extent to which hazardous waste is generated, transported, treated, stored, and disposed of within such State, the extent of exposure of human beings and the environment within such State to such waste, and such other factors as the Administrator deems appropriate.

“Subtitle D—State or Regional Solid Waste Plans

“OBJECTIVES OF SUBTITLE

“SEC. 4001. The objectives of this subtitle are to assist in developing and encouraging methods for the disposal of solid waste which are environmentally sound and which maximize the utilization of valuable resources and to encourage resource conservation. Such objectives are to be accomplished through Federal technical and financial assistance to States or regional authorities for comprehensive planning pursuant to Federal guidelines designed to foster cooperation among Federal, State, and local governments and private industry. 42 USC 6941.

“FEDERAL GUIDELINES FOR PLANS

“SEC. 4002. (a) **GUIDELINES FOR IDENTIFICATION OF REGIONS.**—For purposes of encouraging and facilitating the development of regional planning for solid waste management, the Administrator, within one hundred and eighty days after the date of enactment of this section and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which have common solid waste management problems and are appropriate units for planning regional solid waste management services. Such guidelines shall consider— Publication. 42 USC 6942.

“(1) the size and location of areas which should be included,

“(2) the volume of solid waste which should be included, and

“(3) the available means of coordinating regional planning with other related regional planning and for coordination of such regional planning into the State plan.

“(b) **GUIDELINES FOR STATE PLANS.**—Not later than eighteen months after the date of enactment of this section and after notice and hearing, the Administrator shall, after consultation with appropriate Federal, State, and local authorities, promulgate regulations containing guidelines to assist in the development and implementation of State solid waste management plans (hereinafter in this title referred to as ‘State plans’). The guidelines shall contain methods for achieving the objectives specified in section 4001. Such guidelines shall be reviewed from time to time, but not less frequently than every three years, and revised as may be appropriate. Regulations.

“(c) **CONSIDERATIONS FOR STATE PLAN GUIDELINES.**—The guidelines promulgated under subsection (b) shall consider— Review.

“(1) the varying regional, geologic, hydrologic, climatic, and other circumstances under which different solid waste practices are required in order to insure the reasonable protection of the quality of the ground and surface waters from leachate contamination,

the reasonable protection of the quality of the surface waters from surface runoff contamination, and the reasonable protection of ambient air quality;

"(2) characteristics and conditions of collection, storage, processing, and disposal operating methods, techniques and practices, and location of facilities where such operating methods, techniques, and practices are conducted, taking into account the nature of the material to be disposed;

"(3) methods for closing or upgrading open dumps for purposes of eliminating potential health hazards;

"(4) population density, distribution, and projected growth;

"(5) geographic, geologic, climatic, and hydrologic characteristics;

"(6) the type and location of transportation;

"(7) the profile of industries;

"(8) the constituents and generation rates of waste;

"(9) the political, economic, organizational, financial, and management problems affecting comprehensive solid waste management;

"(10) types of resource recovery facilities and resource conservation systems which are appropriate; and

"(11) available new and additional markets for recovered material.

"MINIMUM REQUIREMENTS FOR APPROVAL OF PLANS

42 USC 6943.

"SEC. 4003. In order to be approved under section 4007, each State plan must comply with the following minimum requirements—

"(1) The plan shall identify (in accordance with section 4006(b)) (A) the responsibilities of State, local, and regional authorities in the implementation of the State plan, (B) the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and (C) the means for coordinating regional planning and implementation under the State plan.

"(2) The plan shall, in accordance with section 4005(c), prohibit the establishment of new open dumps within the State, and contain requirements that all solid waste (including solid waste originating in other States, but not including hazardous waste) shall be (A) utilized for resource recovery or (B) disposed of in sanitary landfills (within the meaning of section 4004(a)) or otherwise disposed of in an environmentally sound manner.

"(3) The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 4005.

"(4) The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan.

"(5) The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

"(6) The plan shall provide for such resource conservation or recovery and for the disposal of solid waste in sanitary landfills or any combination of practices so as may be necessary to use or dispose of such waste in a manner that is environmentally sound.

Long-term
contracts.

Resource
conservation and
disposal of solid
waste.

“CRITERIA FOR SANITARY LANDFILLS; SANITARY LANDFILLS REQUIRED FOR ALL DISPOSAL

“SEC. 4004. (a) CRITERIA FOR SANITARY LANDFILLS.—Not later than one year after the date of enactment of this section, after consultation with the States, and after notice and public hearings, the Administrator shall promulgate regulations containing criteria for determining which facilities shall be classified as sanitary landfills and which shall be classified as open dumps within the meaning of this Act. At a minimum, such criteria shall provide that a facility may be classified as a sanitary landfill and not an open dump only if there is no reasonable probability of adverse effects on health or the environment from disposal of solid waste at such facility. Such regulations may provide for the classification of the types of sanitary landfills.

Regulations.
42 USC 6944.

“(b) DISPOSAL REQUIRED TO BE IN SANITARY LANDFILLS, ETC.—For purposes of complying with section 4003(2) each State plan shall prohibit the establishment of open dumps and contain a requirement that disposal of all solid waste within the State shall be in compliance with such section 4003(2).

“(c) EFFECTIVE DATE.—The prohibition contained in subsection (b) shall take effect on the date six months after the date of promulgation of regulations under subsection (a) or on the date of approval of the State plan, whichever is later.

“UPGRADING OF OPEN DUMPS

“SEC. 4005. (a) OPEN DUMPS.—For purposes of this Act, the term ‘open dump’ means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 4004 and which is not a facility for disposal of hazardous waste.

“Open dump.”
42 USC 6945.

“(b) INVENTORY.—Not later than one year after promulgation of regulations under section 4004, the Administrator, with the cooperation of the Bureau of the Census shall publish an inventory of all disposal facilities or sites in the United States which are open dumps within the meaning of this Act.

Publication.

“(c) CLOSING OR UPGRADING OF EXISTING OPEN DUMPS.—Any solid waste management practice or disposal of solid waste or hazardous waste which constitutes the open dumping of solid waste or hazardous waste is prohibited, except in the case of any practice or disposal of solid waste under a timetable or schedule for compliance established under this section. For purposes of complying with section 4003(2), each State plan shall contain a requirement that all existing disposal facilities or sites for solid waste in such State which are open dumps listed in the inventory under subsection (b) shall comply with such measures as may be promulgated by the Administrator to eliminate health hazards and minimize potential health hazards. Each such plan shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, a timetable or schedule for compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with the prohibition on open dumping of solid waste within a reasonable time (not to exceed 5 years from the date of publication of the inventory under subsection (b)).

Schedule of
remedial
measures.

"PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLAN

Regulations.
42 USC 6946.

"SEC. 4006. (a) IDENTIFICATION OF REGIONS.—Within one hundred and eighty days after publication of guidelines under section 4002(a) (relating to identification of regions), the Governor of each State, after consultation with local elected officials, shall promulgate regulations based on such guidelines identifying the boundaries of each area within the State which, as a result of urban concentrations, geographic conditions, markets, and other factors, is appropriate for carrying out regional solid waste management. Such regulations may be modified from time to time (identifying additional or different regions) pursuant to such guidelines.

State plan.

"(b) IDENTIFICATION OF STATE AND LOCAL AGENCIES AND RESPONSIBILITIES.—(1) Within one hundred and eighty days after the Governor promulgates regulations under subsection (a), for purposes of facilitating the development and implementation of a State plan which will meet the minimum requirements of section 4003, the State, together with appropriate elected officials of general purpose units of local government, shall jointly (A) identify an agency to develop the State plan and identify one or more agencies to implement such plan, and (B) identify which solid waste functions will, under such State plan, be planned for and carried out by the State and which such functions will, under such State plan, be planned for and carried out by a regional or local authority or a combination of regional or local and State authorities. If a multi-functional regional agency authorized by State law to conduct solid waste planning and management (the members of which are appointed by the Governor) is in existence on the date of enactment of this Act, the Governor shall identify such authority for purposes of carrying out within such region clause (A) of this paragraph. Where feasible, designation of the agency for the affected area designated under section 208 of the Federal Water Pollution Control Act (86 Stat. 839) shall be considered. A State agency identified under this paragraph shall be established or designated by the Governor of such State. Local or regional agencies identified under this paragraph shall be composed of individuals at least a majority of whom are elected local officials.

Multi-functional
regional agency.

33 USC 1288.

"(2) If planning and implementation agencies are not identified and designated or established as required under paragraph (1) for any affected area, the governor shall, before the date two hundred and seventy days after promulgation of regulations under subsection (a), establish or designate a State agency to develop and implement the State plan for such area.

"(c) INTERSTATE REGIONS.—(1) In the case of any region which, pursuant to the guidelines published by the Administrator under section 4002(a) (relating to identification of regions), would be located in two or more States, the Governors of the respective States, after consultation with local elected officials, shall consult, cooperate, and enter into agreements identifying the boundaries of such region pursuant to subsection (a).

"(2) Within one hundred and eighty days after an interstate region is identified by agreement under paragraph (1), appropriate elected officials of general purpose units of local government within such region shall jointly establish or designate an agency to develop a plan for such region. If no such agency is established or designated within such period by such officials, the Governors of the respective States may, by agreement, establish or designate for such purpose a single

representative organization including elected officials of general purpose units of local government within such region.

“(3) Implementation of interstate regional solid waste management plans shall be conducted by units of local government for any portion of a region within their jurisdiction, or by multijurisdictional agencies or authorities designated in accordance with State law, including those designated by agreement by such units of local government for such purpose. If no such unit, agency, or authority is so designated, the respective Governors shall designate or establish a single interstate agency to implement such plan.

Regional solid waste management plans.

“(4) For purposes of this subtitle, so much of an interstate regional plan as is carried out within a particular State shall be deemed part of the State plan for such State.

“APPROVAL OF STATE PLAN; FEDERAL ASSISTANCE

“SEC. 4007. (a) **PLAN APPROVAL.**—The Administrator shall, within six months after a State plan has been submitted for approval, approve or disapprove the plan. The Administrator shall approve a plan if he determines that—

42 USC 6947.

“(1) it meets the requirements of paragraphs (1), (2), (3), and (5) of section 4003; and

“(2) it contains provision for revision of such plan, after notice and public hearing, whenever the Administrator, by regulation, determines—

“(A) that revised regulations respecting minimum requirements have been promulgated under paragraphs (1), (2), (3), and (5) of section 4003 with which the State plan is not in compliance;

“(B) that information has become available which demonstrates the inadequacy of the plan to effectuate the purposes of this subtitle; or

“(C) that such revision is otherwise necessary.

The Administrator shall review approved plans from time to time and if he determines that revision or corrections are necessary to bring such plan into compliance with the minimum requirements promulgated under section 4003 (including new or revised requirements), he shall, after notice and opportunity for public hearing, withdraw his approval of such plan. Such withdrawal of approval shall cease to be effective upon the Administrator's determination that such complies with such minimum requirements.

Review; withdrawal of approval.

“(b) **ELIGIBILITY OF STATES FOR FEDERAL FINANCIAL ASSISTANCE.**—

(1) The Administrator shall approve a State application for financial assistance under this subtitle, and make grants to such State, if such State and local and regional authorities within such State have complied with the requirements of section 4006 within the period required under such section and if such State has a State plan which has been approved by the Administrator under this subtitle.

“(2) The Administrator shall approve a State application for financial assistance under this subtitle, and make grants to such State, for fiscal years 1978 and 1979 if the Administrator determines that the State plan continues to be eligible for approval under subsection (a) and is being implemented by the State.

“(3) Upon withdrawal of approval of a State plan under subsection (a), the Administrator shall withhold Federal financial and technical assistance under this subtitle (other than such technical assistance as

Withholding of financial and technical assistance.

may be necessary to assist in obtaining the reinstatement of approval) until such time as such approval is reinstated.

“(C) EXISTING ACTIVITIES.—Nothing in this subtitle shall be construed to prevent or affect any activities respecting solid waste planning or management which are carried out by State, regional, or local authorities unless such activities are inconsistent with a State plan approved by the Administrator under this subtitle.

“FEDERAL ASSISTANCE

42 USC 6948.

“SEC. 4008. (a) AUTHORIZATION OF FEDERAL FINANCIAL ASSISTANCE.—(1) There are authorized to be appropriated \$30,000,000 for fiscal year 1978 and \$40,000,000 for fiscal year 1979 for purposes of making grants to the States for the development and implementation of State plans under this subtitle.

“(2) (A) The Administrator is authorized to provide financial assistance to States, counties, municipalities, and intermunicipal agencies and State and local public solid waste management authorities for implementation of programs to provide solid waste management, resource recovery, and resource conservation services and hazardous waste management. Such assistance shall include assistance for facility planning and feasibility studies; expert consultation; surveys and analyses of market needs; marketing of recovered resources; technology assessments; legal expenses; construction feasibility studies; source separation projects; and fiscal or economic investigations or studies; but such assistance shall not include any other element of construction, or any acquisition of land or interest in land, or any subsidy for the price of recovered resources. Agencies assisted under this subsection shall consider existing solid waste management and hazardous waste management services and facilities as well as facilities proposed for construction.

Compliance with project or program.

Ante, p. 2803.

“(B) An applicant for financial assistance under this paragraph must agree to comply with respect to the project or program assisted with the applicable requirements of section 4005 and Subtitle C of this Act and apply applicable solid waste management practices, methods, and levels of control consistent with any guidelines published pursuant to section 1008 of this Act. Assistance under this paragraph shall be available only for programs certified by the State to be consistent with any applicable State or area-wide solid waste management plan or program.

Appropriation authorization.

“(C) There are authorized to be appropriated \$15,000,000 for each of the fiscal years 1978 and 1979 for purposes of this section.

“(b) STATE ALLOTMENT.—The sums appropriated in any fiscal year under subsection (a) (1) shall be allotted by the Administrator among all States, in the ratio that the population in each State bears to the population in all of the States, except that no State shall receive less than one-half of 1 per centum of the sums so allotted in any fiscal year. No State shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than non-recurrent expenditures for solid waste management control programs will be less than its expenditures were for such programs during fiscal year 1975, except that such funds may be reduced by an amount equal to their proportionate share of any general reduction of State spending ordered by the Governor or legislature of such State. No State shall receive any grant for solid waste management programs unless

the Administrator is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, regional, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such programs.

“(c) **DISTRIBUTION OF FEDERAL FINANCIAL ASSISTANCE WITHIN THE STATE.**—The Federal assistance allotted to the States under subsection (b) shall be allocated by the State receiving such funds to State, local, regional, and interstate authorities carrying out planning and implementation of the State plan. Such allocation shall be based upon the responsibilities of the respective parties as determined pursuant to section 4006(b).

“(d) **TECHNICAL ASSISTANCE.**—The Administrator may provide technical assistance to State and local governments for purposes of developing and implementing State plans. Technical assistance respecting resource recovery and conservation may be provided through resource recovery and conservation panels, established in the Environmental Protection Agency under subtitle B, to assist the State and local governments with respect to particular resource recovery and conservation projects under consideration and to evaluate their effect on the State plan.

Ante, p. 2804.

“(e) **SPECIAL COMMUNITIES.**—(1) The Administrator, in cooperation with State and local officials, shall identify communities within the United States (A) having a population of less than twenty-five thousand persons, (B) having solid waste disposal facilities in which more than 75 per centum of the solid waste disposal of is from areas outside the jurisdiction of the communities, and (C) which have serious environmental problems resulting from the disposal of such solid waste.

“(2) There is authorized to be appropriated to the Administrator \$2,500,000 for each of the fiscal years 1978 and 1979 to make grants to be used for the conversion, improvement, or consolidation of existing solid waste disposal facilities, or for the construction of new solid waste disposal facilities, or for both, within communities identified under paragraph (1). Not more than one community in any State shall be eligible for grants under this paragraph and not more than one project in any State shall be eligible for such grants.

Appropriation authorization.

“(3) Grants under this subsection shall be made only to projects which the Administrator determines will be consistent with an applicable State plan approved under this subtitle and which will assist in carrying out such plan.

“RURAL COMMUNITIES ASSISTANCE

“SEC. 4009. (a) **IN GENERAL.**—The Administrator shall make grants to States to provide assistance to municipalities with a population of five thousand or less, or counties with a population of ten thousand or less or less than twenty persons per square mile and not within a metropolitan area, for solid waste management facilities (including equipment) necessary to meet the requirements of section 4005 of this Act or restrictions on open burning or other requirements arising under the Clean Air Act or the Federal Water Pollution Control Act. Such assistance shall only be available—

42 USC 6949.

“(1) to any municipality or county which could not feasibly be included in a solid waste management system or facility serving an urbanized, multijurisdictional area because of its distance from such systems;

42 USC 1857
note.
33 USC 1251
note.

“(2) where existing or planned solid waste management services or facilities are unavailable or insufficient to comply with the requirements of section 4005 of this Act; and

“(3) for systems which are certified by the State to be consistent with any plans or programs established under any State or areawide planning process.

“(b) ALLOTMENT.—The Administrator shall allot the sums appropriated to carry out this section in any fiscal year among the States in accordance with regulations promulgated by him on the basis of the average of the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States, the ratio which the population of counties in each State having less than twenty persons per square mile bears to the total population of such counties in all the States, and the ratio which the population of such low-density counties in each State having 33 per centum or more of all families with incomes not in excess of 125 per centum of the poverty level bears to the total population of such counties in all the States.

Land acquisition,
prohibition.

“(c) LIMIT.—The amount of any grant under this section shall not exceed 75 per centum of the costs of the project. No assistance under this section shall be available for the acquisition of land or interests in land.

“(d) APPROPRIATIONS.—There are authorized to be appropriated \$25,000,000 for each of the fiscal years 1978 and 1979 to carry out this section.

“Subtitle E—Duties of the Secretary of Commerce in Resource and Recovery

“FUNCTIONS

42 USC 6951.

“SEC. 5001. The Secretary of Commerce shall encourage greater commercialization of proven resource recovery technology by providing—

“(1) accurate specifications for recovered materials;

“(2) stimulation of development of markets for recovered materials;

“(3) promotion of proven technology; and

“(4) a forum for the exchange of technical and economic data relating to resource recovery facilities.

“DEVELOPMENT OF SPECIFICATIONS FOR SECONDARY MATERIALS

Publication of
guidelines.

42 USC 6952.

“SEC. 5002. The Secretary of Commerce, acting through the National Bureau of Standards, and in conjunction with national standards-setting organizations in resource recovery, shall, after public hearings, and not later than two years after the date of the enactment of this Act, publish guidelines for the development of specifications for the classification of materials recovered from waste which were destined for disposal. The specifications shall pertain to the physical and chemical properties and characteristics of such materials with regard to their use in replacing virgin materials in various industrial, commercial, and governmental uses. In establishing such guidelines the Secretary shall also, to the extent feasible, provide such information as may be necessary to assist Federal agencies with procurement of items containing recovered materials. The Secretary shall continue to cooperate with national standards-setting organizations, as may be necessary, to encourage the publication, promulgation and

Cooperation with
national
standards-setting
organizations.

updating of standards for recovered materials and for the use of recovered materials in various industrial, commercial, and governmental uses.

"DEVELOPMENT OF MARKETS FOR RECOVERED MATERIALS

"SEC. 5003. The Secretary of Commerce shall within two years after the enactment of this Act take such actions as may be necessary to— 42 USC 6953.

"(1) identify the geographical location of existing or potential markets for recovered materials;

"(2) identify the economic and technical barriers to the use of recovered materials; and

"(3) encourage the development of new uses for recovered materials.

"TECHNOLOGY PROMOTION

"SEC. 5004. The Secretary of Commerce is authorized to evaluate the commercial feasibility of resource recovery facilities and to publish the results of such evaluation, and to develop a data base for purposes of assisting persons in choosing such a system. 42 USC 6954.

"Subtitle F—Federal Responsibilities

**"APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO
FEDERAL FACILITIES**

"SEC. 6001. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any solid waste management facility or disposal site, or (2) engaged in any activity resulting, or which may result, in the disposal of solid waste or hazardous waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of solid waste or hazardous waste disposal in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. The President may exempt any solid waste management facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption. 42 USC 6961.

Exemptions.

Presidential
report to
Congress.

"FEDERAL PROCUREMENT

42 USC 6962.

"SEC. 6002. (a) APPLICATION OF SECTION.—Except as provided in subsection (b), a procuring agency shall comply with the requirements set forth in this section and any regulations issued under this section, with respect to any purchase or acquisition of a procurement item where the purchase price of the item exceeds \$10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was \$10,000 or more.

"(b) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement, by any procuring agency, which is subject to regulations of the Administrator under section 6004 (as promulgated before the date of enactment of this section under comparable provisions of prior law) shall not be subject to the requirements of this section to the extent that such requirements are inconsistent with such regulations.

"(c) REQUIREMENTS.—(1) (A) After two years after the date of enactment of this section, each procuring agency shall procure items composed of the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition. The decision not to procure such items shall be based on a determination that such procurement items—

"(i) are not reasonably available within a reasonable period of time;

"(ii) fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or

"(iii) are only available at an unreasonable price. Any determination under clause (ii) shall be made on the basis of the guidelines of the Bureau of Standards in any case in which such material is covered by such guidelines.

"(B) Agencies that generate heat, mechanical, or electrical energy from fossil fuel in systems that have the technical capability of using recovered material and recovered-material-derived fuel as a primary or supplementary fuel shall use such capability to the maximum extent practicable.

"(C) Contracting officers shall require that vendors certify the percentage of the total material utilized for the performance of the contract which is recovered materials.

"(d) SPECIFICATIONS.—(1) All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement item procured by Federal agencies shall, in reviewing those specifications, ascertain whether such specifications violate the prohibitions contained in subparagraphs (A) through (C) of paragraph (2). Such review shall be undertaken not later than eighteen months after the date of enactment of this section.

"(2) In drafting or revising such specifications, after the date of enactment of this section—

"(A) any exclusion of recovered materials shall be eliminated;

"(B) such specification shall not require the item to be manufactured from virgin materials; and

"(C) such specifications shall require reclaimed materials to the maximum extent possible without jeopardizing the intended end use of the item.

"(e) GUIDELINES.—The Administrator, after consultation with the Administrator of General Services, the Secretary of Commerce (acting through the Bureau of Standards), and the Public Printer, shall

prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this section. Such guidelines shall set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and shall provide information as to the availability, sources of supply, and potential uses of such materials and items.

“(f) **PROCUREMENT OF SERVICES.**—A procuring agency shall, to the maximum extent practicable, manage or arrange for the procurement of solid waste management services in a manner which maximizes energy and resource recovery.

“(g) **EXECUTIVE OFFICE.**—The Office of Procurement Policy in the Executive Office of the President, in cooperation with the Administrator, shall implement the policy expressed in this section. It shall be the responsibility of the Office of Procurement Policy to coordinate this policy with other policies for Federal procurement, in such a way as to maximize the use of recovered resources, and to annually report to the Congress on actions taken by Federal agencies and the progress made in the implementation of such policy.

“COOPERATION WITH ENVIRONMENTAL PROTECTION AGENCY

“SEC. 6003. All Federal agencies having functions relating to solid waste or hazardous waste shall cooperate to the maximum extent permitted by law with the Administrator in carrying out his functions under this Act and shall make all appropriate information, facilities, personnel, and other resources available, on a reimbursable basis, to the Administrator upon his request. 42 USC 6963.

“APPLICABILITY OF SOLID WASTE DISPOSAL GUIDELINES TO EXECUTIVE AGENCIES

“SEC. 6004. (a) **COMPLIANCE.**—(1) If— 42 USC 6964.

“(A) an Executive agency (as defined in section 105 of title 5, United States Code) has jurisdiction over any real property or facility the operation or administration of which involves such agency in solid waste disposal activities, or

“(B) such an agency enters into a contract with any person for the operation by such person of any Federal property or facility, and the performance of such contract involves such person in solid waste disposal activities,

then such agency shall insure compliance with the guidelines recommended under section 1008 and the purposes of this Act in the operation or administration of such property or facility, or the performance of such contract, as the case may be. *Ante*, p. 2803.

“(2) Each Executive agency which conducts any activity—

“(A) which generates solid waste, and

“(B) which, if conducted by a person other than such agency, would require a permit or license from such agency in order to dispose of such solid waste,

shall insure compliance with such guidelines and the purposes of this Act in conducting such activity.

“(3) Each Executive agency which permits the use of Federal property for purposes of disposal of solid waste shall insure compliance with such guidelines and the purposes of this Act in the disposal of such waste.

“(4) The President shall prescribe regulations to carry out this subsection. Regulations.

Ante, p. 2803. “(b) **LICENSES AND PERMITS.**—Each Executive agency which issues any license or permit for disposal of solid waste shall, prior to the issuance of such license or permit, consult with the Secretary to insure compliance with guidelines recommended under section 1008 and the purposes of this Act.

“Subtitle G—Miscellaneous Provisions

“EMPLOYEE PROTECTION

42 USC 6971.

“SEC. 7001. (a) **GENERAL.**—No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act or under any applicable implementation plan, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act or of any applicable implementation plan.

Application to
Secretary for
review.

“ (b) **REMEDY.**—Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator or subject to judicial review under this Act.

Hearing.

Notice.

Rehiring or
reinstatement of
employee.

Judicial review.

“ (c) **COSTS.**—Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney’s fees) as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

“ (d) **EXCEPTION.**—This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any requirement of this Act.

“ (e) **EMPLOYMENT SHIFTS AND LOSS.**—The Administrator shall conduct continuing evaluations of potential loss or shifts of employ-

ment which may result from the administration or enforcement of the provisions of this Act and applicable implementation plans, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement. Any employee who is discharged, or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of such administration or enforcement, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such administration or enforcement on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such administration or enforcement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator or any State to modify or withdraw any standard, limitation, or any other requirement of this Act or any applicable implementation plan.

Request for
investigation.

Hearing.

Information,
availability to
public.

"CITIZEN SUITS

"SEC. 7002. (a) IN GENERAL.—Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf— 42 USC 6972.

"(1) against any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any permit, standard, regulation, condition, requirement, or order which has become effective pursuant to this Act; or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator.

Any action under paragraph (a)(1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (a)(2) of this subsection may be brought in the district court for the district in which the alleged violation occurred or in the District Court of the District of Columbia. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such regulation or order, or to order the Administrator to perform such act or duty as the case may be.

"(b) ACTIONS PROHIBITED.—No action may be commenced under paragraph (a)(1) of this section—

"(1) prior to sixty days after the plaintiff has given notice of the violation (A) to the Administrator; (B) to the State in which the alleged violation occurs; and (C) to any alleged violator of such permit, standard, regulation, condition, requirement, or order; or

"(2) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with such permit, standard, regulation, condition, requirement, or order: *Provided, however,* That in any such action in a court of the United States, any person may intervene as a matter of right.

42 USC 3254f.

"(c) NOTICE.—No action may be commenced under paragraph (a) (2) of this section prior to sixty days after the plaintiff has given notice to the Administrator that he will commence such action, except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of section 212 of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation. Any action respecting a violation under this Act may be brought under this section only in the judicial district in which such alleged violation occurs.

"(d) INTERVENTION.—In any action under this section the Administrator, if not a party, may intervene as a matter of right.

28 USC app.

"(e) COSTS.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, requiring the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(f) OTHER RIGHTS PRESERVED.—Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or requirement relating to the management of solid waste or hazardous waste, or to seek any other relief (including relief against the Administrator or a State agency).

"IMMINENT HAZARD

42 USC 6973.

"SEC. 7003. Notwithstanding any other provision of this Act, upon receipt of evidence that the handling, storage, treatment, transportation or disposal of any solid waste or hazardous waste is presenting an imminent and substantial endangerment to health or the environment, the Administrator may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person for contributing to the alleged disposal to stop such handling, storage, treatment, transportation, or disposal or to take such other action as may be necessary. The Administrator shall provide notice to the affected State of any such suit.

"PETITION FOR REGULATIONS; PUBLIC PARTICIPATION

Publication in
Federal Register.
42 USC 6974.

"SEC. 7004. (a) PETITION.—Any person may petition the Administrator for the promulgation, amendment, or repeal of any regulation under this Act. Within a reasonable time following receipt of such petition, the Administrator shall take action with respect to such petition and shall publish notice of such action in the Federal Register, together with the reasons therefor.

"(b) PUBLIC PARTICIPATION.—Public participation in the development, revision, implementation, and enforcement of any regulation, guideline, information, or program under this Act shall be provided for, encouraged, and assisted by the Administrator and the States.

The Administrator, in cooperation with the States, shall develop and publish minimum guidelines for public participation in such processes.

"SEPARABILITY

"SEC. 7005. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby. 42 USC 6975.

"JUDICIAL REVIEW

"SEC. 7006. Any judicial review of final regulations promulgated pursuant to this Act shall be in accordance with sections 701 through 706 of title 5 of the United States Code, except that— 42 USC 6976.

"(1) a petition for review of action of the Administrator in promulgating any regulation, or requirement under this Act may be filed only in the United States Court of Appeals for the District of Columbia. Any such petition shall be filed within ninety days from the date of such promulgation, or after such date if such petition is based solely on grounds arising after such ninetieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement; and

"(2) in any judicial proceeding brought under this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if a party seeking review under this Act applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

"GRANTS OR CONTRACTS FOR TRAINING PROJECTS

"SEC. 7007. (a) GENERAL AUTHORITY.—The Administrator is authorized to make grants to, and contracts with any eligible organization. For purposes of this section the term "eligible organization" means a State or interstate agency, a municipality, educational institution, and any other organization which is capable of effectively carrying out a project which may be funded by grant under subsection (b) of this section. 42 USC 6977.

"Eligible organization."

"(b) PURPOSES.—(1) Subject to the provisions of paragraph (2), grants or contracts may be made to pay all or a part of the costs, as may be determined by the Administrator, of any project operated or to be operated by an eligible organization, which is designed—

"(A) to develop, expand, or carry out a program (which may

combine training, education, and employment) for training persons for occupations involving the management, supervision, design, operation, or maintenance of solid waste disposal and resources recovery equipment and facilities; or

“(B) to train instructors and supervisory personnel to train or supervise persons in occupations involving the design, operation, and maintenance of solid waste disposal and resource recovery equipment and facilities.

“(2) A grant or contract authorized by paragraph (1) of this subsection may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it provides for the same procedures and reports (and access to such reports and to other records) as required by section 207(b) (4) and (5) (as in effect before the date of the enactment of Resource Conservation and Recovery Act of 1976) with respect to applications made under such section (as in effect before the date of the enactment of Resource Conservation and Recovery Act of 1976).

“(c) **STUDY.**—The Administrator shall make a complete investigation and study to determine—

“(1) the need for additional trained State and local personnel to carry out plans assisted under this Act and other solid waste and resource recovery programs;

“(2) means of using existing training programs to train such personnel; and

“(3) the extent and nature of obstacles to employment and occupational advancement in the solid waste disposal and resource recovery field which may limit either available manpower or the advancement of personnel in such field.

He shall report the results of such investigation and study, including his recommendations to the President and the Congress.

42 USC 3254a.
Ante, p. 2795.

Report to
President and
Congress.

“PAYMENTS

42 USC 6978.

“**SEC. 7008. (a) GENERAL RULE.**—Payments of grants under this Act may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Administrator may determine.

“(b) **PROHIBITION.**—No grant may be made under this Act to any private profitmaking organization.

“LABOR STANDARDS

42 USC 6979.

“**SEC. 7009.** No grant for a project of construction under this Act shall be made unless the Secretary finds that the application contains or is supported by reasonable assurance that all laborers and mechanics employed by contractors or subcontractors on projects of the type covered by the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with that Act; and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-5) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

5 USC app. II.

“Subtitle H—Research, Development, Demonstration, and
Information

“RESEARCH, DEMONSTRATIONS, TRAINING, AND OTHER ACTIVITIES

“SEC. 8001. (a) GENERAL AUTHORITY.—The Administrator, alone or after consultation with the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, or the Chairman of the Federal Power Commission, shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, public education programs, and studies relating to— 42 USC 6981.

“(1) any adverse health and welfare effects of the release into the environment of material present in solid waste, and methods to eliminate such effects;

“(2) the operation and financing of solid waste disposal programs;

“(3) the planning, implementation, and operation of resource recovery and resource conservation systems and hazardous waste management systems, including the marketing of recovered resources;

“(4) the production of usable forms of recovered resources, including fuel, from solid waste;

“(5) the reduction of the amount of such waste and unsalvageable waste materials;

“(6) the development and application of new and improved methods of collecting and disposing of solid waste and processing and recovering materials and energy from solid wastes;

“(7) the identification of solid waste components and potential materials and energy recoverable from such waste components;

“(8) small scale and low technology solid waste management systems, including but not limited to, resource recovery source separation systems;

“(9) methods to improve the performance characteristics of resources recovered from solid waste and the relationship of such performance characteristics to available and potentially available markets for such resources;

“(10) improvements in land disposal practices for solid waste (including sludge) which may reduce the adverse environmental effects of such disposal and other aspects of solid waste disposal on land, including means for reducing the harmful environmental effects of earlier and existing landfills, means for restoring areas damaged by such earlier or existing landfills, means for rendering landfills safe for purposes of construction and other uses, and techniques of recovering materials and energy from landfills;

“(11) methods for the sound disposal of, or recovery of resources, including energy, from, sludge (including sludge from pollution control and treatment facilities, coal slurry pipelines, and other sources);

“(12) methods of hazardous waste management, including methods of rendering such waste environmentally safe; and

“(13) any adverse effects on air quality (particularly with

regard to the emission of heavy metals) which result from solid waste which is burned (either alone or in conjunction with other substances) for purposes of disposal or energy recovery.

“(b) **MANAGEMENT PROGRAM.**—(1) (A) In carrying out his functions pursuant to this Act, and any other Federal legislation respecting solid waste or discarded material research, development, and demonstrations, the Administrator shall establish a management program or system to insure the coordination of all such activities and to facilitate and accelerate the process of development of sound new technology (or other discoveries) from the research phase, through development, and into the demonstration phase.

“(B) The Administrator shall (i) assist, on the basis of any research projects which are developed with assistance under this Act or without Federal assistance, the construction of pilot plant facilities for the purpose of investigating or testing the technological feasibility of any promising new fuel, energy, or resource recovery or resource conservation method or technology; and (ii) demonstrate each such method and technology that appears justified by an evaluation at such pilot plant stage or at a pilot plant stage developed without Federal assistance. Each such demonstration shall incorporate new or innovative technical advances or shall apply such advances to different circumstances and conditions, for the purpose of evaluating design concepts or to test the performance, efficiency, and economic feasibility of a particular method or technology under actual operating conditions. Each such demonstration shall be so planned and designed that, if successful, it can be expanded or utilized directly as a full-scale operational fuel, energy, or resource recovery or resource conservation facility.

“(2) Any energy-related research, development, or demonstration project for the conversion including bioconversion, of solid waste carried out by the Environmental Protection Agency or by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes and specifically, that in accordance with this agreement, (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related portions of projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; (C) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008, and any applicable State or regional solid waste management plan; and (D) any activities undertaken under provisions of sections 8002 and 8003 as related to energy; as related to energy or synthetic fuels recovery from waste; or as related to energy conservation shall be accomplished through coordination and consultation with the Energy Research and Development Administration.

“(c) **AUTHORITIES.**—(1) In carrying out subsection (a) of this section respecting solid waste research, studies, development, and demon-

stration, except as otherwise specifically provided in section 8004(d), the Administrator may make grants to or enter into contracts (including contracts for construction) with, public agencies and authorities or private persons.

“(2) Contracts for research, development, or demonstrations or for both (including contracts for construction) shall be made in accordance with and subject to the limitations provided with respect to research contracts of the military departments in title 10, United States Code, section 2353, except that the determination, approval, and certification required thereby shall be made by the Administrator.

“(3) Any invention made or conceived in the course of, or under, any contract under this Act shall be subject to section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 to the same extent and in the same manner as inventions made or conceived in the course of contracts under such Act, except that in applying such section, the Environmental Protection Agency shall be substituted for the Energy Research and Development Administration and the words ‘solid waste’ shall be substituted for the word ‘energy’ where appropriate.

42 USC 5908.

“(4) For carrying out the purpose of this Act the Administrator may detail personnel of the Environmental Protection Agency to agencies eligible for assistance under this section.

Detail of
EPA personnel to
other agencies.

**“SPECIAL STUDIES; PLANS FOR RESEARCH, DEVELOPMENT, AND
DEMONSTRATIONS**

“SEC. 8002. (a) GLASS AND PLASTIC.—The Administrator shall undertake a study and publish a report on resource recovery from glass and plastic waste, including a scientific, technological, and economic investigation of potential solutions to implement such recovery.

42 USC 6982.

“(b) COMPOSITION OF WASTE STREAM.—The Administrator shall undertake a systematic study of the composition of the solid waste stream and of anticipated future changes in the composition of such stream and shall publish a report containing the results of such study and quantitatively evaluating the potential utility of such components.

“(c) PRIORITIES STUDY.—For purposes of determining priorities for research on recovery of materials and energy from solid waste and developing materials and energy recovery research, development, and demonstration strategies, the Administrator shall review, and make a study of, the various existing and promising techniques of energy recovery from solid waste (including, but not limited to, waterwall furnace incinerators, dry shredded fuel systems, pyrolysis, densified refuse-derived fuel systems, anerobic digestion, and fuel and feedstock preparation systems). In carrying out such study the Administrator shall investigate with respect to each such technique—

“(1) the degree of public need for the potential results of such research, development, or demonstration,

“(2) the potential for research, development, and demonstration without Federal action, including the degree of restraint on such potential posed by the risks involved, and

“(3) the magnitude of effort and period of time necessary to develop the technology to the point where Federal assistance can be ended.

“(d) SMALL-SCALE AND LOW TECHNOLOGY STUDY.—The Administrator shall undertake a comprehensive study and analysis of, and publish a report on, systems of small-scale and low technology solid

waste management, including household resource recovery and resource recovery systems which have special application to multiple dwelling units and high density housing and office complexes. Such study and analysis shall include an investigation of the degree to which such systems could contribute to energy conservation.

“(e) **FRONT-END SOURCE SEPARATION.**—The Administrator shall undertake research and studies concerning the compatibility of front-end source separation systems with high technology resource recovery systems and shall publish a report containing the results of such research and studies.

“(f) **MINING WASTE.**—The Administrator, in consultation with the Secretary of the Interior, shall conduct a detailed and comprehensive study on the adverse effects of solid wastes from active and abandoned surface and underground mines on the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources, and on the adequacy of means and measures currently employed by the mining industry, Government agencies, and others to dispose of and utilize such solid wastes and to prevent or substantially mitigate such adverse effects. Such study shall include an analysis of—

“(1) the sources and volume of discarded material generated per year from mining;

“(2) present disposal practices;

“(3) potential dangers to human health and the environment from surface runoff of leachate and air pollution by dust;

“(4) alternatives to current disposal methods;

“(5) the cost of those alternatives in terms of the impact on mine product costs; and

“(6) potential for use of discarded material as a secondary source of the mine product.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal agencies concerning such wastes with a view toward avoiding duplication of effort and the need to expedite such study. The Administrator shall publish a report of such study and shall include appropriate findings and recommendations for Federal and non-Federal actions concerning such effects.

“(g) **SLUDGE.**—The Administrator shall undertake a comprehensive study and publish a report on sludge. Such study shall include an analysis of—

“(1) what types of solid waste (including but not limited to sewage and pollution treatment residues and other residues from industrial operations such as extraction of oil from shale liquefaction and gasification of coal and coal slurry pipeline operations) shall be classified as sludge;

“(2) the effects of air and water pollution legislation on the creation of large volumes of sludge;

“(3) the amounts of sludge originating in each State and in each industry producing sludge;

“(4) methods of disposal of such sludge, including the cost, efficiency, and effectiveness of such methods;

“(5) alternative methods for the use of sludge, including agricultural applications of sludge and energy recovery from sludge; and

“(6) methods to reclaim areas which have been used for the disposal of sludge or which have been damaged by sludge.

“(h) **TIRES.**—The Administrator shall undertake a study and publish a report respecting discarded motor vehicle tires which shall include an analysis of the problems involved in the collection, recovery of resources including energy, and use of such tires.

“(i) **RESOURCE RECOVERY FACILITIES.**—The Administrator shall conduct research and report on the economics of, and impediments, to the effective functioning of resource recovery facilities.

“(j) **RESOURCE CONSERVATION COMMITTEE.**—(1) The Administrator shall serve as Chairman of a Committee composed of himself, the Secretary of Commerce, the Secretary of Labor, the Chairman of the Council on Environmental Quality, the Secretary of Treasury, the Secretary of the Interior, and a representative of the Office of Management and Budget, which shall conduct a full and complete investigation and study of all aspects of the economic, social, and environmental consequences of resource conservation with respect to—

“(A) the appropriateness of recommended incentives and disincentives to foster resource conservation;

“(B) the effect of existing public policies (including subsidies and economic incentives and disincentives, percentage depletion allowances, capital gains treatment and other tax incentives and disincentives) upon resource conservation, and the likely effect of the modification or elimination of such incentives and disincentives upon resource conservation;

“(C) the appropriateness and feasibility of restricting the manufacture or use of categories of consumer products as a resource conservation strategy;

“(D) the appropriateness and feasibility of employing as a resource conservation strategy the imposition of solid waste management charges on consumer products, which charges would reflect the costs of solid waste management services, litter pickup, the value of recoverable components of such product, final disposal, and any social value associated with the nonrecycling or uncontrolled disposal of such product; and

“(E) the need for further research, development, and demonstration in the area of resource conservation.

“(2) The study required in paragraph (2)(D) may include pilot scale projects, and shall consider and evaluate alternative strategies with respect to—

Pilot scale
projects.

“(A) the product categories on which such charges would be imposed;

“(B) the appropriate state in the production of such consumer product at which to levy such charge;

“(C) appropriate criteria for establishing such charges for each consumer product category;

“(D) methods for the adjustment of such charges to reflect actions such as recycling which would reduce the overall quantities of solid waste requiring disposal; and

“(E) procedures for amending, modifying, or revising such charges to reflect changing conditions.

“(3) The design for the study required in paragraph (2)(D) of this subsection shall include timetables for the completion of the study. A preliminary report putting forth the study design shall be sent to the President and the Congress within six months following enactment of this section and followup reports shall be sent six months thereafter. Each recommendation resulting from the study shall include at least two alternatives to the proposed recommendation.

Study design.

Report to
President and
Congress.

Report to
President and
Congress.

Appropriation
authorization.

"(4) The results of such investigation and study, including recommendations, shall be reported to the President and the Congress not later than two years after enactment of this subsection.

"(5) There are authorized to be appropriated not to exceed \$2,000,000 to carry out this subsection.

"(k) AIRPORT LANDFILLS.—The Administrator shall undertake a comprehensive study and analysis of and publish a report on systems to alleviate the hazards to aviation from birds congregating and feeding on landfills in the vicinity of airports.

"(l) COMPLETION OF RESEARCH AND STUDIES.—The Administrator shall complete the research and studies, and submit the reports, required under subsections (b), (c), (d), (e), (f), (g), and (k) not later than October 1, 1978. The Administrator shall complete the research and studies, and submit the reports, required under subsections (a), (h), (i), and (j) not later than October 1, 1979. Upon completion, each study specified in subsections (a) through (k) of this section, the Administrator shall prepare a plan for research, development, and demonstration respecting the findings of the study and shall submit any legislative recommendations resulting from such study to appropriate committees of Congress.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not to exceed \$8,000,000 for the fiscal years 1978 and 1979 to carry out this section other than subsection (j).

"COORDINATION, COLLECTION, AND DISSEMINATION OF INFORMATION

42 USC 6983.

"SEC. 8003. (a) INFORMATION.—The Administrator shall develop, collect, evaluate, and coordinate information on—

"(1) methods and costs of the collection of solid waste;

"(2) solid waste management practices, including data on the different management methods and the cost, operation, and maintenance of such methods;

"(3) the amounts and percentages of resources (including energy) that can be recovered from solid waste by use of various discarded materials management practices and various technologies;

"(4) methods available to reduce the amount of solid waste that is generated;

"(5) existing and developing technologies for the recovery of energy or materials from solid waste and the costs, reliability, and risks associated with such technologies;

"(6) hazardous solid waste, including incidents of damage resulting from the disposal of hazardous solid wastes; inherently and potentially hazardous solid wastes; methods of neutralizing or properly disposing of hazardous solid wastes; facilities that properly dispose of hazardous wastes;

"(7) methods of financing resource recovery facilities or, sanitary landfills, or hazardous solid waste treatment facilities, whichever is appropriate for the entity developing such facility or landfill (taking into account the amount of solid waste reasonably expected to be available to such entity);

"(8) the availability of markets for the purchase of resources, either materials or energy, recovered from solid waste; and

"(9) research and development projects respecting solid waste management.

“(b) **LIBRARY.**—(1) The Administrator shall establish and maintain a central reference library for (A) the materials collected pursuant to subsection (a) of this section and (B) the actual performance and cost effectiveness records and other data and information with respect to—

“(i) the various methods of energy and resource recovery from solid waste,

“(ii) the various systems and means of resource conservation,

“(iii) the various systems and technologies for collection, transport, storage, treatment, and final disposition of solid waste, and

“(iv) other aspects of solid waste and hazardous solid waste management.

Such central reference library shall also contain, but not be limited to, the model codes and model accounting systems developed under this section, the information collected under subsection (d), and, subject to any applicable requirements of confidentiality, information respecting any aspect of solid waste provided by officers and employees of the Environmental Protection Agency which has been acquired by them in the conduct of their functions under this Act and which may be of value to Federal, State, and local authorities and other persons.

“(2) Information in the central reference library shall, to the extent practicable, be collated, analyzed, verified, and published and shall be made available to State and local governments and other persons at reasonable times and subject to such reasonable charges as may be necessary to defray expenses of making such information available.

“(c) **MODEL ACCOUNTING SYSTEM.**—In order to assist State and local governments in determining the cost and revenues associated with the collection and disposal of solid waste and with resource recovery operations, the Administrator shall develop and publish a recommended model cost and revenue accounting system applicable to the solid waste management functions of State and local governments. Such system shall be in accordance with generally accepted accounting principles. The Administrator shall periodically, but not less frequently than once every five years, review such accounting system and revise it as necessary.

“(d) **MODEL CODES.**—The Administrator is authorized, in cooperation with appropriate State and local agencies, to recommend model codes, ordinances, and statutes, providing for sound solid waste management.

“(e) **INFORMATION PROGRAMS.**—(1) The Administrator shall implement a program for the rapid dissemination of information on solid waste management, hazardous waste management, resource conservation, and methods of resource recovery from solid waste, including the results of any relevant research, investigations, experiments, surveys, studies, or other information which may be useful in the implementation of new or improved solid waste management practices and methods and information on any other technical, managerial, financial, or market aspect of resource conservation and recovery facilities.

“(2) The Administrator shall develop and implement educational programs to promote citizen understanding of the need for environmentally sound solid waste management practices.

“(f) **COORDINATION.**—In collecting and disseminating information under this section, the Administrator shall coordinate his actions and cooperate to the maximum extent possible with State and local authorities.

“(g) **SPECIAL RESTRICTION.**—Upon request, the full range of alternative technologies, programs or processes deemed feasible to meet the

resource recovery or resource conservation needs of a jurisdiction shall be described in such a manner as to provide a sufficient evaluative basis from which the jurisdiction can make its decisions, but no officer or employee of the Environmental Protection Agency shall, in an official capacity, lobby for or otherwise represent an agency position in favor of resource recovery or resource conservation, as a policy alternative for adoption into ordinances, codes, regulations, or law by any State or political subdivision thereof.

"FULL-SCALE DEMONSTRATION FACILITIES

42 USC 6984.

"SEC. 8004. (a) AUTHORITY.—The Administrator may enter into contracts with public agencies or authorities or private persons for the construction and operation of a full-scale demonstration facility under this Act, or provide financial assistance in the form of grants to a full-scale demonstration facility under this Act only if the Administrator finds that—

"(1) such facility or proposed facility will demonstrate at full scale a new or significantly improved technology or process, a practical and significant improvement in discarded material management practice, or the technological feasibility and cost effectiveness of an existing, but unproven technology, process, or practice, and will not duplicate any other Federal, State, local, or commercial facility which has been constructed or with respect to which construction has begun (determined as of the date action is taken by the Administrator under this Act),

"(2) such contract or assistance meets the requirements of section 8001 and meets other applicable requirements of the Act,

"(3) such facility will be able to comply with the guidelines published under section 1008 and with other laws and regulations for the protection of health and the environment,

"(4) in the case of a contract for construction or operation, such facility is not likely to be constructed or operated by State, local, or private persons or in the case of an application for financial assistance, such facility is not likely to receive adequate financial assistance from other sources, and

"(5) any Federal interest in, or assistance to, such facility will be disposed of or terminated, with appropriate compensation, within such period of time as may be necessary to carry out the basic objectives of this Act.

"(b) TIME LIMITATION.—No obligation may be made by the Administrator for financial assistance under this subtitle for any full-scale demonstration facility after the date ten years after the enactment of this section. No expenditure of funds for any such full-scale demonstration facility under this subtitle may be made by the Administrator after the date fourteen years after such date of enactment.

"(c) COST SHARING.—Wherever practicable, in constructing, operating, or providing financial assistance under this subtitle to a full-scale demonstration facility, the Administrator shall endeavor to enter into agreements and make other arrangements for maximum practicable cost sharing with other Federal, State, and local agencies, private persons, or any combination thereof.

"(2) The Administrator shall enter into arrangements, wherever practicable and desirable, to provide monitoring of full-scale solid waste facilities (whether or not constructed or operated under this

Act) for purposes of obtaining information concerning the performance, and other aspects, of such facilities. Where the Administrator provides only monitoring and evaluation instruments or personnel (or both) or funds for such instruments or personnel and provides no other financial assistance to a facility, notwithstanding section 8001(c)(3), title to any invention made or conceived of in the course of developing, constructing, or operating such facility shall not be required to vest in the United States and patents respecting such invention shall not be required to be issued to the United States.

“(d) PROHIBITION.—After the date of enactment of this section, the Administrator shall not construct or operate any full-scale facility (except by contract with public agencies or authorities or private persons).

“SPECIAL STUDY AND DEMONSTRATION PROJECTS ON RECOVERY OF USEFUL ENERGY AND MATERIALS

“SEC. 8005. (a) STUDIES.—The Administrator shall conduct studies and develop recommendations for administrative or legislative action on— 42 USC 6985.

“(1) means of recovering materials and energy from solid waste, recommended uses of such materials and energy for national or international welfare, including identification of potential markets for such recovered resources, the impact of distribution of such resources on existing markets, and potentials for energy conservation through resource conservation and resource recovery;

“(2) actions to reduce waste generation which have been taken voluntarily or in response to governmental action, and those which practically could be taken in the future, and the economic, social, and environmental consequences of such actions;

“(3) methods of collection, separation, and containerization which will encourage efficient utilization of facilities and contribute to more effective programs of reduction, reuse, or disposal of wastes;

“(4) the use of Federal procurement to develop market demand for recovered resources;

“(5) recommended incentives (including Federal grants, loans, and other assistance) and disincentives to accelerate the reclamation or recycling of materials from solid wastes, with special emphasis on motor vehicle hulks;

“(6) the effect of existing public policies, including subsidies and economic incentives and disincentives, percentage depletion allowances, capital gains treatment and other tax incentives and disincentives, upon the recycling and reuse of materials, and the likely effect of the modification or elimination of such incentives and disincentives upon the reuse, recycling and conservation of such materials;

“(7) the necessity and method of imposing disposal or other charges on packaging, containers, vehicles, and other manufactured goods, which charges would reflect the cost of final disposal, the value of recoverable components of the item, and any social costs associated with nonrecycling or uncontrolled disposal of such items; and

"(8) the legal constraints and institutional barriers to the acquisition of land needed for solid waste management, including land for facilities and disposal sites;

"(9) in consultation with the Secretary of Agriculture, agricultural waste management problems and practices, the extent of reuse and recovery of resources in such wastes, the prospects for improvement, Federal, State, and local regulations governing such practices, and the economic, social, and environmental consequences of such practices; and

"(10) in consultation with the Secretary of the Interior, mining waste management problems, and practices, including an assessment of existing authorities, technologies, and economics, and the environmental and public health consequences of such practices.

"(b) DEMONSTRATION.—The Administrator is also authorized to carry out demonstration projects to test and demonstrate methods and techniques developed pursuant to subsection (a).

"(c) APPLICATION OF OTHER SECTIONS.—Section 8001 (b) and (c) shall be applicable to investigations, studies, and projects carried out under this section.

**"GRANTS FOR RESOURCE RECOVERY SYSTEMS AND IMPROVED SOLID
WASTE DISPOSAL FACILITIES**

42 USC 6986.

"SEC. 8006. (a) AUTHORITY.—The Administrator is authorized to make grants pursuant to this section to any State, municipal, or interstate or intermunicipal agency for the demonstration of resource recovery systems or for the construction of new or improved solid waste disposal facilities.

"(b) CONDITIONS.—(1) Any grant under this section for the demonstration of a resource recovery system may be made only if it (A) is consistent with any plans which meet the requirements of subtitle D of this Act; (B) is consistent with the guidelines recommended pursuant to section 1008 of this Act; (C) is designed to provide area-wide resource recovery systems consistent with the purposes of this Act, as determined by the Administrator, pursuant to regulations promulgated under subsection (d) of this section; and (D) provides an equitable system for distributing the costs associated with construction, operation, and maintenance of any resource recovery system among the users of such system.

"(2) The Federal share for any project to which paragraph (1) applies shall not be more than 75 percent.

"(c) LIMITATIONS.—(1) A grant under this section for the construction of a new or improved solid waste disposal facility may be made only if—

"(A) a State or interstate plan for solid waste disposal has been adopted which applies to the area involved, and the facility to be constructed (i) is consistent with such plan, (ii) is included in a comprehensive plan for the area involved which is satisfactory to the Administrator for the purposes of this Act, and (iii) is consistent with the guidelines recommended under section 1008, and

"(B) the project advances the state of the art by applying new and improved techniques in reducing the environmental impact of solid waste disposal, in achieving recovery of energy or resources, or in recycling useful materials.

"(2) The Federal share for any project to which paragraph (1) applies shall be not more than 50 percent in the case of a project serving an area which includes only one municipality, and not more than 75 percent in any other case.

"(d) REGULATIONS.—(1) The Administrator shall promulgate regulations establishing a procedure for awarding grants under this section which— Regulations.

"(A) provides that projects will be carried out in communities of varying sizes, under such conditions as will assist in solving the community waste problems of urban-industrial centers, metropolitan regions, and rural areas, under representative geographic and environmental conditions; and

"(B) provides deadlines for submission of, and action on, grant requests.

(2) In taking action on applications for grants under this section, consideration shall be given by the Administrator (A) to the public benefits to be derived by the construction and the propriety of Federal aid in making such grant; (B) to the extent applicable, to the economic and commercial viability of the project (including contractual arrangements with the private sector to market any resources recovered); (C) to the potential of such project for general application to community solid waste disposal problems; and (D) to the use by the applicant of comprehensive regional or metropolitan area planning.

"(e) ADDITIONAL LIMITATIONS.—A grant under this section—

"(1) may be made only in the amount of the Federal share of (A) the estimated total design and construction costs, plus (B) in the case of a grant to which subsection (b)(1) applies, the first-year operation and maintenance costs;

"(2) may not be provided for land acquisition or (except as otherwise provided in paragraph (1)(B)) for operating or maintenance costs;

"(3) may not be made until the applicant has made provision satisfactory to the Administrator for proper and efficient operation and maintenance of the project (subject to paragraph (1)(B)); and

"(4) may be made subject to such conditions and requirements, in addition to those provided in this section, as the Administrator may require to properly carry out his functions pursuant to this Act.

For purposes of paragraph (1), the non-Federal share may be in any form, including, but not limited to, lands or interests therein needed for the project or personal property or services, the value of which shall be determined by the Administrator.

"(f) SINGLE STATE.—(1) Not more than 15 percent of the total of funds authorized to be appropriated for any fiscal year to carry out this section shall be granted under this section for projects in any one State.

"(2) The Administrator shall prescribe by regulation the manner in which this subsection shall apply to a grant under this section for a project in an area which includes all or part of more than one State. Regulation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 8007. There are authorized to be appropriated not to exceed \$35,000,000 for the fiscal year 1978 to carry out the purposes of this subtitle (except for section 8002)." 42 USC 6987.

SOLID WASTE CLEANUP ON FEDERAL LANDS IN ALASKA

Study.
42 USC 6981
note.

SEC. 3. (a) The President shall direct such executive departments or agencies as he may deem appropriate to conduct a study, in consultation with representatives of the State of Alaska and the appropriate Native organizations, to determine the best overall procedures for removing existing solid waste on Federal lands in Alaska. Such study shall include, but shall not be limited to, a consideration of—

- (1) alternative procedures for removing the solid waste in an environmentally safe manner, and
- (2) the estimated costs of removing the solid waste.

Report to
congressional
committees.

(b) The President shall submit a report of the results together with appropriate supporting data and such recommendations as he deems desirable to the Committee on Public Works of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives not later than one year after the enactment of the Solid Waste Utilization Act of 1976. The President shall also submit, within six months after the study has been submitted to the committees, recommended administrative actions, procedures, and needed legislation to implement such procedures and the recommendations of the study.

Llangollen
Landfill, Del.,
leachate control
research
program.
42 USC 6981
note.
Cooperation with
EPA.

SEC. 4. (a) In order to demonstrate effective means of dealing with contamination of public water supplies by leachate from abandoned or other landfills, the Administrator of the Environmental Protection Agency is authorized to provide technical and financial assistance for a research program to control leachate from the Llangollen Landfill in New Castle County, Delaware.

(b) The research program authorized by this section shall be designed by the New Castle County areawide waste treatment management program, in cooperation with the Environmental Protection Agency, to develop methods for controlling leachate contamination from abandoned and other landfills that may be applied at the Llangollen Landfill and at other landfills throughout the Nation. Such research program shall investigate all alternative solutions or corrective actions, including—

- (1) hydrogeologic isolation of the landfill combined with the collection and treatment of leachate;
- (2) excavation of the refuse, followed by some type of incineration;
- (3) excavation and transportation of the refuse to another landfill; and
- (4) collection and treatment of contaminated leachate or ground water.

Such research program shall consider the economic, social, and environmental consequences of each such alternative.

(c) The Administrator of the Environmental Protection Agency shall make available personnel of the Agency, including those of the Solid and Hazardous Waste Research Laboratory (Cincinnati, Ohio), and shall arrange for other Federal personnel to be made available, to provide technical assistance and aid in such research. The Administrator may provide up to \$250,000, of the sums appropriated under the Solid Waste Disposal Act, to the New Castle County areawide waste treatment management program to conduct such research, including obtaining consultant services.

42 USC 6901
note.

(d) In order to prevent further damage to public water supplies during the period of this study, the Administrator of the Environmental Protection Agency shall provide up to \$200,000 in each of fiscal years 1977 and 1978, of the sums appropriated under the Solid Waste Disposal Act for the operating costs of a counter-pumping program to contain the leachate from the Llangollen Landfill.

Counter-pumping
program

42 USC 6901
note.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1491 accompanying H.R. 14496 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-869 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 30, considered and passed Senate.

Sept. 27, considered and passed House, amended, in lieu of H.R. 14496.

Sept. 30, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 22, Presidential statement.

Public Law 94-581
94th Congress

An Act

Oct. 21, 1976

[H.R. 2735]

To amend title 38, United States Code, to improve the quality of hospital care, medical services, and nursing home care in Veterans' Administration health care facilities; to make certain technical and conforming amendments; and for other purposes.

Veterans
Omnibus Health
Care Act of 1976.
38 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Omnibus Health Care Act of 1976".

TITLE I—GENERAL VETERANS HEALTH CARE AND
DEPARTMENT OF MEDICINE AND SURGERY AMEND-
MENTS

SEC. 101. Section 111 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "pursuant to the provisions of this section" after "President"; and

(2) inserting at the end of such section the following new subsection:

Investigations.

"(e) (1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3) (C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

"(2) In no event shall payment be provided under this section—

"(A) unless the person claiming reimbursement has been determined, based on an annual declaration and certification by such person, to be unable to defray the expenses of such travel (except with respect to a veteran receiving benefits for or in connection with a service-connected disability under this title);

"(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

"(C) in excess of the actual expense incurred by such person as certified in writing by such person.

Review.

"(3) In conducting investigations and determining rates under this section, the Administrator shall review and analyze, among other factors, the following factors:

- “(A) (i) Depreciation of original vehicle costs;
- “(ii) gasoline and oil costs;
- “(iii) maintenance, accessories, parts, and tire costs;
- “(iv) insurance costs; and
- “(v) State and Federal taxes.

“(B) The availability of and time required for public transportation.

“(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

5 USC 5702,
5704.

“(4) Before determining rates under this section, and not later than sixty days after the effective date of this subsection, and thereafter not later than sixty days after any alteration in the rates described in paragraph (3) (C) of this subsection, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates the Administrator proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section.”.

Report to
congressional
committees.

SEC. 102. Section 601 of title 38, United States Code, is amended by—

(1) amending paragraph (5) by striking out in clause (B) all after “training” and inserting in lieu thereof “for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title; and”;

(2) amending paragraph (6) to read as follows:

“(6) The term ‘medical services’ includes, in addition to medical examination, treatment, and rehabilitative services—

“Medical
services.”

“(A) (i) surgical services, dental services and appliances as authorized in section 612 (b), (c), (d), and (e) of this title, optometric and podiatric services, and (except under the conditions described in section 612(f) (1) (A) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and

“(B) such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

“(i) of the service-connected disability of a veteran pursuant to section 612(a) of this title, and

“(ii) in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f) (1) (B) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital, for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, necessary

expenses of travel and subsistence of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.”;

(3) amending paragraph (7) to read as follows:

“Domiciliary care.”

“(7) The term ‘domiciliary care’ includes necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title.”; and

(4) inserting at the end of such section the following new paragraph:

“Rehabilitative services.”

“(8) The term ‘rehabilitative services’ means such professional, counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provided under chapter 31 of this title) as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person.”.

Medical treatment, eligibility.

Sec. 103. (a) Section 612 of title 38, United States Code, is amended by—

(1) inserting after the first sentence of subsection (a) the following new sentence: “The Administrator may also furnish to any such veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations the cost of which does not exceed \$2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavatory and sanitary facilities.”;

(2) striking out “or” at the end of clause (4) of subsection (b); redesignating clause (5) of such subsection as clause (6); and inserting after clause (4) of such subsection the following new clause (5):

“(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment; or”;

(3) striking out “may also furnish” in subsection (f) and inserting in lieu thereof a comma and “within the limits of Veterans’ Administration facilities, may furnish”;

(4) inserting in clause (1) (A) of subsection (f) “(to the extent that facilities are available)” after “or” the first place it appears;

(5) inserting before the semicolon at the end of clause (1) (B) of subsection (f) “(for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated)”;

(6) striking out “80” and inserting in lieu thereof “50” in clause (2) of subsection (f);

(7) inserting at the end of subsection (f) the following new sentence: “The Administrator may also furnish to any such veteran such home health services as the Administrator determines to

be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed \$600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities)."; and

(8) inserting at the end thereof the following new subsections:

"(i) Not later than ninety days after the effective date of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

Regulations.

"(1) To any veteran for a service-connected disability.

"(2) To any veteran described in subsection (f)(2) of this section.

"(3) To any veteran with a disability rated as service-connected.

"(4) To any veteran being furnished medical services under subsection (g) of this section.

"(j) In order to assist the Secretary of Health, Education, and Welfare in carrying out national immunization programs pursuant to other provisions of law, the Administrator may authorize the administration of immunizations to eligible veterans (voluntarily requesting such immunizations) in connection with the provision of care for a disability under this chapter in any Veterans' Administration health care facility, utilizing vaccine furnished by the Secretary at no cost to the Veterans' Administration, and for such purpose, notwithstanding any other provision of law, the Secretary is authorized to provide such vaccine to the Veterans' Administration at no cost and the provisions of section 4116 of this title shall apply to claims alleging negligence or malpractice on the part of Veterans' Administration personnel granted immunity under such section."

(b) Not later than one year after the effective date of this section, and annually thereafter, the Administrator shall report to the Congress on the results of the regulations prescribed to carry out the amendment (adding section 612(i) of title 38, United States Code) made by subsection (a)(8) of this section.

Report to Congress.
38 USC 612 note.

SEC. 104. Subsection (a) of section 613 of title 38, United States Code, is amended by amending clause (2) to read as follows:

"(2) the widow or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability."

SEC. 105. (a) Section 618 of title 38, United States Code, is amended by—

Therapeutic and rehabilitative services.

(1) striking out "The" in the first sentence and inserting in lieu thereof "(a) In providing rehabilitative services under this chapter, the";

(2) striking out "hospitals and domiciliaries" and inserting in lieu thereof "health care facilities"; and

(3) inserting below subsection (a) (as redesignated by clause (1) of this subsection) the following new subsections:

“(b) (1) In furnishing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may enter into contractual arrangements with private industry or other sources outside the Veterans’ Administration to provide for therapeutic work for remuneration for patients and members in Veterans’ Administration health care facilities.

Recordkeeping.

“(2) Notwithstanding any other provision of law, the Administrator may also furnish rehabilitative services under this subsection through contractual arrangements with nonprofit entities to provide for such therapeutic work for such patients. The Administrator shall establish appropriate fiscal, accounting, management, recordkeeping, and reporting requirements with respect to the activities of any such nonprofit entity in connection with such contractual arrangements.

Veterans’
Administration
Special
Therapeutic and
Rehabilitation
Activities Fund.
Establishment.

“(c) (1) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans’ Administration Special Therapeutic and Rehabilitation Activities Fund (hereinafter in this section referred to as the ‘fund’) for the purpose of carrying out the provisions of subsection (b) of this section. Such amounts of the fund as the Administrator may determine to be necessary to establish and maintain operating accounts for the various rehabilitative services activities may be deposited in checking accounts in other depositories selected or established by the Administrator.

“(2) All funds received by the Veterans’ Administration under contractual arrangements made under subsection (b) of this section, or by nonprofit entities described in paragraph (2) of such subsection, shall be deposited in or credited to the fund, and the Administrator shall pay out of the fund moneys to participants at rates not less than the wage rates specified in the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and regulations prescribed thereunder for work of similar character.

“(3) The Chief Medical Director shall prepare, for inclusion in the annual report submitted to Congress under section 214 of this title, a description of the scope and achievements of activities carried out under this section (including pertinent data regarding productivity and wage rates) during the prior twelve months and an estimate of the needs of the program of therapeutic and rehabilitation activities to be carried out under this section for the ensuing fiscal year.

38 USC 1501,
1651, 1700.

“(d) In providing rehabilitative services under this chapter, the Administrator shall take appropriate action to make it possible for the patient to take maximum advantage of any benefits to which such patient is entitled under chapter 31, 34, or 35 of this title, and, if the patient is still receiving treatment of a prolonged nature under this chapter, the provision of rehabilitative services under this chapter shall be continued during, and coordinated with, the pursuit of education and training under such chapter 31, 34, or 35.

Regulations.

“(e) The Administrator shall prescribe regulations to ensure that the priorities set forth in section 612(i) of this title shall be applied, insofar as practicable, to participation in therapeutic and rehabilitation activities carried out under this section.”

Claims,
settlement.
38 USC 618 note.

(b) (1) The Administrator is authorized to settle claims made by the Veterans’ Administration against any private nonprofit corporation organized under the laws of any State, for the use of Veterans’ Administration facilities and personnel in work projects as a part of a therapeutic or rehabilitation program for patients and members in Veterans’ Administration health care facilities, and to execute a binding release of all claims by the United States against any such corpora-

tion, in such amounts, and upon such terms and conditions as the Administrator deems appropriate.

(2) For the purposes of this subsection, notwithstanding section 484 of title 31, or any other provision of law, the Administrator may utilize any funds received under any settlement made pursuant to paragraph (1) of this subsection for any purpose agreed upon by the Administrator and such corporation.

SEC. 106. Section 620 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) “and except as provided in subsection (e)” after “subsection (b)”;

(2) striking out “40 per centum” and inserting in lieu thereof “45 per centum” in clause (ii) of subsection (a);

(3) inserting before the period at the end of clause (ii) of subsection (a) a comma and “or not to exceed 50 per centum of such cost where determined necessary by the Administrator, upon recommendation of the Chief Medical Director, to provide adequate care”; and

(4) inserting at the end thereof the following new subsection:

“(e) For the purposes of this section, the term ‘nursing home care’ includes intermediate care, as determined by the Administrator in accordance with regulations which the Administrator shall prescribe. The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a) (ii) of this section shall be determined by the Administrator except that the rate of reimbursement shall be commensurately less than that provided for nursing home care (as defined in section 101 (28) of this title).”

“Nursing home care.”

SEC. 107. (a) Subsection (a) of section 642 of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: “No payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620 (b) of this title.”

(b) Section 5034 of title 38, United States Code, is amended by—

(1) striking out “subchapter” the first place it appears and inserting in lieu thereof “section or any amendment to it with respect to such amendment”; and

(2) inserting at the end thereof the following new clause:

“(3) General standards for the furnishing of nursing home care in facilities which are constructed with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Administrator pursuant to section 620 (b) of this title. The Administrator may inspect any State facility constructed with assistance received under this subchapter at such times as the Administrator deems necessary to insure that such facility meets such standards.”

SEC. 108. Subsection (e) of section 1903 of title 38, United States Code, is amended by—

(1) striking out “or member of the Armed Forces” and inserting such language after “title” in paragraph (1); and

(2) inserting at the end thereof the following new paragraph:

“(3) Notwithstanding any other provision of law, the Administrator may obtain, by purchase, lease, gift, or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to carry out the purposes of this subsection, and may sell, assign, transfer, or convey

any such automobile, vehicle, or conveyance to which the Veterans' Administration obtains title for such price and upon such terms as the Administrator deems appropriate; and any proceeds received from any such disposition shall be credited to the applicable Veterans' Administration appropriation."

SEC. 109. Subsection (b)(1) of section 4114 of title 38, United States Code, is amended by inserting "(which may be established retroactively based on changes in such customary amount and terms)" after "pay".

SEC. 110. Subchapter I of chapter 73 of title 38, United States Code, is further amended by—

(1) inserting in section 4102 "a Podiatric Service, an Optometric Service," after "Dental Service,";

(2) striking out "and a Director of Optometry, appointed by the Administrator." and inserting in lieu thereof "a Director of Podiatric Service, and a Director of Optometric Service, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of their respective Services." in clause (7) of subsection (a) of section 4103;

(3) amending section 4104 by—

(A) inserting "podiatrists, optometrists," after "dentists," in clause (1); and

(B) striking out "optometrists," in clause (2);

(4) redesignating clauses (5), (6), (7), and (8) in subsection (a) of section 4105 as clauses (6), (7), (8), and (9), respectively, and inserting after clause (4) the following new clause:

"(5) Podiatrist—

"hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Administrator, and be licensed to practice podiatry in a State;"

(5) inserting "podiatrists, optometrists," after "dentists," in subsections (a) and (c) and inserting "podiatrist, optometrist," after "dentist," in subsection (e) of section 4106;

(6) amending section 4107 by—

(A) (i) inserting in the SECTION 4103 SCHEDULE in subsection (a)

"Director of Podiatric Service, \$36,338 minimum to \$46,026 maximum."

immediately below

"Director of Nursing Service, \$42,066 minimum to \$47,674 maximum."; and

(ii) striking out "Director of Optometry" and inserting in lieu thereof "Director of Optometric Service" in such schedule in such subsection; and

(B) inserting immediately below the NURSE SCHEDULE in paragraph (1) of subsection (b) the following new schedule:

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade, \$31,309 minimum to \$40,705 maximum.

"Senior grade, \$26,861 minimum to \$34,916 maximum.

"Intermediate grade, \$22,906 minimum to \$29,782 maximum.

"Full grade, \$19,386 minimum to \$25,200 maximum.

"Associate grade, \$16,255 minimum to \$21,133 maximum.";

(7) inserting "podiatrists, optometrists," after "dentists," and "podiatrist, optometrist," after "dentist," each place those words appear in the language preceding clause (1) and in subclause (B) of clause (6) of subsection (a) of section 4108;

38 USC 4108.

(8) inserting "podiatric, optometric," after "dental," in subsection (a) of section 4112;

(9) inserting "podiatrists, optometrists," after "dentists," in section 4113;

(10) amending section 4114 by—

(A) inserting "podiatrists, optometrists," after "dentists," each place such term appears in paragraphs (1) (A) and (B) and (3) (A) and (B) of subsection (a); and

(B) striking out "or dentist" and inserting in lieu thereof a comma and "dentist, podiatrist, or optometrist" in the language preceding clause (1) of subsection (d) and in clause (1) of such subsection;

(11) inserting "podiatrist, optometrist," after "dentist," each place such word appears in subsection (a) of section 4116; and

(12) amending section 4117 by—

(A) striking out "medical schools," and inserting in lieu thereof "schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing,"; and

(B) inserting "podiatrists, optometrists," after "dentists,".

SEC. 111. (a) (1) Chapter 73 of title 38, United States Code is amended by inserting at the end thereof the following new subchapter:

"Subchapter III—Protection of Patient Rights

"§ 4131. Informed consent

38 USC 4131.

"The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of section 4134 of this title, shall prescribe regulations establishing procedures to ensure that all medical and prosthetic research carried out and, to the maximum extent practicable, all patient care furnished under this title shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof.

Regulations.

"§ 4132. Confidentiality of certain medical records

38 USC 4132.

"(a) Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, or sickle cell anemia which is carried out by or for the Veterans' Administration under this title shall, except as provided in subsection (e) of this section, be confidential, and (section 3301 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

"(b) (1) The content of any record referred to in subsection (a) of this section may be disclosed by the Administrator in accordance with the prior written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the Administrator pursuant to section 4134 of this title.

"(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) of this section is main-

tained, gives written consent, the content of such record may be disclosed by the Administrator as follows:

“(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

“(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

“(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

“(3) In the event that the patient or subject who is the subject of any record referred to in subsection (a) of this section is deceased, the content of any such record may be disclosed by the Administrator only upon the prior written request of the next of kin, executor, administrator, or other personal representative of such patient or subject and only if the Administrator determines that such disclosure is necessary for such survivor to obtain benefits to which such survivor may be entitled, including the pursuit of legal action, but then only to the extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed pursuant to section 4131 of this title.

“(c) Except as authorized by a court order granted under subsection (b) (2) (C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against, or to conduct any investigation of, a patient or subject.

“(d) The prohibitions of this section shall continue to apply to records concerning any person who has been a patient or subject, irrespective of whether or when such person ceases to be a patient.

“(e) The prohibitions of this section shall not prevent any interchange of records—

“(1) within and among those components of the Veterans' Administration furnishing health care to veterans, or determining eligibility for benefits under this title; or

“(2) between such components furnishing health care to veterans and the Armed Forces.

“(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than \$500 in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense.

38 USC 4133.

“§ 4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities

38 USC 601 *et seq.*

“Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any

Veterans' Administration health care facility. The Administrator, pursuant to the provisions of section 4134 of this title, shall prescribe regulations for the enforcement of this nondiscrimination policy with respect to the admission and treatment of such eligible veterans who are alcohol or drug abusers.

Regulations.

“§ 4134. Coordination; reports

38 USC 4134.

“(a) Regulations prescribed pursuant to section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title, shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations governing—

“(1) human experimentation and informed consent prescribed by the Secretary of Health, Education, and Welfare, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act, as amended (Public Law 93-348; 88 Stat. 348), and

42 USC 289f-1
note.

“(2) (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. 4551 et seq.), and the Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1101 et seq.),

to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title. Such regulations may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b) (2) (C) of this title) as are necessary to prevent circumvention or evasion thereof, or to facilitate compliance therewith. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary of Health, Education, and Welfare, and, as appropriate, the Director of the Office of Drug Abuse Policy (or any successor authority), in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they and the Administrator prescribe.

Consultation.

“(b) Not later than sixty days after the effective date of this subsection, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report with respect to the regulations (including guidelines, policies, and procedures thereunder) prescribed pursuant to subsection (a) of this section. Such report shall include (1) an explanation of any inconsistency between such regulations and the regulations of the Secretary referred to in such subsection (a); (2) an account of the extent, substance, and results of consultations with the Secretary (or Director, as appropriate) respecting the prescribing and implementation of the Administrator's regulations; and (3) such recommendations for legislation and administrative actions as the Administrator determines are necessary and desirable. The Administrator shall timely publish such report in the Federal Register.”

Report to
congressional
committees.

Contents.

Legislative
recommendations.
Publication in
Federal Register.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof:

“SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

“4131. Informed consent.

“4132. Confidentiality of certain medical records.

“4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities.

“4134. Coordination; reports.”.

(b) Subsection (b) of section 653 of title 38, United States Code, is amended to read as follows:

“(b) Patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions prescribed in section 4132 of this title.”.

(c) The following provisions of law are superseded by the provisions of the amendments to chapter 73 of title 38, United States Code, made by subsection (a) of this section:

(1) Paragraph (2) of subsection (b) of section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4581(b)(2)), as added by section 121(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 (Public Law 93-282; 88 Stat. 130).

(2) Paragraph (2) of subsection (b) of section 407 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1174(b)(2)), as amended by section 6(a) of the Act entitled “An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes”, approved March 19, 1976 (Public Law 94-237; 90 Stat. 244-5).

(3) Subsection (h) of section 408 of such 1972 Act (21 U.S.C. 1175(h)), as amended by section 303(b)(2)(B) of such 1974 Act (88 Stat. 137).

(4) Subsection (h) of section 333 of such 1970 Act (42 U.S.C. 4582(h)), as amended by section 122(a) of such 1974 Act (88 Stat. 131).

(5) Subsection (b) of section 121 of such 1970 Act (88 Stat. 131).

(6) Subsection (b) of section 6 of the Act entitled “An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes”, approved March 19, 1976 (90 Stat. 245).

(7) Subsection (c) of section 303 of such 1974 Act (88 Stat. 139).

(8) Subsection (c) of section 122 of such 1974 Act (88 Stat. 133).

Sec. 112. Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 669) is amended by striking out “October 11, 1976” and inserting in lieu thereof “September 30, 1977”.

Sec. 113. Section 4123 is amended by adding at the end thereof the following new sentence: “Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.”.

Sec. 114. Subsection (a)(3) of section 5001 of title 38, United States Code, is amended by striking out “eight thousand beds in the fiscal year ending June 30, 1974,” and inserting in lieu thereof “ten thousand beds in fiscal year 1980”.

Sec. 115. (a) Subchapter IV of chapter 81 of title 38, United States Code, is amended by—

(1) inserting at the end of section 5053 the following new subsection:

“(d) When a Veterans' Administration health care facility provides hospital care or medical services, pursuant to a contract or agreement authorized by this section, to an individual who is not eligible for such

42 USC 4581
note.

21 USC 1174
note.

21 USC 1175
note.

42 USC 4582
note.

38 USC 4118
note.

care or services under chapter 17 of this title and who is entitled to hospital or medical insurance benefits under subchapter XVIII of chapter 7 of title 42, such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise preclude such payment, in accordance with—

“(1) rates prescribed by the Secretary of Health, Education, and Welfare, after consultation with the Administrator, and

“(2) procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and services and efficient and economical utilization of resources, to such facility therefor or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement.”; and

(2) amending section 5056 by—

(A) amending the catchline to read as follows:

“§ 5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974”; and

(B) striking out “title IX” and inserting in lieu thereof “part F of title XVI”.

(b) The table of sections at the beginning of such chapter is amended by striking out

“5056. Coordination with programs carried out under the Heart Disease, Cancer, and Stroke Amendments of 1965.”

and inserting in lieu thereof

“5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974.”.

(c) At such time as the rates and procedures described in section 5053(d) of title 38, United States Code, are prescribed, the Secretary of Health, Education, and Welfare; in consultation with the Administrator of Veterans' Affairs, shall submit to the Committee on Ways and Means and the Committee on Veterans' Affairs of the House of Representatives and to the Committee on Finance and the Committee on Veterans' Affairs of the Senate a full report describing such rates and procedures (and any such additional matters relating to the formulation of such rates and procedures as the Secretary may consider pertinent).

SEC. 116. Chapter 82 of title 38, United States Code, is amended by—

(1) redesignating subsections (e) and (f) of section 5070 as subsections (f) and (g), respectively, and inserting the following new subsection (e):

“(e) In carrying out the purposes of this chapter, the Administrator may lease to any eligible institution for such consideration and under such terms and conditions as the Administrator deems appropriate, such land, buildings, and structures including equipment therein) under the control and jurisdiction of the Veterans' Administration as may be necessary. The three-year limitation on the term of a lease prescribed in section 5012(a) of this title shall not apply with respect to any lease entered into pursuant to this chapter. Any lease entered into pursuant to this chapter may be entered into without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled ‘An Act making appropriations for the Legislative Branch of the Gov-

38 USC 601 *et seq.*
42 USC
1395b-1.

38 USC 5056.

Report to congressional committees.
38 USC 5053 note.

Limitation, exception.

ernment for the fiscal year ending June 30, 1933, and for other purposes; approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease entered into pursuant to this chapter may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration of the lease.”;

38 USC 5070.

(2) inserting at the end of section 5070 the following new subsection:

Report to
Congress.

“(h) Not later than ninety days after the end of each fiscal year, the Administrator shall submit to the Congress a report on activities carried out under this chapter, including (1) an appraisal of the effectiveness of the programs authorized herein in carrying out their statutory purposes and the degree of cooperation from other sources, financial and otherwise, (2) an appraisal of the contributions of such programs in improving the quantity and quality of physicians and other health care personnel furnishing hospital care and medical services to veterans under this title, (3) a list of the approved but unfunded projects under this chapter and the funds needed for each such project, and (4) recommendations for the improvement or more effective administration of such programs, including any necessary legislation.”;

(3) striking out paragraph (1) of subsection (a) of section 5073 and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(4) striking out “subsections (a)(1) and” and inserting in lieu thereof “section 5070(e) of this title and subsection” in section 5073(b)(2).

Study.

38 USC 4103
note.

38 USC 101 *et*
seq.

Report to
congressional
committees.

SEC. 117. (a) The Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration shall carry out or provide for a study to determine the short-range and long-range direction of the hospital and medical program carried out under title 38, United States Code, for eligible veterans and persons with reference to the increasing average age of the eligible veteran population. Not later than twelve months after the date of enactment of this Act, the Chief Medical Director, through the Administrator of Veterans' Affairs, shall submit to the appropriate Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the results of such study, including, but not limited to, specific plans for—

(1) adjusting the number of Veterans' Administration hospital, nursing home, intermediate care, and domiciliary beds;

(2) adjusting the program for contracting for such nursing home care (including intermediate and personal care) in community facilities;

(3) expanding alternatives to institutional care, including provision of home health (including homemaker and special nutrition) services;

(4) emphasizing treatment programs particularly suited to meeting the health care needs of an aging population;

(5) emphasizing education and training of health care personnel specializing in the treatment of elderly persons and diseases and infirmities characteristic of an aging population;

(6) emphasizing biomedical and health services research designed to ameliorate geriatric care problems; and

(7) meeting the special architectural, transportation, and environmental needs of an aging population.

(b) Not later than ninety days after the effective date of this Act, the Administrator shall take all appropriate steps to ensure that, to the maximum extent feasible, each individual eligible for new or expanded care and services as a result of the amendments made by this Act is personally notified, in a clear and simple manner, about such new or expanded eligibility and the way to secure such care and services, and shall send copies of all such notification forms to the appropriate committees of the House of Representatives and the Senate, along with a description of how such forms were distributed.

Individual notification for new services, copies to congressional committees.
38 USC 612 note.

TITLE II—MEDICAL TECHNICAL AND CONFORMING AMENDMENTS

SEC. 201. This title may be cited as the “Veterans Medical Technical and Conforming Amendments of 1976”.

SEC. 202. Chapter 17 of title 38, United States Code, is amended as follows:

Veterans Medical Technical and Conforming Amendments of 1976.
38 USC 101 note.

(a) The title of such chapter is amended by inserting “**NURSING HOME,**” before “**DOMICILIARY.**”

(b) Section 601 is amended by—

(1) striking out “and exclusive” in clause (A) of paragraph (4);

(2)(A) inserting after “contracts” in clause (C) of paragraph (4) “when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required”;

(B) redesignating subclauses (ii) and (iii) of such clause (C) as subclauses (iv) and (v), respectively;

(C) striking out subclause (i) of such clause (C) and inserting in lieu thereof the following subclauses: “(i) hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service; (ii) medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of section 612(f) of this title, (iii) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving hospital care in a facility described in clause (A) or (B) of this paragraph;” and

(D) striking out “clause (iii)” where the term appears in subclause (v) (as so redesignated) of such clause (C) and inserting in lieu thereof “subclause (v)”;

(3) striking out in subclause (ii) of clause (A) of paragraph (5) “for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation” and inserting in lieu thereof “pursuant to the provisions of section 111 of this title”.

(c) The subchapter heading at the beginning of subchapter II of such chapter is amended by inserting a comma and “**Nursing Home,**” after “**Hospital.**”

(d) Section 610 is amended by—

(1) inserting a comma and “**nursing home,**” after “**hospital**” in the catchline of such section;

(2) inserting “or nursing home” after “hospital” in subsection

(a)(1)(B);

38 USC 611.

(3) striking out “of any war or of service after January 31, 1955,” and the comma after “domiciliary care” in subsection (b) (2); and

(4) striking out “and exclusive” in subsection (d).

(e) (1) The catchline of section 611 is amended by striking out “**Hospitalization**” and inserting in lieu thereof “**Care**”.

(2) Subsection (b) of section 611 is amended by inserting “or medical services” after “hospital care”.

(f) Section 612 is amended by—

(1) striking out “Indian wars” and inserting in lieu thereof “Indian Wars” in subsection (e);

(2) striking out “granted” and inserting in lieu thereof “furnished” in subsection (f) (1) (B); and

(3) inserting after “Administrator” in subsection (g) a comma and “within the limits of Veterans’ Administration facilities,”.

(g) Section 616 is amended by striking out “Bureau of the Budget” and inserting in lieu thereof “Office of Management and Budget”.

(h) Subsection (a) of section 620 is amended by—

(1) striking out “and exclusive” in clause (1) and in the last sentence of such subsection; and

(2) striking out “from time to time” and inserting in lieu thereof “annually” in clause (ii).

(i) The subchapter heading at the beginning of subchapter III of such chapter is amended by inserting “**and Nursing Home**” after “**Hospital**”.

(j) Clauses (1) through (3) of section 621 are amended by inserting a comma and “nursing home,” after “hospital” each time it appears.

(k) Subsection (a) of section 622 is amended by striking out “610 (a) (1)” and inserting in lieu thereof “610(a) (1) (B)”, and by striking out “632(b)” and inserting in lieu thereof “632(a) (2)”.

(l) Subsection (c) of section 624 is amended by striking out “of any war” after “veteran”.

(m) Section 627 is amended by striking out “1958” and inserting in lieu thereof “1957”.

(n) Subsection (a) (1) of section 628 is amended by striking out “they” and inserting in lieu thereof “delay”.

(o) Section 641 is amended by striking out “of any war or of service after January 31, 1955”.

SEC. 203. (a) The table of chapters and parts at the beginning of title 38, United States Code, and the table of chapters at the beginning of part II of such title are each amended by inserting in the title of chapter 17 “**NURSING HOME**,” after “**HOSPITAL**”.

(b) The table of sections at the beginning of chapter 17 of such title is amended by—

(1) inserting in the heading of subchapter II a comma and “**NURSING HOME**” after “**HOSPITAL**”;

(2) inserting in the item relating to section 610 a comma and “nursing home” after “hospital”;

(3) inserting in the heading of subchapter III “**AND NURSING HOME**” after “**HOSPITAL**”; and

(4) striking out “Hospitalization” and inserting in lieu thereof “Care” in the item relating to section 611.

SEC. 204. Chapter 23 of title 38, United States Code, is amended by inserting in subsection (a) of section 903 a comma and “nursing

home," after "hospital", and by striking out "611" and inserting in lieu thereof "611(a)" in such subsection.

SEC. 205. Subchapter I of chapter 73 of title 38, United States Code, is amended as follows:

(a)(1) The second sentence of subsection (a) of section 4101 is amended to read as follows: "The primary function of the Department of Medicine and Surgery shall be to provide a complete medical and hospital service, as provided in this title and in regulations prescribed by the Administrator pursuant thereto, for the medical care and treatment of veterans." 38 USC 4101.

(2) Subsection (b) of section 4101 is amended by striking out "to provide a complete medical and hospital service for the medical care and treatment of veterans".

(3) Section 4101 is further amended by redesignating subsection (c) as subsection (d) and inserting the following new subsection (c):
 "(c)(1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to contribute to the Nation's knowledge about disease and disability, the Administrator shall, in connection with the provision of medical care and treatment to veterans, carry out a program of medical research (including biomedical, prosthetic, and health care services research, and stressing research into spinal cord injuries and diseases and other disabilities that lead to paralysis of the lower extremities). In carrying out such research program, the Administrator shall act in cooperation with the entities described in subsection (b) of this section.

"(2) Prosthetic research shall include research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices. In order that the unique investigative material and research data in the possession of the Government may result in the improvement of such appliances and devices for all disabled persons, the Administrator, through the Chief Medical Director, shall make the results of such research available to any person, and shall consult and cooperate with the Secretary of Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare, in connection with programs carried out under section 3(b) of the Rehabilitation Act of 1973 (Public Law 93-112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), section 202(b)(2) of such Act (relating to the establishment and support of Rehabilitation Engineering Research Centers), and section 405 of such Act (relating to the secretarial responsibilities for planning, analysis, promoting utilization of scientific advances, and information clearinghouse activities). 29 USC 702.

"(3)(A) With the approval of the Administrator, any contract or research authorized by this section, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not covered by the financial protection required under subparagraph (E) of this paragraph. 29 USC 762.
 29 USC 785.

"(i) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal workers' injury compensation laws to employees of the Hazardous research, indemnification of contractor.

contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

“(ii) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

“(B) A contract that provides for indemnification in accordance with subparagraph (A) of this paragraph must also provide for—

“(i) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

“(ii) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

“(C) No payment may be made under subparagraph (A) of this paragraph unless the Administrator, or the Administrator's designee, certifies that the amount is just and reasonable.

“(D) Upon approval by the Administrator, payments under subparagraph (A) of this paragraph may be made from—

“(i) funds obligated for the performance of the contract concerned;

“(ii) funds available for research or development or both, and not otherwise obligated; or

“(iii) funds appropriated for those payments.

“(E) Each contractor which is a party to an indemnification agreement under subparagraph (A) of this paragraph shall have and maintain financial protection of such type and in such amounts as the Administrator shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Administrator may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

“(F) In administering the provisions of this paragraph, the Administrator may use the facilities and services of private insurance organizations, and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable, and advance payments may be made under any such contract.

“(G) The authority to indemnify contractors under this paragraph does not create any rights in third persons which would not otherwise exist by law.

“Contractor.”

“(H) As used in this section, the term ‘contractor’ includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subparagraph (A) of this paragraph.

“(4) Funds appropriated to carry out this subsection shall remain available until expended.”

(b) Chapter 39 of title 38, United States Code, is amended by—
(1) striking out in the table of sections

“1904. Research and development; coordination with other Federal programs.”
and inserting in lieu thereof

“1904. Research and development.”;

(2) amending the catchline of section 1904 to read as follows: 38 USC 1904.

“§ 1904. Research and development”;

and

(3) amending subsection (a) of section 1904 by striking out “prosthetic and orthopedic appliance research under section 216 and medical research” and inserting in lieu thereof “medical and prosthetic research”.

(c) Chapter 3 of title 38, United States Code, is amended by—

(1) striking out section 216 in its entirety; and

(2) amending the table of sections at the beginning thereof by striking out

“216. Research by the Administrator; indemnification of contractors.”.

(d) Section 4103 of such title is amended by—

(1) inserting “upon the recommendation of the Chief Medical Director” after “Administrator” in paragraphs (2) and (3) of subsection (a);

(2) striking out “recommendations” and inserting in lieu thereof “recommendation” in subsection (a) (4);

(3) inserting “or whose appointment or reappointment, is extended” after “reappointed” in subsection (b) (3); and

(4) inserting “or for any period not exceeding two years” in subsection (c) before the period at the end of the second sentence.

(e) Subsection (a) (6) (as redesignated by section 110(4) of this Act) of section 4105 of title 38, United States Code, is amended by inserting “hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator and” before “be”.

(f) Subsection (b) of section 4108 is amended by striking out “pursuant to” after “agreement” and inserting in lieu thereof “as referred to in”.

(g) Subsection (b) (2) of section 4114 is amended to read as follows:

“(2) For the purposes of this title, the term ‘internship’ shall include the equivalency of an internship as determined in accordance with regulations which the Administrator shall prescribe, and the term ‘intern’ shall mean a person serving an internship.”.

“Internship.”

“Intern.”

Sec. 206. Chapter 81 of title 38, United States Code, is amended as follows:

(a) Section 5001 is amended by—

(1) striking out “and exclusive” in the first sentence of subsection (a) (2), and striking out “tuberculosis” and inserting in lieu thereof “tuberculous” in such sentence; and

(2) striking out “and exclusive” in the first sentence of subsection (a) (3).

(b) Subchapter III of such chapter is amended by striking out “war” each time it appears in paragraph (a) of section 5031, section 5032, paragraph (1) of section 5034, paragraphs (4) of subsections (a) and (b) of section 5035, and section 5036.

(c) Section 5053 is amended by—

(1) striking out “paragraphs” and inserting in lieu thereof “clauses” in the first sentence of subsection (a); and

(2) inserting “health care” after “Veterans’ Administration” each place it appears in clauses (1) and (2) of subsection (a) and in subsection (c).

(d) Subsection (b) of section 5054 is amended by inserting “the” before “surrounding medical community” the second place it appears.

(e) The second sentence of subsection (a) of section 5055 is amended

by striking out “for Research and Education in Medicine” and inserting in lieu thereof “charged with administration of the Department of Medicine and Surgery medical research program”.

38 USC 5083. SEC. 207. Subchapter II of chapter 82 of title 38, United States Code, is amended by striking out “subchapter IV of chapter 81 of” in subsection (a) of section 5083.

SEC. 208. Chapter 85 of title 38, United States Code, is amended as follows:

(a) The first sentence of subsection (b) of section 5202 is amended by inserting “or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title,” after “(admitted as a veteran),” in the first sentence.

(b) Subsection (a) of section 5220 is amended by inserting a comma and “or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title,” after “(admitted as a veteran)”.

(c) Section 5221 is amended by inserting a comma and “or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title,” after “(admitted as such)”.

SEC. 209. (a) Subchapter I of chapter 73 of title 38, United States Code, is amended as follows:

(1) Subsection (b) of section 4101, clause (1) of section 4104, subsection (b) of section 4105, subsection (f) of section 4106, subsection (f) of section 4107, the language preceding clause (1) in subsection (a) and clause (6)(B) in subsection (a) of section 4108, and section 4117, are each amended by striking out “physicians” and inserting in lieu thereof “physician”.

(2) Clause (1) of section 4104, clause (8) of subsection (a) and subsection (b) of section 4105, subsection (f) of section 4107, and the language preceding clause (1) in subsection (a) and subclause (B) of clause (6) of subsection (a) of section 4108 are each amended by striking out “expanded-duty” each place it appears and inserting in lieu thereof “expanded-function”.

(3) Subsection (b) of section 4101 is further amended by striking out “dentists’ assistants” and inserting in lieu thereof “expanded-function dental auxiliaries”.

(4) Clause (8) of subsection (a) of section 4105 is further amended by striking out “Physicians” and inserting in lieu thereof “Physician”.

(5) Section 4113 is amended by striking out “and nurses” and inserting in lieu thereof “nurses, physician assistants, and expanded-function dental auxiliaries”.

(6) Section 4114 is amended by—

(A) inserting “physician assistants, expanded-function dental auxiliaries,” after “nurses,” in clauses (A) and (B) of subsection (a)(1);

(B) striking out “and nurses” and inserting in lieu thereof “nurses, physician assistants, and expanded-function dental auxiliaries” in the first sentence of subsection (a)(3)(A);

(C) striking out “nurses and interns, and” and inserting in lieu thereof “nurses, physician assistants, expanded-function dental auxiliaries, and interns,” in subsection (a)(3)(B); and

(D) striking out “dentist’s assistant” and inserting in lieu thereof “expanded-function dental auxiliary” in the first sentence of subsection (e).

(7) Subsection (a) of section 4116 is amended by striking out “physicians’ assistant, dentists’ assistant” each time those terms appear and inserting in lieu thereof “physician assistant, expanded-function dental auxiliary”. 38 USC 4116.

(8) Section 4117 is amended by striking out “dentists’ assistants” and inserting in lieu thereof “expanded-function dental auxiliaries”.

(b) Subchapter I of chapter 73 of title 38, United States Code, is further amended as follows:

(1) Section 4106 is amended by—

(A) inserting “rate of basic” after “minimum” in the second sentence of subsection (c); and

(B) striking out “level and salary” and “and salary” and inserting in lieu thereof “and annual rate of basic pay” each place those words appear in subsection (e).

(2) Section 4107 is amended by—

(A) striking out “per annum full-pay scale or ranges” and inserting in lieu thereof “annual rates or ranges of rates of basic pay” in subsection (a);

(B) striking out “per annum full-pay ranges” and inserting in lieu thereof “annual ranges of rates of basic pay” in the first sentence of subsection (b) (1);

(C) inserting “facility” after “domiciliary” each place it appears in subsection (c); and

(D) amending subsection (e) by—

(i) striking out “basic compensation” and inserting in lieu thereof “rate of basic pay” in paragraph (1);

(ii) striking out “basic hourly rate” and “basic hourly rate of pay” and inserting in lieu thereof “hourly rate of basic pay” in paragraphs (2), (3), (5), (6), and (7);

(iii) striking out “compensation” each time it appears in paragraphs (1), (2), (3), (6), and (9) and inserting in lieu thereof “pay”;

(iv) amending the first sentence of paragraph (4) to read as follows: “A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse’s hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service.”; and

(v) striking out “compensated” and inserting in lieu thereof “paid” in paragraph (8).

(3) Subsection (a) of section 4112 is amended by striking out “compensation” and inserting in lieu thereof “pay” in the last sentence of such subsection.

(c) Chapter 73 of title 38, United States Code, is further amended as follows:

(1) Section 4103 is amended by—

(A) striking out “individuals” and inserting in lieu thereof “persons” in the second sentence of subsection (a) (4);

(B) striking out “and employees” in subsection (a) (8); and

(C) striking out “An individual” and inserting in lieu thereof “A person” in the third sentence of subsection (c).

(2) Subsection (a) of section 4105 is amended by striking out “employees” and inserting in lieu thereof “personnel” in clause (7).

(3) Section 4107 is amended by—

(A) striking out “individual” and inserting in lieu thereof “person” in the first sentence of subsection (c);

(B) striking out “employee’s” and inserting in lieu thereof “nurse’s”, and striking out “work” and inserting in lieu thereof “service”, in paragraph (2) of subsection (e); and

(C) striking out “duty” and inserting in lieu thereof “service” in paragraph (7) of subsection (e).

38 USC 4108.

(4) Clause (1) of subsection (a) of section 4108 is amended by striking out “individual” and inserting in lieu thereof “person”.

(5) Section 4113 is amended by—

(A) striking out “of employees” and inserting in lieu thereof a comma and “of persons”; and

(B) striking out “paragraph (1) of section 4104” and inserting in lieu thereof “section 4104(1)”,

(6) Subsection (d) (2) of section 4114 is amended by striking out “individual” and inserting in lieu thereof “person”.

(7) Subsection (b) of section 4122 is amended by striking out “individuals” each time it appears and inserting in lieu thereof “persons”.

SEC. 210. (a) Chapter 17 of title 38, United States Code, is amended as follows:

(1) Section 610 is amended by—

(A) striking out “he” and inserting in lieu thereof “the Administrator” in the first sentence of subsection (a);

(B) striking out “he” and inserting in lieu thereof “such veteran” in subsections (a) (1) (B), (b) (2), and (c); and

(C) striking out “he” and inserting in lieu thereof “such person” in subsection (b) (1).

(2) Section 611 is amended by—

(A) striking out “him” and inserting in lieu thereof “the Administrator” in subsection (a); and

(B) striking out “he” and “him” each place those words appear in subsection (b) and inserting in lieu thereof “the Administrator”;

(3) Section 612 is amended by—

(A) striking out “he” and inserting in lieu thereof “the Administrator” in the first sentence of subsection (a);

(B) striking out “him” and “he” each place those words appear in subsection (d) and inserting in lieu thereof “the Administrator”;

(C) striking out “he” and inserting in lieu thereof “the Administrator” in subsection (g); and

(D) striking out “his” each place it appears in the second sentence of subsection (h) and inserting in lieu thereof “such veteran’s”.

(4) Section 613 is amended by—

(A) striking out “he” and inserting in lieu thereof “the Secretary” in subsection (b) (1); and

(B) striking out “he” each place it appears and inserting in lieu thereof “the Administrator” in subsection (b) (2).

(5) Section 614 is amended by—

(A) striking out “his” and inserting in lieu thereof “such veteran’s” in subsection (a); and

(B) striking out “he” in subsection (b).

(6) Section 619 is amended by striking out “him” and inserting in lieu thereof “such veteran”.

(7) The first sentence of subsection (b) of section 620 is amended by striking out “he” and inserting in lieu thereof “the Administrator”. 38 USC 620.

(8) Paragraphs (1) and (3) of section 621 are amended by striking out “he” each place it appears and inserting in lieu thereof “the Administrator”.

(9) Subsection (b) of section 622 is amended by striking out “his” and inserting in lieu thereof “such veteran’s”.

(10) Section 623 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(11) The first sentence of subsection (c) of section 624 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(12) Section 626 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(13) Subsection (a) of section 628 is amended by—

(A) striking out “he” and inserting in lieu thereof “the Administrator” in the first sentence of such subsection; and

(B) striking out “his” and inserting in lieu thereof “such veteran’s” in paragraph (2) (D) (ii) of such subsection.

(14) The second sentence of subsection (d) of section 632 is amended by striking out “him” and inserting in lieu thereof “the Administrator”.

(15) Section 633 is amended by striking out “he” and inserting in lieu thereof “the President”, and by striking out “his”.

(16) Subsection (a) of section 642 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(b) Section 3301 of title 38, United States Code, is amended by—

(1) striking out “his” and inserting “of a claimant” after “representative” in subsection (b) (1), and striking out “himself” and inserting in lieu thereof “the claimant” in such subsection;

(2) striking out “in his” and inserting in lieu thereof “as a matter of” in subsection (d); and

(3) striking out “his” and inserting in lieu thereof “the Administrator’s” in subsection (e).

(c) Chapter 73 of title 38, United States Code, is amended as follows:

(1) Section 4101 is amended by—

(A) striking out “servicemen” and inserting in lieu thereof “members of the armed forces” in subsection (b); and

(B) striking out “his” and “he” and inserting in lieu thereof “the Administrator’s” and “the Administrator”, respectively, in subsection (d) (2) (as redesignated by section 205(a) (3) of this Act).

(2) Section 4103 is amended by—

(A) striking out the period at the end of the first sentence and inserting in lieu thereof a comma, and striking out “He” in the second sentence and inserting in lieu thereof “and who”, in paragraphs (1), (2), and (3) of subsection (a); and

(B) striking out “his” and “he” and inserting in lieu thereof “such person’s” and “such person”, respectively, in the third sentence of subsection (c).

(3) Section 4104 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(4) Section 4107 is amended by—

38 USC 4108.

- (A) striking out “he” each place it appears in subsection (b) (2) and inserting in lieu thereof “such person”; and
 - (B) striking out “he” and “his” and inserting in lieu thereof “such person” and “such person’s”, respectively, in subsection (c).
- (5) Subsection (a) of section 4108 is amended by—
- (A) striking out “his” and inserting in lieu thereof “such person’s” in clause (2);
 - (B) striking out “him” and “his” and inserting in lieu thereof “such person” and “such person’s”, respectively, in clause (3);
 - (C) striking out “him” and “his” and inserting in lieu thereof “such person” and “such person’s”, respectively, in clause (4);
 - (D) striking out “his” each place it appears and “him” in clause (5) and inserting in lieu thereof “such person’s” and “such person”, respectively; and
 - (E) striking out “his” each place it appears and inserting in lieu thereof “such person’s” in clause (6).
- (6) The first sentence of subsection (b) of section 4112 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.
- (7) Section 4114 is amended by—
- (A) striking out “he” each place it appears in the third and fifth sentences in subsection (b) (3) and inserting in lieu thereof “such recipient”;
 - (B) striking out “he” and “his” each place those words appear in the last sentence of subsection (b) (3) and inserting in lieu thereof “such person” and “such person’s”, respectively;
 - (C) striking out “he” and inserting in lieu thereof “the person” in subsection (d) (1); and
 - (D) striking out “his” and “he” and inserting in lieu thereof “such person’s” and “the person”, respectively, in subsection (d) (2).
- (8) Section 4116 is amended by—
- (A) striking out “his” each place it appears in subsection (a) and inserting in lieu thereof “such person’s”;
 - (B) striking out “his” and “him” and inserting in lieu thereof “such person’s” and “such person”, respectively, in subsection (b);
 - (C) striking out “his” each place it appears in subsection (c) and inserting in lieu thereof “such person’s”; and
 - (D) striking out “he” and “his” each place those words appear in subsection (e) and inserting in lieu thereof “the Administrator” and “such person’s”;
- (9) Subsection (a) of section 4121 is amended by striking out “his” and “he” each place those words appear and inserting in lieu thereof “the Administrator’s” and “the Administrator”, respectively.
- (10) Section 4122 is amended by striking out “he” and inserting in lieu thereof “the Chief Medical Director” in subsections (b) and (c).
- (d) Chapter 75 of title 38, United States Code is amended by striking out “he” each place it appears in clauses (3), (9), (10), and (11) of section 4202 and inserting in lieu thereof “the Administrator”.
- (e) Chapter 81 of title 38, United States Code, is amended as follows:
- (1) Subsection (b) of section 5001 is amended by striking out “him” and “his” and inserting in lieu thereof “the Administrator” and “the Chief Medical Director’s”, respectively.

(2) Section 5002 is amended by—

38 USC 5002.

(A) striking out “he” each place it appears and inserting in lieu thereof “the President”; and

(B) striking out “his opinion” and inserting in lieu thereof “the opinion of the President such is”.

(3) Paragraphs (2) and (3) of subsection (b) of section 5004 are amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(4) The second sentence of section 5005 is amended by striking out “He” and inserting in lieu thereof “The President”.

(5) The first sentence of section 5007 is amended by striking out “his” and inserting in lieu thereof “the Administrator’s”.

(6) Subsection (c) of section 5011 is amended by striking out “him” and inserting in lieu thereof “the Administrator”.

(7) Section 5012 is amended by—

(A) striking out “his” in the first and fourth sentences of subsection (a) and inserting in lieu thereof “the Administrator’s”; and

(B) striking out “he” and inserting in lieu thereof “the Administrator” in subsection (b); and

(C) striking out “him” and inserting in lieu thereof “the Administrator” in subsection (c).

(8) Section 5013 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(9) Section 5014 is amended by—

(A) striking out “he” each place it appears in the first and fourth sentences and inserting in lieu thereof “the Administrator”; and

(B) striking out “his” in the first sentence and inserting in lieu thereof “the Administrator’s”.

(10) Subsection (b) of section 5035 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(11) The first sentence of subsection (a) of section 5053 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(12) The second sentence of subsection (b) of section 5054 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(13) The first sentence of subsection (a) of section 5055 is amended by striking out “him” and inserting in lieu thereof “the Administrator”.

(f) Chapter 82 of title 38, United States Code, is amended as follows:

(1) The second sentence of subsection (f) (as redesignated by section 116(1) of this Act) of section 5070 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(2) Section 5071 is amended by striking out “he” and inserting in lieu thereof “the Administrator”.

(3) Section 5073 is amended by—

(A) striking out “he” each place it appears in subsection (b) and inserting in lieu thereof “the Administrator”; and

(B) striking out “he” each place it appears in subsection (c) and inserting in lieu thereof “the Administrator”.

(4) Subsection (b) of section 5083 is amended by striking out “his” in the language preceding clause (1) and in clause (4) and inserting in lieu thereof “the Administrator’s”.

38 USC 5093.

(5) Subsection (b) of section 5093 is amended by striking out "his" in the language preceding clause (1) and in clause (4) and inserting in lieu thereof "the Administrator's".

(6) Section 5096 is amended by striking out "he" and inserting in lieu thereof "the Administrator".

Effective date.

38 USC 111 note.

SEC. 211. Except as otherwise provided in this Act, the amendments made by this Act to title 38, United States Code, shall take effect on October 1, 1976, or on the date of enactment, whichever is later.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-703 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 15, considered and passed House.

Vol. 122 (1976): Sept. 16, considered and passed Senate, amended.

Sept. 29, House agreed to Senate amendments with amendments.

Oct. 1, Senate agreed to House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 43: Oct. 22, Presidential statement.

Public Law 94-582
94th Congress

An Act

To amend the United States Grain Standards Act to improve the grain inspection and weighing system, and for other purposes.

Oct. 21, 1976

[H.R. 12572]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Grain Standards Act of 1976".

United States
Grain Standards
Act of 1976.
7 USC 71 note.

DECLARATION OF POLICY

SEC. 2. The United States Grain Standards Act (39 Stat. 482-485, as amended; 7 U.S.C. 71, 74-79, 84-87, and 87a-87h) is amended by amending section 2 (7 U.S.C. 74) as follows:

(a) by striking out in the second sentence the word "and" immediately before "to provide" and by inserting in such sentence immediately before the semicolon the following: ", and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce in the manner hereinafter provided";

(b) by inserting immediately following the word "orderly" in the second sentence the words "and timely"; and

(c) by adding a new sentence at the end thereof to read as follows: "It is hereby found that all grain and other articles and transactions in grain regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce and that regulation thereof as provided in this Act is necessary to prevent or eliminate burdens on such commerce and to regulate effectively such commerce."

DEFINITIONS

SEC. 3. Section 3 of the United States Grain Standards Act, as amended (7 U.S.C. 75), is amended as follows:

(a) Subsection (i) is amended to read as follows:

"(i) The term 'official inspection' means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this Act, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or, upon request of the interested party applying for inspection, the quantity of sacks of grain, or other facts relating to grain under other criteria approved by the Administrator under this Act (the term 'officially inspected' shall be construed accordingly);".

(b) Subsection (j) is amended to read as follows:

"(j) The term 'official inspection personnel' means persons licensed or otherwise authorized by the Administrator pursuant to section 8 of this Act to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing;".

(c) Subsection (k) is amended to read as follows:

“(k) The term ‘official mark’ means any symbol prescribed by regulations of the Administrator to show the official determination of official inspection or official weighing;”.

(d) Subsection (l) defining the term “official grade designation” is amended by inserting immediately after the word “standards”, the following: “relating to kind, class, quality, and condition of grain.”.

(e) Subsection (m) is amended to read as follows:

Post, p. 2870.

Post, p. 2875.

“(m) The term ‘official agency’ means any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 7 of this Act for the conduct of official inspection (other than appeal inspection), or subsection (b) of section 7A of this Act for the conduct of supervision of weighing;”.

(f) Subsection (n) is amended by striking out the word “Secretary” and inserting in lieu thereof the word “Administrator”.

(g) Subsection (u) is amended to read as follows:

“(u) The term ‘deceptive loading, handling, weighing, or sampling’ means any manner of loading, handling, weighing, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Administrator under this Act;”.

7 USC 75.

(h) Section 3 is further amended by adding at the end thereof new subsections (v), (w), (x), (y), (z), and (aa) as follows:

“(v) The term ‘export elevator’ means any grain elevator, warehouse, or other storage or handling facility in the United States as determined by the Administrator, from which grain is shipped from the United States to an area outside thereof;

“(w) The term ‘export port location’ means a commonly recognized port of export in the United States or Canada, as determined by the Administrator, from which grain produced in the United States is shipped to any place outside the United States;

“(x) The term ‘official weighing’ means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided in this Act, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms ‘officially weigh’ and ‘officially weighed’ shall be construed accordingly);

“(y) The term ‘supervision of weighing’ means the supervision of the weighing process and of the certification of the weight of grain, and the physical inspection of the premises at which the weighing is performed to assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance represented on the weight certificate or other document;

“(z) The term ‘Administrator’ means the Administrator of the Federal Grain Inspection Service or his delegates;

“(aa) The term ‘Service’ means the Federal Grain Inspection Service.”.

FEDERAL GRAIN INSPECTION SERVICE

SEC. 4. The United States Grain Standards Act, as amended, is amended by adding a new section 3A as follows:

“FEDERAL GRAIN INSPECTION SERVICE

Establishment.
7 USC 75a.

“SEC. 3A. There is created and established in the Department of Agriculture a Service to be known as the Federal Grain Inspection

Service, all the powers of which shall be exercised by an Administrator, under the general direction and supervision of the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be responsible for the administration of this Act and for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of this Act.”.

STANDARDS

SEC. 5. Section 4 of the United States Grain Standards Act, as amended (7 U.S.C. 76), is amended as follows:

(a) Subsection (a) is amended to read as follows:

“(a) The Administrator is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and (2) standards for accurate weighing and weight certification procedures and controls, including safeguards over equipment calibration and maintenance for grain shipped in interstate or foreign commerce; and the Administrator is authorized to amend or revoke such standards whenever the necessities of the trade may require.”.

Investigation.

(b) Subsection (b) is amended by striking out the word “Secretary” wherever it appears therein and inserting in lieu thereof the word “Administrator”.

OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS

SEC. 6. Section 5 of the United States Grain Standards Act, as amended (7 U.S.C. 77), is amended to read as follows:

“OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS

“SEC. 5. (a) Whenever standards are effective under section 4 of this Act for any grain—

Supra.

“(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States) in accordance with such standards, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided*, That the Administrator may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this Act: *Provided further*, That the Administrator shall waive the requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment;

Waiver.

“(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this Act, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards; and

“(3) except as otherwise authorized by the Administrator, whenever a lot of grain is both officially inspected and officially weighed while being transferred into or out of a grain elevator, warehouse, or other storage or handling facility, an official certificate shall be issued showing both the official grade designation and the certified weight of the lot of grain.

Post, p. 2877.

“(b) All official inspection and official weighing, whether performed by authorized Service employees or any other person licensed under section 8 of this Act, shall be supervised by representatives of the Administrator, in accordance with such regulations as he may provide.”.

REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS

SEC. 7. Section 6(a) of the United States Grain Standards Act, as amended (7 U.S.C. 78), is amended by inserting immediately after the words “Whenever standards”, the following: “relating to kind, class, quality, or condition of grain”.

OFFICIAL INSPECTION AUTHORITY

SEC. 8. (a) Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 79), is amended as follows:

(1) Subsections (a), (b), and (c) are amended by striking out the word “Secretary” wherever it appears and inserting in lieu thereof the word “Administrator”.

(2) Subsection (b) is further amended by striking out the words “or with respect to United States grain in Canadian ports”.

(3) Subsection (c) is further amended (A) by striking out the words “Department of Agriculture” and inserting in lieu thereof the word “Service”; (B) by inserting the words “and surrender” immediately after the word “cancellation”; and (C) by adding immediately before the period at the end of the first sentence the following: “; and the use of standard forms for official certificates”.

(4) Subsection (d) is amended by striking out the word “Certificates” and inserting in lieu thereof the words “Official certificates setting out the results of official inspection”.

(5) Section 7 is further amended by changing subsections (e) and (f) and adding new subsections (g), (h), (i), and (j) to read, respectively, as follows:

“(e) (1) Except as otherwise provided in paragraph (2) of this subsection, the Administrator shall cause official inspection at export port locations, for all grain required or authorized to be inspected by this Act, to be performed by official inspection personnel employed by the Service or other persons under contract with the Service as provided in section 8 of this Act.

“(2) If the Administrator determines pursuant to paragraph (3) of this subsection that a State agency which was performing official inspection at an export port location under this Act on July 1, 1976, is qualified to perform official inspection and meets the criteria in subsection (f) (1) (A) of this section, the Administrator may delegate

Authority
delegation.

authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as he may prescribe, and any such official inspection shall continue to be the direct responsibility of the Administrator. Any such delegation may be revoked by the Administrator, at his discretion, at any time upon notice to the State agency without opportunity for a hearing. The Administrator may provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the manner provided in this subsection or subsection (f) of this section, as the Administrator determines will best meet the objectives of this Act.

“(3) Prior to delegating authority to a State agency for the performance of official inspection at export port locations pursuant to paragraph (2) of this subsection, the Administrator shall (A) conduct an investigation to determine whether such agency is qualified, and (B) make findings based on such investigation. In conducting the investigation, the Administrator shall consult with, and review the available files of the Department of Justice, the Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the General Accounting Office.

Investigation.

Consultation,
review.

“(f) (1) With respect to official inspections other than at export port locations, the Administrator is authorized, upon application by any State or local governmental agency, or any person, to designate such agency or person as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection) at locations where the Administrator determines official inspection is needed, if—

Designation.

“(A) the agency or person shows to the satisfaction of the Administrator that such agency or person—

“(i) has adequate facilities and qualified personnel for the performance of such official inspection functions;

“(ii) will provide for the periodic rotation of official inspection personnel among the grain elevators, warehouses, or other storage or handling facilities at which the State or person provides official inspection, as is necessary to preserve the integrity of the official inspection service;

“(iii) will meet training requirements and personnel standards established by the Administrator under section 8(g) of this Act;

“(iv) will otherwise conduct such training and provide such supervision of its personnel as are necessary to assure that they will provide official inspection in accordance with this Act and the regulations and instructions thereunder;

“(v) will not charge official inspection fees that are discriminatory or unreasonable;

“(vi) if a State or local governmental agency, will not use any moneys collected pursuant to the charging of fees for any purpose other than the maintenance of the official inspection operation or other agricultural programs operated by the State or local governmental agency;

Post, p. 2880.

“(vii) and any related entities do not have a conflict of interest prohibited by section 11 of this Act;

“(viii) will maintain complete and accurate records of its organization, staffing, official activities, and fiscal operations, and such other records as the Administrator may require by regulation;

“(ix) if a State or local governmental agency, will employ personnel on the basis of job qualifications rather than political affiliations;

“(x) will comply with all provisions of this Act and the regulations and instructions thereunder; and

“(xi) meets other criteria established in regulations issued under this Act relating to official functions under this Act; and

“(B) the Administrator determines that the applicant is better able than any other applicant to provide official inspection service.

Ante, p. 2867.

“(2) Not more than one official agency for carrying out the provisions of this Act shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 2 of this Act, but this paragraph shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968. No official agency or State delegated authority pursuant to subsection (e) (2) of this section shall officially inspect under this Act any official or other sample drawn from a lot of grain and submitted for inspection unless such lot of grain is physically located within the geographic area assigned to the agency by the Administrator at the time such sample is drawn. No State or local governmental agency or person shall provide any official inspection for the purposes of this Act except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Administrator, as provided in this section, or as provided in section 8(a) of this Act.

Post, p. 2877.
Termination.

“(g) (1) Designations of official agencies shall terminate at such time as specified by the Administrator but not later than triennially and may be renewed in accordance with the criteria and procedure prescribed in subsections (e) and (f) of this section.

Fee.

“(2) A designation of an official agency may be amended at any time upon application by the official agency if the Administrator determines that the amendment will be consistent with the provisions and objectives of this Act; and a designation will be cancelled upon request by the official agency with ninety days written notice to the Administrator. A fee as prescribed by regulations of the Administrator shall be paid by the official agency to the Administrator for each such amendment, to cover the costs incurred by the Service in connection therewith, and it shall be deposited in the fund created in subsection (j) of this section.

Revocation.

“(3) The Administrator may revoke a designation of an official agency whenever, after opportunity for hearing is afforded the agency, the Administrator determines that the agency has failed to meet one or more of the criteria specified in subsection (f) of this section or the regulations under this Act for the performance of official functions, or otherwise has not complied with any provision of this Act or any regulation prescribed or instruction issued to such agency under this Act, or has been convicted of any violation of other Federal law involving the handling or official inspection of grain: *Provided*, That the Administrator may, without first affording the official agency an opportunity

Suspension.

for a hearing, suspend any designation pending final determination of the proceeding whenever the Administrator has reason to believe there is cause for revocation of the designation and considers such action to be in the best interest of the official inspection system under this Act. The Administrator shall afford any such agency an opportunity for a hearing within thirty days after temporarily suspending such designation.

Hearing.

“(h) If the Administrator determines that official inspection by an official agency designated under subsection (f) of this section is not available on a regular basis at any location (other than at an export port location) where the Administrator determines such inspection is needed to effectuate the objectives stated in section 2 of this Act, and that no official agency within reasonable proximity to such location is willing to provide or has or can acquire adequate personnel and facilities for providing such service on an interim basis, official inspection shall be provided by authorized employees of the Service, and other persons licensed by the Administrator to perform official inspection functions, as provided in section 8 of this Act, until such time as the service can be provided on a regular basis by an official agency.

Ante, p. 2867.

“(i) The Administrator is authorized to cause official inspection under this Act to be made, as provided in subsection (a) of section 5 of this Act, in Canadian ports of United States export grain transshipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection.

Post, p. 2877.

Canadian Government, inspection agreement.
Ante, p. 2869.

“(j)(1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs directly related to such official inspection of grain incurred outside the Service's Washington office. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

Inspection fees, regulations.

Fund.

“(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service (outside of the Washington office) relating to direct supervision of official agency personnel and direct supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and

Fees.

Post, pp. 2879, 2884.

Termination.

any further expenses incurred by the Service because of such termination.”.

Investigation and
study.
7 USC 79 note.

(b) (1) In order to provide information for use by the Congress in evaluating the needs of the grain inspection and weighing system at points in the United States other than at export port locations; the Administrator of the Federal Grain Inspection Service, the Director of the Office of Investigation of the United States Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the Comptroller General of the United States shall severally conduct investigations into and study grain inspection and weighing in the interior of the United States. The studies shall address, but are not limited to, the tasks of (A) determining the reliability and effectiveness of present official inspection and weighing procedures in the interior of the United States, and (B) evaluating the operating procedures and management practices of agencies providing grain inspection and weighing services in the interior of the United States, as they relate to the integrity and accuracy of the services.

Study.

(2) The Director of the Office of Investigation specifically is directed to study the extent of any irregularities or problem areas under the present inspection and weighing systems and conflicts of interest rules and develop factual summaries of evidence disclosed in the Director's investigations into violations of the United States Grain Standards Act, the grain weighing provisions of the United States Warehouse Act, and related provisions of title 18 of the United States Code: *Provided*, That the Director shall not submit such summary with respect to any criminal investigation which is pending at the time the report is due.

7 USC 71.

7 USC 241.

18 USC 1 *et seq.*

Findings.

(3) The Administrator of the Federal Grain Inspection Service shall make findings with respect to present grain inspection and weighing agencies at each inland terminal marketing area of the United States at which over fifty million bushels of grain are inspected in an average year, such findings to include (A) results of interviews with shippers who ship grain to and consignees who receive grain from such terminal marketing areas, and (B) a thorough analysis of inspection and weighing error rates of such agencies, based on existing documentation and the sampling during the investigation of a representative number of randomly selected lots of grain shipped to and from such terminal marketing areas.

Reports to
congressional
committees and
Comptroller
General.

(4) The Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service shall complete their investigations and study and shall submit their reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate and the Comptroller General not later than eighteen months after the effective date of this Act.

Assessment,
evaluation.

(5) The Comptroller General, in making his investigations and study, shall (A) assess the present grain inspection and weighing system in the interior of the United States, and (B) evaluate the reports submitted under this subsection by the Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service. The Comptroller General shall submit a report setting forth the findings of such study and evaluation and his recommendations for changes in the United States Grain Standards Act to such Committees not later than two years after the effective date of this Act.

Report to
congressional
committees.

WEIGHING AND EQUIPMENT TESTING

SEC. 9. The United States Grain Standards Act, as amended, is amended by adding new sections 7A and 7B as follows:

"WEIGHING AUTHORITY

"SEC. 7A. (a) The Administrator shall cause official weighing under standards provided for in section 4 of this Act to be made of all grain required to be officially weighed as provided in section 5 of this Act, in accordance with such regulations as the Administrator may prescribe.

Regulations.
7 USC 79a.
Ante, p. 2869.
Ante, p. 2869.

"(b) The Administrator is authorized to cause supervision of weighing under standards provided in section 4 of this Act to be performed at any grain elevator, warehouse, or other storage or handling facility located other than at export port locations at which official inspection is provided pursuant to the provisions of this Act, in such manner as the Administrator deems appropriate and under such regulations as the Administrator may provide.

Supervision,
regulations.

"(c) (1) With respect to official weighing or supervision of weighing for locations at which official inspection is provided by the Service, the Administrator shall cause such official weighing or supervision of weighing to be performed by official inspection personnel employed by the Service.

"(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Service, the Administrator is authorized, with respect to export port locations, to delegate authority to perform official weighing to the State agency providing official inspection service at such location, and with respect to any other location, to designate the agency or person providing official inspection service at such location to perform supervision of weighing, if such agency or person qualifies for a delegation of authority or designation number section 7 of this Act, except that where the term 'official inspection' is used in such section it shall be deemed to refer to 'official weighing' or 'supervision of weighing' under this section. If such agency or person is not available to perform such weighing services, or the Administrator determines that such agency or person is not qualified to perform such weighing services, then (A) at export elevators at export port locations official weighing shall be performed by official inspection personnel employed by the Service, and (B) at any other location, the Administrator is authorized to cause supervision of weighing to be performed by official inspection personnel employed by the Service or designate any State or local governmental agency, or any person to perform supervision of weighing, if such agency or person meets the same criteria that agencies must meet to be designated to perform official inspection as set out in section 7 of this Act, except that where the term 'official inspection' is used in such section it shall be deemed to refer to 'supervision of weighing' under this section. Delegations and designations made pursuant to this subsection shall be subject to the same provisions for delegations and designations set forth in subsection (g) of section 7 of this Act.

Authority
delegation.

Ante, p. 2870.

"(d) The Administrator is authorized to cause official weighing under this Act to be made, as provided in subsection (a) of section 5 of this Act, in Canadian ports of United States export grain transhipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such official weighing.

Canadian
Government,
weighing
agreement.
Ante, p. 2869.

Ante, p. 2869.

“(e) The Administrator is further authorized to cause official weighing or supervision of weighing under standards provided for in section 4 of this Act to be made at grain elevators, warehouses, or other storage or handling facilities not subject to subsection (a) or (b) of this section, upon request of the operator of such grain elevator, warehouse, or other storage or handling facility and in accordance with such regulations as he may prescribe. Such weighing service shall not be provided for periods of less than one year; and the fees therefor shall be set separately from those fees provided for in subsection (l) of this section and shall be reasonable, nondiscriminatory, and equal, as nearly as possible, to the cost of providing such services.

“(f) No official weighing or supervision of weighing shall be provided for the purposes of this Act at any grain elevator, warehouse, or other storage or handling facility until such time as the operator of the facility has demonstrated to the satisfaction of the Administrator that the operator (1) has and will maintain, in good order, suitable grain-handling equipment and accurate scales for all weighing of grain at the facility, in accordance with the regulations of the Administrator; (2) will employ only competent persons with a reputation for honesty and integrity to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this Act; (3) when weighing is to be done by employees of the facility, will require employees to operate the scales in accordance with the regulations of the Administrator and to require that each lot of grain for delivery from any railroad car, truck, barge, vessel, or other means of conveyance at the facility is entirely removed from such means of conveyance and delivered to the scales without avoidable waste or loss, and each lot of grain weighed at the elevator for shipment from the facility is entirely delivered to the means of conveyance for which intended, and without avoidable waste or loss, in accordance with the regulations of the Administrator; (4) will provide all assistance needed by the Administrator for making any inspection or examination and carrying out other functions at the facility pursuant to this Act; and (5) will comply with all other requirements of this Act and the regulations hereunder.

Certificates,
evidence.

“(g) Official certificates setting out the results of official weighing, issued and not cancelled under this Act, shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

“(h) No State or local governmental agency or person shall weigh or state in any document the weight of grain determined at a location where official weighing is required to be performed as provided for in this section except in accordance with the procedures prescribed pursuant to this section.

“(i) No State or person other than an authorized employee of the Service shall perform official weighing or supervision of weighing for the purposes of this Act except in accordance with the provisions of an unsuspended and unrevoked delegation of authority or designation by the Administrator as provided in this section.

“(j) The provisions of this section shall not limit any authority vested in the Secretary under the United States Warehouse Act (39 Stat. 486, as amended; 7 U.S.C. 241 et seq.).

Access.

“(k) The representatives of the Administrator shall be afforded access to any elevator, warehouse, or other storage or handling facility from which grain is delivered for shipment in interstate or foreign commerce or to which grain is delivered from shipment in interstate or foreign commerce and all facilities therein for weighing grain.

“(1) (1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service (outside of the Washington office) incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 7(j) of this Act.

Fees.

“(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service (outside of the Washington office) relating to direct supervision of the agency personnel and direct supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under section 7(g)(3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination.

Ante, p. 2870.
Fees.

Ante, p. 2870,
Post, pp. 2879,
2884.

Termination.

“TESTING OF EQUIPMENT

“SEC. 7B. (a) The Administrator shall provide for the testing of all equipment used in the sampling, grading, inspection, and weighing of grain located at all grain elevators, warehouses, or other storage or handling facilities at which official inspection or weighing services are provided under this Act, to be made on a random and periodic basis, but at least annually and under such regulations as the Administrator may prescribe, as he deems necessary to assure the accuracy and integrity of such equipment.

Regulations.
7 USC 79b.

“(b) The Administrator is authorized to cause such testing provided for in subsection (a) to be performed (1) by personnel employed by the Service, or (2) by States, political subdivisions thereof, or persons under the supervision of the Administrator, under such regulations as the Administrator may prescribe.

Regulations.

“(c) Notwithstanding any other provision of law, no person shall use any such equipment not approved by the Administrator.”

LICENSES AND AUTHORIZATIONS

SEC. 10. Section 8 of the United States Grain Standards Act, as amended (7 U.S.C. 84), is amended to read as follows:

“LICENSES AND AUTHORIZATIONS

“SEC. 8. (a) The Administrator is authorized (1) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official agency or a State agency delegated authority under section 7 or 7A of this Act, to perform all or specified functions involved in original inspec-

Ante, pp. 2870,
2875.

tion or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing of grain in the United States; (2) to authorize any competent employee of the Service to (A) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain in the United States, or of United States grain in Canadian ports, (B) perform official weighing or supervision of weighing of grain, (C) supervise the official inspection, official weighing, or supervision of weighing of grain in the United States and of United States grain in Canadian ports or the testing of equipment, and (D) perform monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this Act; (3) to contract with any person to perform specified sampling and laboratory testing and to license competent persons to perform such functions pursuant to such contract; and (4) to contract with any competent person for the performance of monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this Act. No person shall perform any official inspection or weighing function for purposes of this Act unless such person holds an unsuspended and unrevoked license or authorization from the Administrator under this Act.

Termination,
regulation.

Suspension.

Reinstatement.

Examinations.

“(b) All classes of licenses issued under this Act shall terminate triennially on a date or dates to be fixed by regulation of the Administrator: *Provided*, That any license shall be suspended automatically when the licensee ceases to be employed by an official agency or by a State agency under a delegation of authority pursuant to this Act or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this Act: *Provided further*, That subject to subsection (c) of this section such license shall be reinstated if the licensee is employed by an official agency or by a State agency under a delegation of authority pursuant to this Act or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

“(c) The Administrator may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Service, to perform any official inspection or weighing function under this Act.

“(d) Persons employed by an official agency (including persons employed by a State agency under a delegation of authority pursuant to this Act) and persons performing official inspection functions under contract with the Service shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided*, That such persons shall be considered in the performance of any official inspection, official weighing, or supervision of weighing function as prescribed by this Act or by the rules and regulations of the Administrator, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18 of the United States Code, to such persons and as employees of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18 of the United States Code.

Personnel.

5 USC 101 *et seq.*

“(e) The Administrator may hire (without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of the United States

Grain Standards Act of 1976)) to perform functions of official inspection under the United States Grain Standards Act and as personnel to perform supervisory weighing or official weighing functions any individual who, on the date of enactment of the United States Grain Standards Act of 1976, was performing similar functions: *Provided*, That the Administrator determines that such individual is of good moral character and is technically and professionally qualified for the duties to which the individual will be assigned.

7 USC 71.

“(f) The Administrator shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Service as he deems necessary to preserve the integrity of the official inspection system provided by this Act.

Personnel rotation.

“(g) The Administrator shall develop and effectuate standards for the recruiting, training, and supervising of official inspection personnel and appropriate work production standards for such personnel, which shall be applicable to the Service, all State agencies under delegation of authority pursuant to this Act, and all official agencies and all persons licensed or authorized to perform functions under this Act: *Provided*, That persons licensed or authorized on the date of enactment of the United States Grain Standards Act of 1976 to perform any official function under this Act, shall be exempted from the uniform recruiting and training provisions of this subsection and regulations or standards issued pursuant thereto if the Administrator determines that such persons are technically and professionally qualified for the duties to which they will be assigned and they agree to complete whatever additional training the Administrator deems necessary.”.

Standards.

Exemption.

REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION OF LICENSES

SEC. 11. Section 9 of the United States Grain Standards Act, as amended (7 U.S.C. 85), is amended as follows:

(a) by striking out the word “Secretary” wherever it appears and inserting in lieu thereof the word “Administrator”;

(b) by inserting after the word “inspected” wherever it appears the words “or weighed or supervised the weighing of”; and

(c) by adding at the end thereof a new sentence as follows: “The Administrator may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 13 of this Act or convicted of any offense proscribed by title 18 of the United States Code, with respect to performance of functions under this Act.”.

Post, p. 2883.18 USC 1 *et seq.*

REFUSAL OF INSPECTION AND WEIGHING SERVICES AND CIVIL PENALTIES

SEC. 12. Section 10 of the United States Grain Standards Act, as amended (7 U.S.C. 86), is amended as follows:

(a) The title is changed to read “REFUSAL OF INSPECTION AND WEIGHING SERVICES AND CIVIL PENALTIES”.

(b) Subsection (a) is amended to read as follows:

“(a) The Administrator may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection or the services related to weighing otherwise available under this Act with respect to any grain offered for such services, or owned, wholly or in part, by any person if he determines (1) that the individual (or in case such person is a partnership, any

Post, p. 2883.

general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof; or in case of any such business entity, any individual who is otherwise responsibly connected with the business) has knowingly committed any violation of section 13 of this Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing such service with respect to such grain would be inimical to the integrity of the service.”.

Penalties.

Post, p. 2884.

(c) Subsection (c) is amended and new subsections (d) and (e) are added, to read, respectively, as follows:

“(c) In addition to, or in lieu of, penalties provided under section 14 of this Act, or in addition to, or in lieu of, refusal of official inspection or services related to weighing in accordance with this section, the Administrator may assess against any person who has knowingly committed any violation of section 13 of this Act or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain a civil penalty not to exceed \$75,000 for each such violation as the Administrator determines is appropriate to effectuate the objectives stated in section 2 of this Act.

Ante, p. 2867.

Hearing.

“(d) Before official inspection or services related to weighing is refused to any person or a civil penalty is assessed against any person under this section, such person shall be afforded opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5 of the United States Code: *Provided*, That the Administrator may, without first affording the person a hearing, refuse official inspection or services related to weighing temporarily pending final determination whenever the Administrator has reason to believe there is cause for refusal of inspection or services related to weighing and considers such action to be in the best interest of the official inspection system under this Act. The Administrator shall afford such person an opportunity for a hearing within seven days after temporarily refusing official inspection or services related to weighing; and such hearing and ancillary procedures related thereto shall be conducted in an expedited manner.

Fund.

“(e) Moneys received in payment of such civil penalties shall be deposited in the general fund of the United States Treasury. Upon any failure to pay the penalties assessed under this section, the Administrator may request the Attorney General of the United States to institute a civil action to collect the penalties in the appropriate court identified in subsection (h) of section 17 of this Act for the jurisdiction in which the respondent is found or resides or transacts business, and such court shall have jurisdiction to hear and decide any such action.”.

7 USC 87f.

PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

SEC. 13. Section 11 of the United States Grain Standards Act, as amended (7 U.S.C. 87), is amended—

(a) by striking out the word “Secretary” wherever it appears and inserting in lieu thereof the word “Administrator”;

(b) by striking out the word "inspection" immediately following the phrase "to perform any official"; and

(c) by designating the provisions thereof as subsection (a) and adding new subsections (b) and (c) as follows:

"(b)(1) No official agency or a State agency delegated authority under this Act, or any member, director, officer, or employee thereof, and no business or governmental entity related to any such agency, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any business involving the commercial transportation, storage, merchandising, or other commercial handling of grain, or the use of official inspection service (except that in the case of a producer such use shall not be prohibited for grain in which he does not have an interest); and no business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by or directly or indirectly have any stock or other financial interest in, any official agency or a State agency delegated inspection authority. Further, no substantial stockholder in any incorporated official agency shall be employed in or otherwise engaged in, or be a substantial stockholder in any corporation conducting any such business, or directly or indirectly have any other kind of financial interest in any such business; and no substantial stockholder in any corporation conducting such a business shall operate or be employed by or be a substantial stockholder in, or directly or indirectly have any other kind of financial interest in, any official agency.

Conflict of interest.

"(2) A substantial stockholder of a corporation shall be any person holding 2 per centum or more, or one hundred shares or more, of the voting stock of the corporation, whichever is the lesser interest. Any entity shall be considered to be related to another entity if it owns or controls, or is owned or controlled by, such other entity, or both entities are owned or controlled by another entity.

Substantial stock holder.

"(3) Each State agency delegated official weighing authority under section 7A and each State or local agency or other person designated by the Administrator under such section to perform supervision of weighing shall be subject to the provisions of subsection (b) of this section. The term 'use of official inspection service' shall be deemed to refer to the use of the services provided under such a delegation or designation.

Ante, p. 2875.

"Use of official inspection service."

"(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing, or a State or local governmental agency is designated as an official agency, the Administrator shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

"(5) Notwithstanding the foregoing provisions of this subsection, the Administrator may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform supervision of weighing except that for purposes of supervision of weighing only, he may also designate any other person, if he determines that any conflict of interest which may exist between the agency or person or any member, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Admin-

Authority delegation.

Report to congressional committees.

istrator makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Administrator shall, within thirty days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate, detailing the factual bases for such determination.

“(c) The provisions of this section shall not prevent an official agency from engaging in the business of weighing grain.”.

RECORDS

SEC. 14. Section 12 of the United States Grain Standards Act, as amended (7 U.S.C. 87a), is amended by amending subsections (a), (b), and (c) and adding a new subsection (d) to read, respectively, as follows:

Regulation.

“(a) Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act shall maintain such samples of officially inspected grain and such other records as the Administrator may by regulation prescribe for the purpose of administration and enforcement of this Act.

Maintenance.

“(b) Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Administrator, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Administrator to be maintained for not more than three years in addition to the five-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.

Access.

“(c) Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act required to maintain records under this section shall permit any authorized representative of the Secretary or Administrator or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Administrator shall, from time to time, perform audits of official agencies and State agencies delegate authority of this Act in such manner and at such periodic intervals as he deems appropriate.

Audits.

“(d) Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain, and permit any authorized representative of the Secretary or the Administrator, at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such persons for handling of grain.”.

PROHIBITED ACTS

SEC. 15. Section 13 of the United States Grain Standards Act, as amended (7 U.S.C. 87b), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) by striking out in paragraphs (1) and (2) thereof the word "inspection" wherever it appears and by striking out the word "Secretary" in paragraph (2) and inserting in lieu thereof the word "Administrator";

(2) by amending paragraph (3) thereof to read as follows:

"(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection or official weighing or supervision of weighing knowing that it has been deceptively loaded, handled, weighed, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling or official weighing or supervision of weighing;"

(3) by amending paragraph (5) thereof to read as follows:

"(5) knowingly use any official grade designation or official mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container or officially weighed, respectively, and the grain was found to qualify for such designation or mark;"

(4) by inserting in paragraphs (7) and (8) immediately after the word "personnel" the words "or personnel of agencies delegated authority or of agencies or other persons designated under this Act";

(5) by inserting in paragraphs (9) and (10) immediately after the words "official inspection" the words "or official weighing or supervision of weighing" and by inserting in paragraph (11) "7(f) (2), 7A, 7B(c)," after "section 5, 6"; and

(6) by striking the word "or" at the end of paragraph (10) striking the period at the end of subsection (a) and inserting a semicolon in lieu thereof, and adding new paragraphs (12) and (13) as follows:

"(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective testing equipment; or

"(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in the grain, or the authorized agent of any such person, from observing the loading of grain inspected under this Act and the weighing, sampling, and inspection of such grain under conditions prescribed by the Administrator."

(b) Subsection (b) is amended by inserting in paragraph (2) the words "or weighing" after the word "inspection".

PROTECTION OF SERVICE PERSONNEL

SEC. 16. Section 1114 of title 18 of the United States Code, as amended, is hereby amended by (a) striking the phrase "any employee of the Bureau of Animal Industry of the Department of Agriculture,"

and (b) by inserting immediately after the phrase “or of the Department of Labor” the words “or of the Department of Agriculture”.

PENALTIES

SEC. 17. Section 14 of the United States Grain Standards Act, as amended (7 U.S.C. 87c), is amended to read as follows:

“CRIMINAL PENALTIES

Ante, p. 2883.

18 USC 1 *et seq.*

“SEC. 14. (a) Any person who commits an offense prohibited by section 13 (except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case he shall be subject to the general penal statutes in title 18 of the United States Code relating to crimes and offenses against the United States) shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than twelve months, or a fine of not more than \$10,000, or both such imprisonment and fine; but, for each subsequent offense subject to this subsection, such person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than \$20,000, or both such imprisonment and fine.

Ante, p. 2879.

“(b) Nothing in this Act shall be construed as requiring the Administrator to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this Act for prosecution when he believes that institution of a proceeding under section 10 of this Act will obtain compliance with this Act and he institutes such a proceeding.

“(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this Act shall be considered as an employee of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18 of the United States Code.”

GENERAL AUTHORITIES

SEC. 18. Section 16 of the United States Grain Standards Act, as amended (7 U.S.C. 87e), is amended to read as follows:

“GENERAL AUTHORITIES

Investigations,
hearings and
reports.

Rules,
regulations and
instructions.

“SEC. 16. (a) The Administrator is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this Act, licensee, or other person; require by regulation as a condition for official inspection, among other things (1) that there be installed specified sampling and monitoring equipment in grain elevators, (2) that approval of the Administrator be obtained as to the condition of vessels and other carriers or receptacles for transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Administrator. The Administrator is further authorized to prescribe such other rules, regulations, and instructions as he deems necessary to effectuate the purposes or provisions of this Act. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading

within the meaning of this Act shall be determined by tests made in accordance with such procedures as the Administrator may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 9 of this Act for refusal to renew, or for suspension or revocation of, a license shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5 of the United States Code.

Ante, p. 2879.

“(b) The Administrator is authorized to investigate reports or complaints of discrepancies and abuses in the official inspection and weighing of grain under this Act. The Administrator shall prescribe by regulation procedures for (1) promptly investigating (A) complaints of foreign grain purchasers regarding the official inspection or official weighing of grain shipped from the United States, (B) the cancellation of contracts for the export sale of grain required to be inspected or weighed under this Act, and (C) any complaint regarding the operation or administration of this Act or any official transaction with which this Act is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints. The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate at the end of every three-month period with respect to investigative action taken on complaints, during the immediately preceding three-month period.

Investigation.

Procedures,
regulation.

Report to
congressional
committees.

“(c) The Administrator is authorized to cause official inspection personnel to monitor in foreign nations which are substantial importers of grain from the United States, grain imported from the United States upon its entry into the foreign nation, to determine whether such grain is of a comparable kind, class, quality, and condition after considering the handling methods and conveyance utilized at the time of loading, and the same quantity that it was certified to be upon official inspection and official weighing in the United States.

“(d) The Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture) shall conduct such investigations regarding the operation or administration of this Act or any official transaction with which this Act is concerned, as the Director thereof deems necessary to assure the integrity of official inspection and weighing under this Act.

Investigations.

“(e) The Administrator is authorized to conduct, in cooperation with other agencies within the Department of Agriculture, a continuing research program for the purpose of developing methods to improve accuracy and uniformity in grading grain.

Research
program.

“(f) To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 2 of this Act, the Administrator shall, notwithstanding any other provision of law, provide adequate personnel to meet the additional inspection and weighing requirements of this Act.”

Ante, p. 2867.

ENFORCEMENT PROVISIONS

SEC. 19. Section 17 of the United States Grain Standards Act, as amended (7 U.S.C. 87f), is amended as follows:

(a) by striking out the word “Secretary” wherever it appears and inserting in lieu thereof the word “Administrator”;

- (b) by inserting in subsection (a) the words “by the Administrator” immediately following the words “under investigation”;
- (c) by inserting in subsection (e) the words “subsection (a) of” immediately before the words “section 14”; and
- (d) by striking out subsection (g).

RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF PROVISIONS

SEC. 20. Section 18 of the United States Grain Standards Act, as amended (7 U.S.C. 87g), is amended by striking out from the first sentence of subsection (a) the words “function under this Act by official inspection personnel” and inserting in lieu thereof the following: “or weighing function under this Act by official inspection personnel”.

APPROPRIATIONS

SEC. 21. Section 19 of the United States Grain Standards Act, as amended (7 U.S.C. 87h), is amended to read as follows:

“APPROPRIATIONS

Ante, p. 2884.

Ante, p. 2869.

Ante, pp. 2870,
2875, *Infra*.

“SEC. 21. There are hereby authorized to be appropriated such sums as are necessary for research and development as provided in section 16 of this Act; monitoring in foreign ports grain officially inspected and officially weighed under this Act; development and issuance of rules, regulations, and instructions; improvement of official standards for grain, improvement of inspection and weighing procedures and equipment, and other activities authorized by section 4 of this Act; those Federal administrative and supervisory costs incurred within the Service’s Washington office or not directly related to the official inspection or the provision of weighing services for grain; the purchase or lease of any buildings, other facilities, or equipment necessary to carry out the provisions of this Act; and any other expenses necessary to carry out the provisions of this Act to the extent that financing is not obtained from the fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act.”

REGISTRATION AND REPORTING REQUIREMENTS

SEC. 22. The United States Grain Standards Act, as amended, is amended by adding new sections 17A and 17B as follows:

“REGISTRATION REQUIREMENTS

Regulation.
7 USC 87f-1.

“SEC. 17A. (a) The Administrator shall provide, by regulation, for the registration of all persons engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain for sale in foreign commerce. This section shall not apply to—

“(1) any person who only incidentally or occasionally buys for sale, or handles, weighs, or transports grain for sale and is not engaged in the regular business of buying grain for sale, or handling, weighing, or transporting grain for sale;

“(2) any producer of grain who only incidentally or occasionally sells or transports grain which he has purchased;

“(3) any person who transports grain for hire and does not own a financial interest in such grain; or

"(4) any person who buys grain for feeding or processing and not for the purpose of reselling and only incidentally or occasionally sells such grain as grain.

"(b) (1) All persons registered under this Act shall submit the following information to the Administrator:

"(A) the name and principal address of the business,

"(B) the names of all directors of such business,

"(C) the names of the principal officers of such business,

"(D) the names of all persons in a control relationship with respect to such business,

"(E) a list of locations where the business conducts substantial operations, and

"(F) such other information as the Administrator deems necessary to carry out the purposes of this Act.

Persons required to register under this section shall also submit to the Administrator the information specified in clauses (A) through (F) of this paragraph with respect to any business engaged in the business of buying grain for sale in interstate commerce, and in the business of handling, weighing, or transporting of grain for sale in interstate commerce, if, with respect to such business, the person otherwise required to register under this section is in a control relationship.

"(2) For the purposes of this section, a person shall be deemed to be in a 'control relationship' with respect to a business required to register under subsection (a) and with respect to applicable interstate businesses if—

"Control relationship."

"(A) such person has an ownership interest of 10 per centum or more in such business, or

"(B) a business or group of business entities, with respect to which such person is in a control relationship, has an ownership interest of 10 per centum or more in such business.

"(3) For purposes of clauses (A) and (B) of paragraph (2) of this subsection, a person shall be considered to own the ownership interest which is owned by his or her spouse, minor children, and relatives living in the same household.

"(c) The Administrator shall issue a certificate of registration to persons who comply with the provisions of this section. The certificate of registration issued in accordance with this section shall be renewed annually. If there has been any change in the information required under subsection (b), the person holding such certificate shall, within thirty days of the discovery of such change, notify the Administrator of such change. No person shall engage in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain in foreign commerce unless he has registered with the Administrator as required by this Act and has an unsuspended and unrevoked certificate of registration.

Registration certificate.

"(d) The Administrator may suspend or revoke any certificate of registration issued under this section whenever, after the person holding such certificate has been afforded an opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5 of the United States Code, the Administrator shall determine that such person has violated any provision of this Act or of the regulations promulgated thereunder, or has been convicted of any violation involving the handling, weighing, or inspection of grain under title 18 of the United States Code.

Suspension or revocation.

"(e) The Administrator shall charge and collect fees from any person registered under this section. The amount of such fees shall be determined on the basis of the costs of the Administrator in adminis-

18 USC 1 *et seq.*
Fees.

Deposit.
7 USC 79.

tering the registration required by this section. Such fees shall be deposited in, and used as part of, the fund described in section 7(j) of this Act.

"REPORTING REQUIREMENTS

Reports to
congressional
committees.
7 USC 87f-2.

"SEC. 17B. (a) The Administrator shall submit a report to the committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate one year after the effective date of the United States Grain Standards Act of 1976 setting forth the actions taken by him in implementing the provisions of that Act; and, on December 1 of each year thereafter, the Administrator shall report to such committees regarding the effectiveness of the official inspection system under this Act for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 2 of this Act.

Ante, p. 2867.
Notification of
congressional
committees.

"(b) The Administrator shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made to the Department of Agriculture by a foreign purchaser of United States grain, within thirty days after a determination by the Administrator that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) within thirty days after receipt by the Administrator or the Secretary of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

Complaint
summary,
submittal to
congressional
committees.

"(c) On December 1 of each year, the Administrator shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate a summary of all other complaints received by the Department of Agriculture during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain, and the resolution thereof: *Provided*, That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Administrator."

PURCHASE OR LEASE OF INSPECTION EQUIPMENT

7 USC 87e-1.

SEC. 23. Notwithstanding the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), the Administrator of the Federal Grain Inspection Service is authorized to negotiate for and purchase or lease, from any person licensed or designated (on the date of enactment of this Act) to perform official inspection functions under the United States Grain Standards Act, at fair market value, any facilities or equipment which the Administrator determines to be necessary for the conduct of official inspection.

7 USC 71.

STUDIES OF GRAIN STANDARDS

Investigation and
study.
7 USC 76 note.

SEC. 24. (a) In order to assure that producers, handlers, and transporters of grain are encouraged and rewarded for the production, maintenance, and delivery of high quality grain and grain of the type needed to meet the end-use requirements of domestic and foreign buyers, the Administrator of the Federal Grain Inspection Service shall conduct an investigation and make a study regarding the adequacy of the current grain standards established under the United States Grain Standards Act.

(b) To determine the items of concern to buyers, both foreign and domestic, and how sellers in the United States might best satisfy those needs, the Administrator may seek the advice of and may employ the services of representatives of the grain industry, land-grant colleges, and other members of the public (without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service).

5 USC 101 *et seq.*

(c) The study shall address specifically, but is not limited thereto, the tasks of determining (A) if standards may be developed that would reduce grading errors and remove, where possible, subjective human judgment from grading by increased utilization of mechanical, electrical, and chemical means of grading, (B) whether grain should be subclassed according to color or other factor not affecting the quality of the grain, (C) whether the protein factor should be included in the standards, and (D) whether broken grain should be grouped together with foreign material.

(d) On the basis of the results of such study, the Administrator, in accordance with section 4 of the United States Grain Standards Act, shall make such changes in the grain standards as he determines necessary and appropriate, and, not later than two years after the date of enactment of this Act, submit a report to the Congress setting forth the findings of such study and action taken by him as a result of the study.

Report to Congress.
Ante, p. 2869.

TEMPORARY EXERCISE OF POWERS, DUTIES, AND AUTHORIZATIONS

SEC. 25. The powers, duties, and authorizations established by this Act for the Administrator of the Federal Grain Inspection Service shall in all instances be exercised by the Secretary of Agriculture of the United States during the period between the effective date of this Act and the appointment of the Administrator.

7 USC 75a note.

CONFORMING AMENDMENT

SEC. 26. Section 5316 of title 5 of the United States Code, as amended, is amended by adding at the end thereof a new paragraph to read as follows:

“(137) Administrator, Federal Grain Inspection Service, Department of Agriculture.”.

EFFECTIVE DATE

SEC. 27. This Act shall become effective thirty days after enactment hereof; and thereafter no State agency shall provide official inspection at an export port location or official weighing at an export elevator at an export port location without a delegation of authority and no agency or person shall provide official inspection service or supervision of weighing in any other area without a designation under the United States Grain Standards Act, as amended by this Act, except that any agency or person then providing such service in any area, who pays fees when due, in the same manner as prescribed in section 7 or 7A of the United States Grain Standards Act, as amended by this Act, may continue to operate in that area without a delegation or designation but shall be subject to all provisions of the United States Grain Standards Act and regulations thereunder in effect immediately prior to the effective date of this Act, until whichever of the following events occurs first:

7 USC 74 note.

Ante, pp. 2870, 2875.

(1) a delegation or designation of such agency or person to perform such services is granted or denied by the Administrator of the Federal Grain Inspection Service pursuant to the United States Grain Standards Act, as amended by this Act; or

(2) such agency or person, or two or more members or employees thereof, have been or are convicted of a violation of any provision of the United States Grain Standards Act in effect immediately prior to the effective date of this Act; or convicted of any offense proscribed by other Federal law involving the handling, weighing, or official inspection of grain;

(3) with respect to export port locations and export elevators located at export port locations, the expiration of a period determined by the Administrator of not more than eighteen months following the effective date hereof; or

(4) with respect to any other area, the expiration of a period as determined by the Administrator of not more than two years following the effective date hereof:

Provided, That the Administrator is authorized and directed to cause official inspection and official weighing of grain pursuant to the provisions of the United States Grain Standards Act, as amended by this Act, to be performed by authorized employees of the United States Department of Agriculture or the Service, to begin at any time immediately thereafter the date of enactment of this Act, at those export port locations and export elevators located at export port locations at which the Administrator determines that such performance by such authorized employees is necessary to effectuate the provisions of section 2 of the United States Grain Standards Act, as amended.

Ante, p. 2867.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-966 (Comm. on Agriculture) and No. 94-1722 (Comm. of Conference).

SENATE REPORT No. 94-747 accompanying S. 3055 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 2, considered and passed House.

Apr. 14, S. 3055 considered in Senate.

Apr. 26, considered and passed Senate, amended, in lieu of S. 3055.

Oct. 1, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 22, Presidential statement.

Public Law 94-583
94th Congress

An Act

To define the jurisdiction of United States courts in suits against foreign states, the circumstances in which foreign states are immune from suit and in which execution may not be levied on their property, and for other purposes.

Oct. 21, 1976

[H.R. 11315]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Sovereign Immunities Act of 1976".

Foreign
Sovereign
Immunities Act
of 1976.
28 USC 1 note.

SEC. 2. (a) That chapter 85 of title 28, United States Code, is amended by inserting immediately before section 1331 the following new section:

“§ 1330. Actions against foreign states

28 USC 1330.

“(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personam with respect to which the foreign state is not entitled to immunity either under sections 1605-1607 of this title or under any applicable international agreement.

Jurisdiction.

Post, p. 2892.

“(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title.

Post, p. 2894.

“(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605-1607 of this title.”.

(b) By inserting in the chapter analysis of that chapter before—
“1331. Federal question; amount in controversy; costs.”

the following new item:

“1330. Action against foreign states.”.

SEC. 3. That section 1332 of title 28, United States Code, is amended by striking subsections (a) (2) and (3) and substituting in their place the following:

“(2) citizens of a State and citizens or subjects of a foreign state;

“(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and

“(4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States.”.

SEC. 4. (a) That title 28, United States Code, is amended by inserting after chapter 95 the following new chapter:

“Chapter 97.—JURISDICTIONAL IMMUNITIES OF FOREIGN STATES

“Sec.

“1602. Findings and declaration of purpose.

“1603. Definitions.

“1604. Immunity of a foreign state from jurisdiction.

“1605. General exceptions to the jurisdictional immunity of a foreign state.

“1606. Extent of liability.

"1607. Counterclaims.

"1608. Service; time to answer default.

"1609. Immunity from attachment and execution of property of a foreign state.

"1610. Exceptions to the immunity from attachment or execution.

"1611. Certain types of property immune from execution.

28 USC 1602.

"§ 1602. Findings and declaration of purpose

"The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

28 USC 1603.

"§ 1603. Definitions

"For purposes of this chapter—

"(a) A 'foreign state', except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

"(b) An 'agency or instrumentality of a foreign state' means any entity—

"(1) which is a separate legal person, corporate or otherwise, and

"(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

"(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (d) of this title, nor created under the laws of any third country.

"(c) The 'United States' includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

"(d) A 'commercial activity' means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

"(e) A 'commercial activity carried on in the United States by a foreign state' means commercial activity carried on by such state and having substantial contact with the United States.

28 USC 1604.

"§ 1604. Immunity of a foreign state from jurisdiction

"Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

28 USC 1605.

"§ 1605. General exceptions to the jurisdictional immunity of a foreign state

"(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

"(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of

the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

“(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

“(3) in which rights in property taken in violation of international law are in issue and that property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

“(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue; or

“(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

“(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

“(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

“(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state: *Provided, That—*

Suit in admiralty.

“(1) notice of the suit is given by delivery of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; but such notice shall not be deemed to have been delivered, nor may it thereafter be delivered, if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit—unless the party was unaware that the vessel or cargo of a foreign state was involved, in which event the service of process of arrest shall be deemed to constitute valid delivery of such notice; and

Notice.

“(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days either of the delivery of notice as provided in subsection (b) (1) of this section or, in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest.

Whenever notice is delivered under subsection (b) (1) of this section, the maritime lien shall thereafter be deemed to be an in personam

claim against the foreign state which at that time owns the vessel or cargo involved: *Provided*, That a court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose, such value to be determined as of the time notice is served under subsection (b) (1) of this section.

28 USC 1606.

“§ 1606. Extent of liability

“As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages; if, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

28 USC 1607.

“§ 1607. Counterclaims

“In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

“(a) for which a foreign state would not be entitled to immunity under section 1605 of this chapter had such claim been brought in a separate action against the foreign state; or

“(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

“(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

28 USC 1608.

“§ 1608. Service; time to answer; default

“(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

“(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

“(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

“(3) if service cannot be made under paragraphs (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

“(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of

Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a 'notice of suit' shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of State by regulation.

"Notice of suit."

"(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

"(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

"(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process in the United States; or in accordance with an applicable international convention on service of judicial documents; or

"(3) if service cannot be made under paragraphs (1) or (2), and if reasonably calculated to give actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

"(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

"(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

"(C) as directed by order of the court consistent with the law of the place where service is to be made.

"(c) Service shall be deemed to have been made—

"(1) in the case of service under subsection (a) (4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

"(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

"(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

"(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section.

"§ 1609. Immunity from attachment and execution of property of a foreign state 28 USC 1609.

"Subject to existing international agreements to which the United States is a party at the time of enactment of this Act the property

in the United States of a foreign state shall be immune from attachment arrest and execution except as provided in sections 1610 and 1611 of this chapter.

28 USC 1610.

“§ 1610. Exceptions to the immunity from attachment or execution

“(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

“(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

“(2) the property is or was used for the commercial activity upon which the claim is based, or

“(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

“(4) the execution relates to a judgment establishing rights in property—

“(A) which is acquired by succession or gift, or

“(B) which is immovable and situated in the United States: *Provided*, That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

“(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment.

“(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

“(1) the agency or instrumentality has waived its immunity from attachment in aid of execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

“(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605(a) (2), (3), or (5), or 1605(b) of this chapter, regardless of whether the property is or was used for the activity upon which the claim is based.

“(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

“(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section, if—

“(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

“(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

“§ 1611. Certain types of property immune from execution

28 USC 1611.

“(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

22 USC 288 note.

“(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution, if—

“(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution, notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

“(2) the property is, or is intended to be, used in connection with a military activity and

“(A) is of a military character, or

“(B) is under the control of a military authority or defense agency.”

(b) That the analysis of “PART IV.—JURISDICTION AND VENUE” of title 28, United States Code, is amended by inserting after—

“95. Customs Court.”,

the following new item:

“97. Jurisdictional Immunities of Foreign States.”.

SEC. 5. That section 1391 of title 28, United States Code, is amended by adding at the end thereof the following new subsection: Venue.

“(f) A civil action against a foreign state as defined in section 1603(a) of this title may be brought—

“(1) in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated;

“(2) in any judicial district in which the vessel or cargo of a foreign state is situated, if the claim is asserted under section 1605(b) of this title;

“(3) in any judicial district in which the agency or instrumentality is licensed to do business or is doing business, if the action is brought against an agency or instrumentality of a foreign state as defined in section 1603(b) of this title; or

“(4) in the United States District Court for the District of Columbia if the action is brought against a foreign state or political subdivision thereof.”

Actions
removable.

SEC. 6. That section 1441 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown.”

28 USC 1446.

28 USC 1602
note.

SEC. 7. If any provision of this Act or the application thereof to any foreign state is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Effective date.
28 USC 1602
note.

SEC. 8. This Act shall take effect ninety days after the date of its enactment.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1487 (Comm. on the Judiciary).

SENATE REPORT No. 94-1310 accompanying S. 3553 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 29, considered and passed House.

Oct. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 22, Presidential statement.

Public Law 94-584
94th Congress

An Act

To provide for the establishment of constitutions for the Virgin Islands and Guam.

Oct. 21, 1976
[H.R. 9460]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress, recognizing the basic democratic principle of government by the consent of the governed, authorizes the peoples of the Virgin Islands and of Guam, respectively, to organize governments pursuant to constitutions of their own adoption as provided in this Act.

Virgin Islands
and Guam.
Constitutions.
48 USC 1391
note.

SEC. 2. (a) The Legislatures of the Virgin Islands and Guam, respectively, are authorized to call constitutional conventions to draft, within the existing territorial-Federal relationship, constitutions for the local self-government of the people of the Virgin Islands and Guam.

48 USC 1391
note.

(b) Such constitutions shall—

(1) recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands and Guam, respectively, and the supremacy of the provisions of the Constitution, treaties, and laws of the United States applicable to the Virgin Islands and Guam, respectively, including, but not limited to, those provisions of the Organic Act and Revised Organic Act of the Virgin Islands and the Organic Act of Guam which do not relate to local self-government.

48 USC 1406m,
1541 note.
48 USC 1421
note.

(2) provide for a republican form of government, consisting of three branches: executive, legislative, and judicial;

(3) contain a bill of rights;

(4) deal with the subject matter of those provisions of the Revised Organic Act of the Virgin Islands of 1954, as amended, and the Organic Act of Guam, as amended, respectively, which relate to local self-government;

(5) with reference to Guam, provide that the voting franchise may be vested only in residents of Guam who are citizens of the United States;

(6) provide for a system of local courts consistent with the provisions of the Revised Organic Act of the Virgin Islands, as amended; and

(7) provide for the establishment of a system of local courts the provisions of which shall become effective no sooner than upon the enactment of legislation regulating the relationship between the local courts of Guam with the Federal judicial system.

SEC. 3. The members of such constitutional conventions shall be chosen as provided by the laws of the Virgin Islands and Guam, respectively (enacted after the date of enactment of this Act): *Provided, however,* That no person shall be eligible to be a member of

48 USC 1391
note.

Proposed
constitutions,
submittal to
governors and
President.
48 USC 1391
note.
Transmittal to
Congress.
48 USC 1391
note.

Submittal to
voters.

the constitutional conventions, unless he is a citizen of the United States and qualified to vote in the Virgin Islands and Guam, respectively.

SEC. 4. The conventions shall submit to the Governor of the Virgin Islands a proposed constitution for the Virgin Islands and to the Governor of Guam a proposed constitution for Guam which shall comply with the requirements set forth in section 2(b) above. Such constitutions shall be submitted to the President of the United States by the Governors of the Virgin Islands and Guam.

SEC. 5. Within sixty calendar days after the respective date on which he has received each constitution, the President shall transmit such constitution together with his comments to the Congress. The constitution, in each case, shall be deemed to have been approved by the Congress within sixty days after its submission by the President, unless prior to that date the Congress has approved the constitution, or modified or amended it, in whole or in part, by joint resolution. As so approved or modified, the constitutions shall be submitted to the qualified voters of the Virgin Islands and Guam, respectively, for acceptance or rejection through islandwide referendums to be conducted as provided under the laws of the Virgin Islands and Guam, respectively, (enacted after the date of enactment of this Act). Upon approval by not less than a majority of the voters (counting only the affirmative or negative votes) participating in such referendums, the constitutions shall become effective in accordance with their terms.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-507 and No. 94-507 pt. 2 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-1033 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Oct. 6, considered and passed House.

Vol. 122 (1976): July 20, considered and passed Senate, amended.

Sept. 22, House concurred in Senate amendment with an amendment.

Oct. 1, Senate agreed to House amendment.

Public Law 94-585
94th Congress

An Act

To amend the Social Security Act with respect to food stamp purchases by welfare recipients.

Oct. 21, 1976
[H.R. 13500]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Food stamps.

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

That (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

“FOOD STAMP DISTRIBUTION

“SEC. 410. (a) Any State plan for aid and services to needy families with children may (but is not required under this title or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid. 42 USC 610.

“(b) Any deduction made pursuant to an option provided in accordance with subsection (a) shall not be considered to be a payment described in section 406(b)(2). 7 USC 2011 note.

“(c) Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this part) of such State, to institute or carry out a procedure, described in subsection (a).” 42 USC 606.

(b) Administrative costs incurred by a State plan for aid and services to needy families with children, approved under Part A of title IV of the Social Security Act, in conducting procedures (described in section 410 of such Act, as added by subsection (a) of this section) in connection with the food stamp program shall be paid from funds appropriated to carry out the Food Stamp Act of 1964, as amended. 42 USC 610 note.

SEC. 2. (a) Title XVI of the Social Security Act is amended by adding immediately after section 1617 the following new section:

“OPERATION OF STATE SUPPLEMENTATION PROGRAMS

“SEC. 1618. (a) In order for any State which makes supplementary payments of the type described in section 1616(a) (including pay- 42 USC 1382g. 42 USC 1382e.

87 Stat. 155.
42 USC 1396.

ments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), on or after June 30, 1977, to be eligible for payments pursuant to title XIX with respect to expenditures for any calendar quarter which begins—

“(1) after June 30, 1977, or, if later,

“(2) after the calendar quarter in which it first makes such supplementary payments, such State must have in effect an agreement with the Secretary whereby the State will—

“(3) continue to make such supplementary payments, and

“(4) maintain such supplementary payments at levels which are not lower than the levels of such payments in effect in December 1976, or, if no such payments were made in that month, the levels for the first subsequent month in which such payments were made.

42 USC 1382f.

“(b) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for a particular month or months if the State's expenditures for such payments in the twelve-month period (within which such month or months fall) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1617 are not less than its expenditures for such payments in the preceding twelve-month period.”.

42 USC 1382e
note.

(b) Section 401(a)(2) of the Social Security Amendments of 1972 is amended—

(1) by inserting “(subject to the second sentence of this paragraph)” immediately after “Act” where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: “In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977.”.

Effective date.
42 USC 1382g
note.

(c) The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1210 (Comm. on Ways and Means).

SENATE REPORT No. 94-1345 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 122 (1976):

June 8, considered and passed House.

Oct. 1, considered and passed Senate, amended; House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 44:

Oct. 22, Presidential statement.

Public Law 94-586
94th Congress

An Act

To expedite a decision on the delivery of Alaska natural gas to United States markets, and for other purposes.

Oct. 22, 1976
[S. 3521]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Alaska Natural
Gas
Transportation
Act of 1976.
15 USC 719 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Alaska Natural Gas Transportation Act of 1976".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds and declares that—

15 USC 719.

(1) a natural gas supply shortage exists in the contiguous States of the United States;

(2) large reserves of natural gas in the State of Alaska could help significantly to alleviate this supply shortage;

(3) the expeditious construction of a viable natural gas transportation system for delivery of Alaska natural gas to United States markets is in the national interest; and

(4) the determinations whether to authorize a transportation system for delivery of Alaska natural gas to the contiguous States and, if so, which system to select, involve questions of the utmost importance respecting national energy policy, international relations, national security, and economic and environmental impact, and therefore should appropriately be addressed by the Congress and the President in addition to those Federal officers and agencies assigned functions under law pertaining to the selection, construction, and initial operation of such a system.

STATEMENT OF PURPOSE

SEC. 3. The purpose of this Act is to provide the means for making a sound decision as to the selection of a transportation system for delivery of Alaska natural gas to the contiguous States for construction and initial operation by providing for the participation of the President and the Congress in the selection process, and, if such a system is approved under this Act, to expedite its construction and initial operation by (1) limiting the jurisdiction of the courts to review the actions of Federal officers or agencies taken pursuant to the direction and authority of this Act, and (2) permitting the limitation of administrative procedures and effecting the limitation of judicial procedures related to such actions. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made, and particularly with respect to the limitation of judicial review of actions of Federal officers or agencies taken pursuant thereto.

15 USC 719a.

DEFINITIONS

15 USC 719b.

SEC. 4. As used in this Act:

(1) the term "Alaska natural gas" means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof;

(2) the term "Commission" means the Federal Power Commission;

(3) the term "Secretary" means the Secretary of the Interior;

(4) the term "provision of law" means any provision of a Federal statute or rule, regulation, or order issued thereunder; and

(5) the term "approved transportation system" means the system for the transportation of Alaska natural gas designated by the President pursuant to section 7(a) or 8(b) and approved by joint resolution of the Congress pursuant to section 8.

FEDERAL POWER COMMISSION REVIEWS AND REPORTS

Proceedings,
suspension.
15 USC 719c.
15 USC 717w.

SEC. 5. (a) (1) Notwithstanding any provision of the Natural Gas Act or any other provision of law, the Commission shall suspend all proceedings pending before the Commission on the date of enactment of this Act relating to a system for the transportation of Alaska natural gas as soon as the Commission determines to be practicable after such date, and the Commission may refuse to act on any application, amendment thereto, or other requests for action under the Natural Gas Act relating to a system for the transportation of Alaska natural gas until such time as (A) a decision of the President designating such a system for approval takes effect pursuant to section 8, (B) no such decision takes effect pursuant to section 8, or (C) the President decides not to designate such a system for approval under section 8 and so advises the Congress pursuant to section 7.

(2) In the event a decision of the President designating such a system takes effect pursuant to this Act, the Commission shall forthwith vacate proceedings suspended under paragraph (1) and, pursuant to section 9 and in accordance with the President's decision, issue a certificate of public convenience and necessity respecting such system.

(3) In the event such a decision of the President does not take effect pursuant to this Act or the President decides not to designate such a system and so advises the Congress pursuant to section 7, the suspension provided for in paragraph (1) of this subsection shall be removed.

Recommendation,
submittal
to President.

(b) (1) The Commission shall review all applications for the issuance of a certificate of public convenience and necessity relating to the transportation of Alaska natural gas pending on the date of enactment of this Act, and any amendments thereto which are timely made, and after consideration of any alternative transportation system which the Commission determines to be reasonable, submit to the President not later than May 1, 1977, a recommendation concerning the selection of such a transportation system. Such recommendation may be in the form of a proposed certificate of public convenience and necessity, or in such other form as the Commission determines to be appropriate, or may recommend that no decision respecting the selection of such a transportation system be made at this time or pursuant to this Act. Any recommendation that the President approve a particular transportation system shall (A) include a description of the nature and route of the system, (B) designate

a person to construct and operate the system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system, (C) if such recommendation is for an all-land pipeline transportation system, or a transportation system involving water transportation, include provision for new facilities to the extent necessary to assure direct pipeline delivery of Alaska natural gas contemporaneously to points both east and west of the Rocky Mountains in the lower continental United States.

(2) The Commission may, by rule, provide for the presentation of data, views, and arguments before the Commission or a delegate of the Commission pursuant to such procedures as the Commission determines to be appropriate to carry out its responsibilities under paragraph (1) of this subsection. Such a rule shall, to the extent determined by the Commission, apply, notwithstanding any provision of law that would otherwise have applied to the presentation of data, views, and arguments.

Rule.

(3) The Commission may request such information and assistance from any Federal agency as the Commission determines to be necessary or appropriate to carry out its responsibilities under this Act. Any Federal agency requested to submit information or provide assistance shall submit such information to the Commission at the earliest practicable time after receipt of a Commission request.

Cooperation.

(c) The Commission shall accompany any recommendation under subsection (b) (1) with a report, which shall be available to the public, explaining the basis for such recommendation and including for each transportation system reviewed or considered a discussion of the following:

Report, public availability.

(1) for each year of the 20-year period which begins with the first year following the date of enactment of this Act, the estimated—

(A) volumes of Alaska natural gas which would be available to each region of the United States directly, or indirectly by displacement or otherwise, and

(B) transportation costs and delivered prices of any such volumes of gas by region;

(2) the effects of each of the factors described in subparagraphs (A) and (B) of paragraph (1) on the projected natural gas supply and demand for each region of the United States and on the projected supplies of alternative fuels available by region to offset shortages of natural gas occurring in such region for each such year;

(3) the impact upon competition;

(4) the extent to which the system provides a means for the transportation to United States markets of natural resources or other commodities from sources in addition to the Prudhoe Bay Reserve;

(5) environmental impacts;

(6) safety and efficiency in design and operation and potential for interruption in deliveries of Alaska natural gas;

(7) construction schedules and possibilities for delay in such schedules or for delay occurring as a result of other factors;

(8) feasibility of financing;

(9) extent of reserves, both proven and probable and their deliverability by year for each year of the 20-year period which

begins with the first year following the date of enactment of this Act;

(10) the estimate of the total delivered cost to users of the natural gas to be transported by the system by year for each year of the 20-year period which begins with the first year following the date of enactment of this Act;

(11) capability and cost of expanding the system to transport additional volumes of natural gas in excess of initial system capacity;

(12) an estimate of the capital and operating costs, including an analysis of the reliability of such estimates and the risk of cost overruns; and

(13) such other factors as the Commission determines to be appropriate.

(d) The recommendation by the Commission pursuant to this section shall not be based upon the fact that the Government of Canada or agencies thereof have not, by then rendered a decision as to authorization of a pipeline system to transport Alaska natural gas through Canada.

(e) If the Commission recommends the approval of a particular transportation system, it shall submit to the President with such recommendation (1) an identification of those facilities and operations which are proposed to be encompassed within the term "construction and initial operation" in order to define the scope of directions contained in section 9 of this Act and (2) the terms and conditions permitted under the Natural Gas Act, which the Commission determines to be appropriate for inclusion in a certificate of public convenience and necessity to be issued respecting such system. The Commission shall submit to the President contemporaneously with its report an environmental impact statement prepared respecting the recommended system, if any, and each environmental impact statement which may have been prepared respecting any other system reported on under this section.

Transportation
system
recommendation,
submittal to
President.

15 USC 717w.

Environmental
impact statement,
submittal to
President.

OTHER REPORTS

Comments,
submittal to
President.
15 USC 719d.

Public
availability.

SEC. 6. (a) Not later than July 1, 1977, any Federal officer or agency may submit written comments to the President with respect to the recommendation and report of the Commission and alternative methods for transportation of Alaska natural gas for delivery to the contiguous States. Such comments shall be made available to the public by the President when submitted to him, unless expressly exempted from this requirement in whole or in part by the President, under section 552(b)(1) of title 5, United States Code. Any such written comment shall include information within the competence of such Federal officer or agency with respect to—

(1) environmental considerations, including air and water quality and noise impacts;

(2) the safety of the transportation systems;

(3) international relations, including the status and time schedule for any necessary Canadian approvals and plans;

(4) national security, particularly security of supply;

(5) sources of financing for capital costs;

(6) the impact upon competition;

(7) impact on the national economy, including regional natural gas requirements; and

(8) relationship of the proposed transportation system to other aspects of national energy policy.

(b) Not later than July 1, 1977, the Governor of any State, any municipality, State utility commission, and any other interested person may submit to the President such written comments with respect to the recommendation and report of the Commission and alternative systems for delivering Alaska natural gas to the contiguous States as they determine to be appropriate.

Comments,
submittal to
President.

(c) Not later than July 1, 1977, each Federal officer or agency shall report to the President with respect to actions to be taken by such officer or agency under section 9(a) relative to each transportation system reported on by the Commission under section 5(c) and shall include such officer's or agency's recommendations with respect to any provision of law to be waived pursuant to section 8(g) in conjunction with any decision of the President which designates a system for approval.

Report to
President.

(d) Following receipt by the President of the Commission's recommendations, the Council on Environmental Quality shall afford interested persons an opportunity to present oral and written data, views, and arguments respecting the environmental impact statements submitted by the Commission under section 5(e). Not later than July 1, 1977, the Council on Environmental Quality shall submit to the President a report, which shall be contemporaneously made available by the Council to the public, summarizing any data, views, and arguments received and setting forth the Council's views concerning the legal and factual sufficiency of each such environmental impact statement and other matters related to environmental impact as the Council considers to be relevant.

Report to
President.

PRESIDENTIAL DECISION AND REPORT

SEC. 7. (a) (1) As soon as practicable after July 1, 1977, but not later than September 1, 1977, the President shall issue a decision as to whether a transportation system for delivery of Alaska natural gas should be approved under this Act. If he determines such a system should be so approved, his decision shall designate such a system for approval pursuant to section 8 and shall be consistent with section 5(b)(1)(C) to assure delivery of Alaska natural gas to points both east and west of the Rocky Mountains in the continental United States. The President in making his decision shall take into consideration the Commission's recommendation pursuant to section 5, the report under section 5(c), and any comments submitted under section 6; and his decision to designate a system for approval shall be based on his determination as to which system, if any, best serves the national interest.

15 USC 719e.

(2) The President, for a period of up to 90 additional calendar days after September 1, 1977, may delay the issuance of his decision and transmittal thereof to the House of Representatives and the Senate, if he determines (A) that there exists no environmental impact statement prepared relative to a system he wishes to consider or that any prepared environmental impact statement relative to a system he wishes to consider is legally or factually insufficient, or (B) that the additional time is otherwise necessary to enable him to make a sound decision on an Alaska natural gas transportation system. The President shall promptly, but in no case any later than September 1, 1977, notify the House of Representatives and the

Transmittal to
Congress, delay.

Notice to
Congress.

Senate if he so delays his decision and submit a full explanation of the basis of any such delay.

(3) If, on or before May 1, 1977, the President determines to delay issuance and transmittal of his decision to the House of Representatives and the Senate pursuant to paragraph (2) of this subsection, he may authorize a delay of not more than 90 days in the date of taking of any action specified in sections 5 and 6. The President shall promptly notify the House of Representatives and the Senate of any such authorization of delay and submit a full explanation of the basis of any such authorization.

(4) If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he shall in such decision—

(A) describe the nature and route of the system designated for approval;

(B) designate a person to construct and operate such a system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system;

(C) identify those facilities, the construction of which, and those operations, the conduct of which, shall be encompassed within the term "construction and initial operation" for purposes of defining the scope of the directions contained in section 9 of this Act, taking into consideration any recommendation of the Commission with respect thereto; and

(D) identify those provisions of law, relating to any determination of a Federal officer or agency as to whether a certificate, permit, right-of-way, lease, or other authorization shall be issued or be granted, which provisions the President finds (i) involve determinations which are subsumed in his decision and (ii) require waiver pursuant to section 8(g) in order to permit the expeditious construction and initial operation of the transportation system.

(5) After a decision of the President designating an Alaska natural gas transportation system takes effect under section 8, the President shall appoint an officer of the United States, with the advice and consent of the Senate, or designate a board (consisting of such an officer, so appointed with the advice and consent of the Senate, as chairman and such other individuals as the President determines appropriate to serve on such board by reason of background, experience, or position) to serve as Federal inspector of construction of such transportation system, except that no such individual or officer may have a financial interest in the approved transportation system. Upon enactment of a joint resolution pursuant to section 8 approving such a system the Federal inspector shall—

(A) establish a joint surveillance and monitoring agreement, approved by the President, with the State of Alaska similar to that in effect during construction of the trans-Alaska oil pipeline to monitor the construction of the approved transportation system within the State of Alaska;

(B) monitor compliance with applicable laws and the terms and conditions of any applicable certificate, rights-of-way, permit, lease, or other authorization issued or granted under section 9;

(C) monitor actions taken to assure timely completion of construction schedules and the achievement of quality of construction, cost control, safety, and environmental protection objectives and the results obtained therefrom;

Notice to
Congress.

Chairman,
appointment.

Joint surveillance
and monitoring
agreement,
establishment.

(D) have the power to compel, by subpoena if necessary, submission of such information as he deems necessary to carry out his responsibilities; and

(E) keep the President and the Congress currently informed on any significant departures from compliance and issue quarterly reports to the President and the Congress concerning existing or potential failures to meet construction schedules or other factors which may delay the construction and initial operation of the system and the extent to which quality of construction, cost control, safety and environmental protection objectives have been achieved.

(6) If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he may identify in such decision such terms and conditions permissible under existing law as he determines appropriate for inclusion with respect to any issuance or authorization directed to be made pursuant to section 9.

(b) The decision of the President made pursuant to subsection (a) of this section shall be transmitted to both Houses of Congress and shall be considered received by such Houses for the purposes of this section on the first day on which both are in session occurring after such decision is transmitted. Such decision shall be accompanied by a report explaining in detail the basis for his decision with specific reference to the factors set forth in sections 5(c) and 6(a), and the reasons for any revision, modification of, or substitution for, the Commission recommendation.

Transmittal to Congress.

(c) The report of the President pursuant to subsection (b) of this section shall contain a financial analysis for the transportation system designated for approval. Unless the President finds and states in his report submitted pursuant to this section that he reasonably anticipates that the system designated by him can be privately financed, constructed, and operated, his report shall also be accompanied by his recommendation concerning the use of existing Federal financing authority or the need for new Federal financing authority.

Financial analysis.

(d) In making his decision under subsection (a) the President shall inform himself, through appropriate consultation, of the views and objectives of the States, the Government of Canada, and other governments with respect to those aspects of such a decision that may involve intergovernmental and international cooperation among the Government of the United States, the States, the Government of Canada, and any other government.

(e) If the President determines to designate a transportation system for approval, the decision of the President shall take effect as provided in section 8, except that the approval of a decision of the President shall not be construed as amending or otherwise affecting the laws of the United States so as to grant any new financing authority as may have been identified by the President pursuant to subsection (c).

CONGRESSIONAL REVIEW

SEC. 8. (a) Any decision under section 7(a) or 8(b) designating for approval a transportation system for the delivery of Alaska natural gas shall take effect upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of a decision transmitted pursuant to section 7(b) or subsection (b) of this section.

15 USC 719f.

(b) If the Congress does not enact such a joint resolution within such 60-day period, the President, not later than the end of the 30th day following the expiration of the 60-day period, may propose a new decision and shall provide a detailed statement concerning the reasons for such proposal. The new decision shall be submitted in accordance with section 7(a) and transmitted to the House of Representatives and the Senate on the same day while both are in session and shall take effect pursuant to subsection (a) of this section. In the event that a resolution respecting the President's decision was defeated by vote of either House, no new decision may be transmitted pursuant to this subsection unless such decision differs in a material respect from the previous decision.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day calendar period.

(d) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supercedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

“Resolution.”

(2) For purposes of this Act, the term “resolution” means (A) a joint resolution, the resolving clause of which is as follows: “That the House of Representatives and Senate approve the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on _____, 19 , and find that any environmental impact statements prepared relative to such system and submitted with the President's decision are in compliance with the Natural Environmental Policy Act of 1969.”; the blank space therein shall be filled with the date on which the President submits his decision to the House of Representatives and the Senate; or (B) a joint resolution described in subsection (g).

42 USC 4321
note.

Referral to
congressional
committees.

(3) A resolution once introduced with respect to a Presidential decision on an Alaska natural gas transportation system shall be referred to one or more committees (and all resolutions with respect to the same Presidential decision on an Alaska natural gas transportation system shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If any committee to which a resolution with respect to a Presidential decision on an Alaska natural gas transportation system has been referred has not reported it at the end of 30 calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from consideration of any other resolution with respect to such Presidential decision on an Alaska natural gas transportation system which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Presidential decision on an Alaska natural gas transportation system), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate
limitation.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential decision on an Alaska natural gas transportation system.

(5)(A) When any committee has reported, or has been discharged from further consideration of, a resolution, but in no case earlier than 30 days after the date of receipt of the President's decision to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution described in subsection (d)(2)(A) shall be limited to not more than 10 hours and on any resolution described in subsection (g) to one hour. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such 60-day period, to consider any other resolution respecting the same Presidential decision.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(e) The President shall find that any required environmental impact statement relative to the Alaska natural gas transportation system designated for approval by the President has been prepared and that such statement is in compliance with the National Environmental Policy Act of 1969. Such finding shall be set forth in the report of the President submitted under section 7. The President may supplement or modify the environmental impact statements prepared by the Commission or other Federal officers or agencies. Any such environmental impact statement shall be submitted contemporaneously with the transmittal to the Senate and House of Representatives of the President's decision pursuant to section 7(b) or subsection (b) of this section.

42 USC 4321
note.

(f) Within 20 days of the transmittal of the President's decision to the Congress under section 7(b) or under subsection (b) of this section, (1) the Commission shall submit to the Congress a report commenting on the decision and including any information with regard to that decision which the Commission considers appropriate,

Report, submittal
to Congress.

Hearings.
Report, submittal
to Congress.

Congressional
committee
hearings.

Waiver, submittal
to Congress.

and (2) the Council on Environmental Quality shall provide an opportunity to any interested person to present oral and written data, views, and arguments on any environmental impact statement submitted by the President relative to any system designated by him for approval which is different from any system reported on by the Commission under section 5(c), and shall submit to the Congress a report summarizing any such views received. The committees in each House of Congress to which a resolution has been referred under subsection (d)(3) shall conduct hearings on the Council's report and include in any report of the committee respecting such resolution the findings of the committee on the legal and factual sufficiency of any environmental impact statement submitted by the President relative to any system designated by him for approval.

(g)(1) At any time after a decision designating a transportation system is submitted to the Congress pursuant to this section, if the President finds that any provision of law applicable to actions to be taken under subsection (a) or (c) of section 9 require waiver in order to permit expeditious construction and initial operation of the approved transportation system, the President may submit such proposed waiver to both Houses of Congress.

(2) Such provision shall be waived with respect to actions to be taken under subsection (a) or (c) of section 9 upon enactment of a joint resolution pursuant to the procedures specified in subsections (c) and (d) of this section (other than subsection (d)(2) thereof) within the first period of 60 calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such proposal.

(3) The resolving clause of the joint resolution referred to in this subsection is as follows: "That the House of Representatives and Senate approve the waiver of the provision of law () as proposed by the President, submitted to the Congress on , 19 ." The first blank space therein being filled with the citation to the provision of law and the second blank space therein being filled with the date on which the President submits his decision to the House of Representatives and the Senate.

(4) In the case of action with respect to a joint resolution described in this subsection, the phrase "a waiver of a provision of law" shall be substituted in subsection (d) for the phrase "the Alaska natural gas transportation system."

AUTHORIZATIONS

15 USC 719g.

SEC. 9. (a) To the extent that the taking of any action which is necessary or related to the construction and initial operation of the approved transportation system requires a certificate, right-of-way, permit, lease, or other authorization to be issued or granted by a Federal officer or agency, such Federal officer or agency shall—

(1) to the fullest extent permitted by the provisions of law administered by such officer or agency, but

(2) without regard to any provision of law which is waived pursuant to section 8(g) issue or grant such certificates, permits, rights-of-way, leases, and other authorizations at the earliest practicable date.

(b) All actions of a Federal officer or agency with respect to consideration of applications or requests for the issuance or grant of a certificate, right-of-way, permit, lease, or other authorization to which subsection (a) applies shall be expedited and any such application or

request shall take precedence over any similar applications or requests of the Federal officer or agency.

(c) Any certificate, right-of-way, permit, lease, or other authorization issued or granted pursuant to the direction under subsection (a) shall include the terms and conditions required by law unless waived pursuant to a resolution under section 8(g), and may include terms and conditions permitted by law, except that with respect to terms and conditions permitted but not required, the Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to include terms and conditions as would compel a change in the basic nature and general route of the approved transportation system or those the inclusion of which would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

Terms and conditions.

(d) Any Federal officer or agency, with respect to any certificate, permit, right-of-way, lease, or other authorization issued or granted by such officer or agency, may, to the extent permitted under laws administered by such officer or agency add to, amend or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization except that with respect to any such action which is permitted but not required by law, such Federal officer or agency, notwithstanding any such other provision of law, shall have no authority to take such action if the terms and conditions to be added, or as amended, would compel a change in the basic nature and general route of the approved transportation system or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.

(e) Any Federal officer or agency to which subsection (a) applies, to the extent permitted under laws administered by such officer or agency, shall include in any certificate, permit, right-of-way, lease, or authorization issued or granted those terms and conditions identified in the President's decision as appropriate for inclusion except that the requirement to include such terms and conditions shall not limit the Federal officer or agency's authority under subsection (d) of this section.

JUDICIAL REVIEW

SEC. 10. (a) Notwithstanding any other provision of law, the actions of Federal officers or agencies taken pursuant to section 9 of this Act, shall not be subject to judicial review except as provided in this section.

15 USC 719h.

(b) (1) Claims alleging the invalidity of this Act may be brought not later than the 60th day following the date a decision takes effect pursuant to section 8 of this Act.

(2) Claims alleging that an action will deny rights under the Constitution of the United States, or that an action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right may be brought not later than the 60th day following the date of such action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim alleging the invalidity of such action on the grounds stated above not later than the 60th day following the date of his acquiring actual or constructive knowledge of such action.

(c) (1) A claim under subsection (b) shall be barred unless a complaint is filed prior to the expiration of such time limits in the United States Court of Appeals for the District of Columbia acting as a

Special Court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

(2) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

(3) The enactment of a joint resolution under section 8 approving the decision of the President shall be conclusive as to the legal and factual sufficiency of the environmental impact statements submitted by the President relative to the approved transportation system and no court shall have jurisdiction to consider questions respecting the sufficiency of such statements under the National Environmental Policy Act of 1969.

USC prec. title I.

42 USC 4321
note.

SUPPLEMENTAL ENFORCEMENT AUTHORITY

Compliance order
or civil action.
15 USC 719i.

SEC. 11 (a) In addition to remedies available under other applicable provisions of law, whenever any Federal officer or agency determines that any person is in violation of any applicable provision of law administered or enforceable by such officer or agency or any rule, regulation, or order under such provision, including any term or condition of any certificate, right-of-way, permit, lease, or other authorization, issued or granted by such officer or agency, such officer or agency may—

(1) issue a compliance order requiring such person to comply with such provision or any rule, regulation, or order thereunder, or

(2) bring a civil action in accordance with subsection (c).

(b) Any order issued under subsection (a) shall state with reasonable specificity the nature of the violation and a time of compliance, not to exceed 30 days, which the officer or agency, as the case may be, determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

Civil penalty.

(c) Upon a request of such officer or agency, as the case may be, the Attorney General may commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed \$25,000 per day for violations of the compliance order issued under subsection (a). Any action under this subsection may be brought in any district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty or give ancillary relief.

Jurisdiction.

EXPORT LIMITATIONS

15 USC 719j.
15 USC 717w.

SEC. 12. Any exports of Alaska natural gas shall be subject to the requirements of the Natural Gas Act and section 103 of the Energy

Policy and Conservation Act, except that in addition to the requirements of such Acts, before any Alaska natural gas in excess of 1,000 Mcf per day may be exported to any nation other than Canada or Mexico, the President must make and publish an express finding that such exports will not diminish the total quantity or quality nor increase the total price of energy available to the United States.

42 USC 6212.

Presidential
finding,
publication.

EQUAL ACCESS TO FACILITIES

SEC. 13. (a) There shall be included in the terms of any certificate, permit, right-of-way, lease, or other authorization issued or granted pursuant to the directions contained in section 9 of this Act, a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system shall be prevented from doing so or be discriminated against in the terms and conditions of service on the basis of degree of ownership, or lack thereof, of the Alaska natural gas transportation system.

15 USC 719k.

(b) The State of Alaska is authorized to ship its royalty gas on the approved transportation system for use within Alaska and, to the extent its contracts for the sale of royalty gas so provide, to withdraw such gas from the interstate market for use within Alaska; the Federal Power Commission shall issue all authorizations necessary to effectuate such shipment and withdrawal subject to review by the Commission only of the justness and reasonableness of the rate charged for such transportation.

ANTITRUST LAWS

SEC. 14. Nothing in this Act, and no action taken hereunder, shall imply or effect an amendment to, or exemption from, any provision of the antitrust laws.

15 USC 719f

AUTHORIZATION

SEC. 15. There is hereby authorized to be appropriated beginning in fiscal year 1978 and each fiscal year thereafter, such sums as may be necessary to carry out the functions of the Federal inspector appointed by the President with the advice and consent of the Senate under section 7.

15 USC 719m.

SEPARABILITY

SEC. 16. If any provision of this Act, or the application thereof, is held invalid, the remainder of this Act shall not be affected thereby.

15 USC 719n.

CIVIL RIGHTS

SEC. 17. All Federal officers and agencies shall take such affirmative action as is necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving, or participating in any activity conducted under, any certificates, permit, right-of-way, lease, or other authorization granted or issued pursuant to this Act. The appropriate Federal officers and agencies shall promulgate such rules as are necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964.

Discrimination,
prohibition.
15 USC 719o.

Rules.

42 USC 2000d.

REPORT ON THE EQUITABLE ALLOCATION OF NORTH SLOPE CRUDE OIL

Report to
Congress.
43 USC 1651
note.

43 USC 1651
note.

SEC. 18. Within 6 months of the date of enactment of this Act, the President shall determine what special expediting procedures are necessary to insure the equitable allocation of north slope crude oil to the Northern Tier States of Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio (hereinafter referred to as the "Northern Tier States") to carry out the provisions of section 410 of Public Law 93-153 and shall report his findings to the Congress. In his report, the President shall identify the specific provisions of law, which relate to any determination of a Federal officer or agency as to whether to issue or grant a certificate, permit, right-of-way, lease, or other authorization in connection with the construction of an oil delivery system serving the Northern Tier States and which the President finds would inhibit the expeditious construction of such a system in the contiguous States of the United States. In addition the President will include in his report a statement which demonstrates the impact that the delivery system will have on reducing the dependency of New England and the Middle Atlantic States on foreign oil imports. Furthermore, all Federal officers and agencies shall, prior to the submission of such report and further congressional action relating thereto, expedite to the fullest practicable extent all applications and requests for action made with respect to such an oil delivery system.

ANTITRUST STUDY

Report to
Congress.
15 USC 719 note.

SEC. 19. The Attorney General of the United States is authorized and directed to conduct a thorough study of the antitrust issues and problems relating to the production and transportation of Alaska natural gas and, not later than six months following the date of enactment of this Act, to complete such study and submit to the Congress a report containing his findings and recommendations with respect thereto.

EXPIRATION

15 USC 719 note.

SEC. 20. This Act shall terminate in the event that no decision of the President takes effect under section 8 of this Act, such termination to occur at the end of the last day on which a decision could be, but is not, approved under such section.

Approved October 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1658, Pt. 1 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-1020 (Comm. on Commerce and Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 122 (1976):

July 1, considered and passed Senate.

Sept. 30, considered and passed House, amended.

Oct. 1, Senate agreed to House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 44:

Oct. 22, Presidential statement.

Public Law 94-587
94th Congress

An Act

Authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Oct. 22, 1976
[S. 3823]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 101. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resources development projects, substantially in accordance with, and subject to the conditions recommended by the Chief of Engineers in, the reports hereinafter designated.

Water Resources
Development Act
of 1976.

MIDDLE ATLANTIC COASTAL REGION

The project for beach erosion control, navigation, and storm protection from Hereford Inlet to the Delaware Bay entrance to the Cape May Canal, New Jersey: Report of the Chief of Engineers dated September 30, 1975, at an estimated cost of \$2,062,000.

The project for beach erosion control, navigation, and storm protection from Barnegat Inlet to Longport, New Jersey: Report of the Chief of Engineers dated October 24, 1975, at an estimated cost of \$2,396,000.

WALLKILL RIVER BASIN

The project for flood control of the Black Dirt Area, Wallkill River, New York and New Jersey: House Document Numbered 94-499, at an estimated cost of \$330,000.

PASSAIC RIVER BASIN

The project for flood control in the Passaic River Basin, New Jersey and New York: Report of the Chief of Engineers dated February 18, 1976, at an estimated cost of \$12,000,000.

SUSQUEHANNA RIVER BASIN

The project for flood control at Lock Haven, Pennsylvania: House Document Numbered 94-577, at an estimated cost of \$430,000.

The project for flood control at Wyoming Valley, Susquehanna River, Luzerne County, Pennsylvania: House Document Numbered 94-482, at an estimated cost of \$450,000.

JAMES RIVER BASIN

The project for flood control at Richmond, Virginia: Report of the Chief of Engineers dated January 7, 1976, at an estimated cost of \$800,000.

SOUTH ATLANTIC COASTAL REGION

The project for navigation at Brunswick Harbor, Georgia: Report of the Chief of Engineers dated August 18, 1976, at an estimated cost of \$300,000, except that the Secretary of the Army, acting through

the Chief of Engineers, shall include as part of the phase I study consideration of dredging a navigation channel to Colonel's Island.

COOPER RIVER BASIN

The project for navigation improvements at Charleston Harbor, South Carolina: House Document Numbered 94-436, at an estimated cost of \$500,000.

COMMONWEALTH OF PUERTO RICO

The project for navigation improvements at San Juan Harbor, Puerto Rico: House Document Numbered 94-574, at an estimated cost of \$300,000.

UPPER MISSISSIPPI RIVER BASIN

The project for local flood protection and other purposes at La Crosse, Wisconsin, on the Mississippi River: House Document Numbered 94-598, at an estimated cost of \$400,000.

GREAT LAKES BASIN

88 Stat. 28.

33 USC 426e.

The project for beach erosion control for Presque Isle Peninsula at Erie, Pennsylvania: Report of the Chief of Engineers dated April 8, 1976, at an estimated cost of \$700,000. At the expiration of the authorization provided in section 57 of the Water Resources Development Act of 1974, the Secretary of the Army, acting through the Chief of Engineers, may provide periodic beach nourishment in accordance with the cost sharing provisions of section 103(a)(2) of the Act of October 23, 1962 (76 Stat. 1178).

The project for flood control and other purposes on Little Calumet River in Indiana: Report of the Chief of Engineers dated July 19, 1976, at an estimated cost of \$1,400,000.

SIUSLAW RIVER

The project for navigation improvements on the Siuslaw River and Bar at Siuslaw, Oregon: In accordance with the final report of the Chief of Engineers, at an estimated cost of \$50,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

PAPILLON CREEK BASIN

The project for local flood protection on Papillon Creek at Omaha, Nebraska: In accordance with the final report of the Chief of Engineers, at an estimated cost of \$75,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

OHIO RIVER BASIN

The project for abatement of acid mine drainage in the Clarion River Basin, Pennsylvania: Report of the Secretary of the Army dated April 1971, entitled, "Development of Water Resources in Appalachia", at an estimated cost of \$600,000.

LOWER MISSISSIPPI RIVER BASIN

The project for flood protection for St. Johns Bayou and New Madrid Floodway, Missouri: Report of the Chief of Engineers dated September 26, 1975, at an estimated cost of \$300,000.

The project for flood protection for Nonconnah Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated June 23, 1976, and as an independent part of this project, improvements for flood control and allied purposes on Horn Lake Creek and tributaries, including Cowpen Creek, Tennessee and Mississippi, at an estimated cost of \$400,000.

TEXAS GULF COAST REGION

The project for natural salt pollution control in the Brazos River: Report of the Chief of Engineers dated June 1, 1976, at an estimated cost of \$650,000.

RIO GRANDE BASIN

The project for flood control and other purposes, on the Rio Grande and Rio Salado (Rio Puerco), New Mexico: Report of the Chief of Engineers dated September 27, 1976, at an estimated cost of \$1,500,000.

MISSOURI RIVER BASIN

The project for flood protection for Jefferson City on Wears Creeks, Missouri: Report of the Chief of Engineers dated October 21, 1975, at an estimated cost of \$50,000.

COLUMBIA RIVER BASIN

The project for construction and installation of a second powerhouse at McNary Lock and Dam, Columbia River, Oregon and Washington: Report of the Chief of Engineers dated June 29, 1976, at an estimated cost of \$1,800,000.

PEMBINA RIVER BASIN

The project for flood control on the Pembina River at Walhalla, North Dakota: Report of the Division Engineer dated May 24, 1976, at an estimated cost of \$930,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

CALLEGUAS CREEK BASIN

The project for flood control and other purposes on Calleguas Creek, Simi Valley to Moorpark, Ventura County, California: Report of the Chief of Engineers dated June 21, 1976, at an estimated cost of \$1,060,000.

SACRAMENTO-SAN JOAQUIN BASIN

The project for flood control and other purposes on Morrison Creek Stream Group, California: Report of the Chief of Engineers dated March 2, 1976, at an estimated cost of \$750,000.

NORTH-EASTERN ATLANTIC COASTAL REGION

The project for navigation improvements in New London Harbor and Thames River at New London, Connecticut: Report of the Chief

of Engineers dated February 20, 1975, at an estimated cost of \$8,022,000.

RED RIVER OF THE NORTH BASIN

The project for local flood protection at Grafton, North Dakota, on the Park River: Report of the Chief of Engineers dated June 11, 1976, at an estimated cost of \$10,973,000.

(b) The Secretary of the Army is authorized to undertake advanced engineering and design for the projects in subsection (a) of this section after completion of the phase I design memorandum stage of such projects. Such advanced engineering and design may be undertaken only upon a finding by the Chief of Engineers, transmitted to the Committees on Public Works of the Senate and Public Works and Transportation of the House of Representatives, that the project is without substantial controversy, that it is substantially in accordance with and subject to the conditions recommended for such project in this section, and that the advanced engineering and design will be compatible with any project modifications which may be under consideration. There is authorized to carry out this subsection not to exceed \$5,000,000. No funds appropriated under this subsection may be used for land acquisition or commencement of construction.

(c) Whenever the Chief of Engineers transmits his recommendations for a water resources development project to the Secretary of the Army for transmittal to the Congress, as authorized in the first section of the Act of December 22, 1944, the Chief of Engineers is authorized to undertake the phase I design memorandum stage of advanced engineering and design of such project if the Chief of Engineers finds and transmits to the Committees on Public Works and Transportation of the House of Representatives and Public Works of the Senate, that the project is without substantial controversy and justifies further engineering, economic, and environmental investigations. Authorization for such phase I work for a project shall terminate on the date of enactment of the first Water Resources Development Act enacted after the date such work is first authorized. There is authorized to carry out this subsection not to exceed \$4,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

SEC. 102. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

UPPER MISSISSIPPI RIVER BASIN

The project for local flood protection and other purposes at Chaska, Minnesota, on the Minnesota River: Report of the Chief of Engineers dated May 12, 1976, at an estimated cost of \$10,498,000.

JAMES RIVER BASIN

The project for flood control at the Richmond, Virginia, filtration plant: House Document Numbered 94-543, at an estimated cost of \$4,617,000.

Finding,
transmittal to
congressional
committees.

Appropriation
authorization.

Transmittal to
congressional
committee.
33 USC 701-1.

Termination date.

Appropriation
authorization.

33 USC 701c
note, 701-1 note.
82 Stat. 739.

LOWER MISSISSIPPI RIVER BASIN

The project for flood control for Harris Fork Creek, Tennessee and Kentucky: House Document Numbered 94-221, except that highway bridge relocations and alterations required for the project shall be at Federal expense, at an estimated cost of \$5,000,000.

NECHES BASIN

The project for salt water control on the Neches River and Tributaries, Salt Water Barrier at Beaumont, Texas: Report of the Chief of Engineers dated April 12, 1976, at an estimated cost of \$14,300,000, except that the non-Federal share for such project shall not exceed \$2,100,000.

WESTERN COASTAL REGION

The project for navigation in Los Angeles-Long Beach Harbors, California: House Document Numbered 94-594, at an estimated cost of \$16,850,000.

COLUMBIA RIVER BASIN

Fish and Wildlife Compensation Plan for the Lower Snake River, Washington and Idaho, substantially in accordance with a report on file with the Chief of Engineers, at an estimated cost of \$58,400,000.

SEC. 103. The flood control project for San Antonio Channel improvement, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1260) as a part of the comprehensive plan for flood protection on the Guadalupe and San Antonio Rivers, Texas, is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct such additional flood control measures as are needed to preserve and protect the Espada Acequia Aqueduct, located in the vicinity of Six Mile Creek, at an estimated Federal cost of \$2,050,000. Construction of such flood control measures shall be subject to the same conditions of local cooperation as required for the existing flood control project.

33 USC 702a-12
note.

SEC. 104. The project for flood protection on the Minnesota River at Mankato and North Mankato, Minnesota, authorized by section 203 of the Flood Control Act of 1958, as modified, is hereby further modified to provide that changes to the highway bridges in Mankato-North Mankato at United States Highway 169 over the Blue Earth River and at Main Street over the Minnesota River, including rights-of-way, changes to approaches and relocations, made necessary by the project and its present plan of protection shall be accomplished at complete Federal expense, at an estimated cost of \$8,175,000.

72 Stat. 305.

SEC. 105. The general comprehensive plan for flood control and other purposes for the White River Basin approved by the Flood Control Act of June 28, 1938, as amended, is hereby modified to provide that an amount not to exceed \$6,000,000 may be used for the construction at Beaver Dam, Carroll County, Arkansas, of trout production measures (including a fish hatchery) in compensation for the reduced number of fresh water fish in the White River and other streams in Arkansas which has resulted from the construction of the Beaver Dam and other dams in the State of Arkansas, and for the acquisition of necessary real estate, construction of access roads and utilities, and performance of services related thereto, as deemed appropriate by the Secretary of the Army, acting through the Chief of Engineers.

52 Stat. 1215.

New London,
Conn., project
modification.

SEC. 106. (a) The project for hurricane-flood control protection at New London, Connecticut, authorized by the Flood Control Act of 1962 (76 Stat. 1180) is hereby modified to delete the Powder Island-Bentleys Creek hurricane protection barrier; and to authorize construction of the Shaw Cove hurricane protection barrier, pressure conduit, and pumping station works substantially in accordance with the revised plan "New London Hurricane Protection", dated June 1976, on file in the Office of the Chief of Engineers and estimated to cost \$7,745,000; with such modifications as the Chief of Engineers may deem advisable.

Non-Federal
interest,
requirements.

(b) Prior to initiation of construction of the project, appropriate non-Federal interests shall agree—

(1) to provide without cost to the United States all lands, easements, and rights-of-way necessary for construction and operation of the project;

(2) to hold and save the United States free from damage due to construction, operation, and maintenance of the project not including damages due to the fault or negligence of the United States or its contractors;

(3) to accomplish without cost to the United States all modifications or relocations of existing sewerage and drainage facilities, buildings, utilities, and highways made necessary by construction of the project not to include sewerage and drainage facilities at the line of protection;

(4) to maintain and operate all features of the project after completion in accordance with regulations prescribed by the Secretary of the Army; and

(5) to bear 30 per centum of the total first cost.

(c) Notwithstanding subsection (b) of this section, or any other provision of law, non-Federal interests shall bear no part of the cost of any design for this project rejected or otherwise not accepted by such interests prior to the date of enactment of this section.

SEC. 107. Section 107(b) of the River and Harbor Act of 1970 (84 Stat. 1818, 1820), as amended, is further amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1979" and striking out "\$9,500,000" and inserting in lieu thereof "\$15,968,000". Such section 107(b) is further amended in the second sentence thereof by striking out "environmental and ecological investigation;" and inserting in lieu thereof "environmental and ecological investigations, including an investigation of measures necessary to ameliorate any adverse impacts upon local communities;"

Congressional
notification.

SEC. 108. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the Chicagoland underflow plan project for flood control and other purposes in accordance with the report of the Board of Engineers for Rivers and Harbors dated July 27, 1976, at an estimated cost of \$12,000,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

Santa Anna
River, Calif.
project, phase
I design stage.

SEC. 109. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for flood control and other purposes on the Santa Ana River, California, in accordance with the recommendations of the division engineer dated February 27, 1976 at an estimated cost of \$700,000. This shall take

Notice to
Congress.

effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

SEC. 110. The project for navigation for the Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina, authorized by section 101 of the Rivers and Harbors Act of 1970 (84 Stat. 1818) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94-597 with respect to Wilkerson Creek Bridge, North Carolina, and Coinjock Bridge, North Carolina, at an estimated cost of \$2,875,000.

Atlantic
Intracoastal
Waterway
Bridges, Va.,
N.C., project
modification.

SEC. 111. The project for the Saylorville Reservoir on the Des Moines River, Iowa, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 310) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94-487 at an estimated cost of \$7,374,000. The Secretary of the Army, acting through the Chief of Engineers, may carry out each segment of such recommendations independently if he deems appropriate. The Secretary of the Army, acting through the Chief of Engineers is further authorized to (1) undertake such measures, including renegotiating existing easements and the acquisition of additional interests in land, as are appropriate to operate Saylorville Lake and Lake Red Rock projects, singly or as a system, to obtain the maximum benefits therefrom in the public interest and to properly indemnify owners of such easements or interests in land; and (2) provide for the full development of campground and other recreation sites and access thereto for the Lake Red Rock and Saylorville Lake projects at Federal cost, including the improvement of existing county or State roads outside the project limits to provide better access into recreation areas.

Des Moines
River, Iowa,
project
modification.

SEC. 112. The project for navigation improvements on Mobile Harbor, Theodore Ship Channel, Alabama, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives dated December 15, 1970, is hereby modified in accordance with the report of the Board of Engineers for Rivers and Harbors dated May 28, 1976, at an estimated cost of \$42,800,000.

Mobile Harbor,
Ala., project
modification.

SEC. 113. The flood control project for Del Valle Reservoir, Alameda Creek, California, authorized by section 203 of the Flood Control Act of 1962 is hereby modified in accordance with the report of the Chief of Engineers dated July 27, 1976, to increase the contribution made by the United States to the State of California toward the cost of construction, maintenance, and operation from \$4,080,000 to \$4,650,000.

Alameda Creek,
Calif., project
modification.

SEC. 114. The project for the replacement of Vermilion Lock, Louisiana, on the Gulf Intracoastal Waterway is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in the report dated August 3, 1976, at an estimated cost of \$20,683,000.

Vermilion Lock,
La., project
replacement.

SEC. 115. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of modification of the Gallipolis Locks and Dam project, Ohio River, limited to a single 1,200 foot replacement lock, in accordance with the recommendations of the Chief of Engineers dated July 14, 1975, at an estimated cost of \$2,800,000.

Gallipolis Locks
and Dam, Ohio,
project
modification.

SEC. 116. The last sentence of section 91 of the Water Resources Development Act of 1974 (88 Stat. 39) is amended to read as follows:

Appropriation
authorization.

	<p>"There are authorized to be appropriated not to exceed \$28,725,000 to carry out such project."</p> <p>SEC. 117. The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate and study, in cooperation with interested States and Federal agencies, through the Upper Mississippi River Basin Commission the development of a river system management plan in the format of the "Great River Study" for the Mississippi River from the mouth of the Ohio River to the head of navigation at Minneapolis, incorporating total river resource requirements including, but not limited to, navigation, the effects of increased barge traffic, fish and wildlife, recreation, watershed management, and water quality at an estimated cost of \$9,100,000.</p>
River system management plan, study.	
Land conveyance.	<p>SEC. 118. (a) Whenever the Secretary of the Army finds that—</p> <ol style="list-style-type: none"> (1) the Intracoastal Waterway is no longer routed along a part of the segment of the Louisiana-Texas Intracoastal Waterway right-of-way described in subsection (b) of this section; (2) maintenance of such part of the right-of-way has been abandoned by the Corps of Engineers; and (3) such part of the right-of-way is no longer navigable by watercraft; <p>he shall convey, without monetary consideration, any easements or other rights or interests in real property which the United States acquired for the construction, operation, or maintenance of such part of the right-of-way to each owner of record of the real property which is subject to such easements, rights, or interests of the United States.</p> <p>(b) The segment of the Louisiana-Texas Intracoastal Waterway right-of-way referred to in subsection (a) of this section is that segment of the right-of-way for the Louisiana-Texas Intracoastal Waterway, Calcasieu-Sabine section, which (1) is within the portion of the right-of-way for the old Intracoastal Waterway channel (known locally as the "East-West Canal") extending from the east bank of the Calcasieu River at a point approximately twenty miles south of Lake Charles, Louisiana, to the Choupique Cutoff in the Intracoastal Waterway, and (2) is located on the southeast quarter of the southeast quarter of section 25, township 11 south, range 10 west, and in the west half of the southwest quarter of section 30, township 11 south, range 9 west, Calcasieu Parish, Louisiana.</p> <p>SEC. 119. Section 4 of the Act of June 21, 1940, as amended (54 Stat. 498; 33 U.S.C. 514), is amended in the first sentence by striking out "It shall be the duty of the bridge owner to prepare and submit to the Secretary, within ninety days after service of his order" and inserting in lieu thereof "After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary of Transportation, within a reasonable time as prescribed by the Secretary".</p>
Law enforcement services, contracts. 42 USC 1962d-5d.	<p>SEC. 120. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resources development projects under the jurisdiction of the Secretary of the Army to meet needs during peak visitation periods.</p> <p>(b) There is authorized to be appropriated \$6,000,000 per fiscal year for the fiscal years ending September 30, 1978, and September 30, 1979, to carry out this section.</p>
Appropriation authorization.	
Nelson, Pa., relocation.	<p>SEC. 121. (a) The project for flood protection on the North Branch of the Susquehanna River, New York and Pennsylvania, authorized</p>

by section 203 of the Flood Control Act of 1958 (72 Stat. 306) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, in connection with the construction of the Cowansque Dam to relocate the town of Nelson, Pennsylvania, to a new townsite.

(b) As part of such relocation, the Secretary of the Army, acting through the Chief of Engineers, shall (1) cooperate in the planning of a new town with other Federal agencies and appropriate non-Federal interests, including Nelson, (2) acquire lands necessary for the new town and to convey title to said lands to individuals, business or other entities, and to the town as appropriate, and (3) construct necessary municipal facilities.

New town
planning,
cooperation.

(c) The compensation paid to any individual or entity for the taking of property under this section shall be the amount due such individual or entity under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 less the fair market value of the real property conveyed to such individual or entity in the new town. Municipal facilities provided under the authority of this section shall be substitute facilities which serve reasonably as well as those in the existing town of Nelson, except that such facilities shall be constructed to such higher standards as may be necessary to comply with applicable Federal and State laws. Additional facilities may be constructed, only at the expense of appropriate non-Federal interests.

Compensation.

(d) Before the Secretary of the Army acquires any real property for the new townsite appropriate non-Federal interests shall furnish binding contractual commitments that all lots in the new townsite will be either occupied when available, will be replacements for open space and vacant lots in the existing town, or will be purchased by non-Federal interests at the fair market value.

42 USC 4601
note.

SEC. 122. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review the requirement of local cooperation with respect to providing a spoil disposal area for the project at Deep Creek, Warwick County (now within the city of Newport News), Virginia, authorized by the Act of August 26, 1937 (commonly referred to as the River and Harbor Act of 1937, 50 Stat. 846), to determine if (1) such requirement should be eliminated, and (2) Craney Island disposal area should be used as the spoil disposal area for dredged material from such project. Such review shall be completed and submitted in a report to Congress within two years after the date of enactment of this section.

Local
cooperation,
review.

(b) Beginning on the date of enactment of this section, (1) the requirement of local cooperation described in subsection (a) shall be suspended, and (2) Craney Island disposal area shall be used as the spoil disposal area for dredged material from such project, until Congress, by a statute enacted after the date on which the report required by subsection (a) is submitted, removes such suspension.

Report to
Congress.

SEC. 123. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain the Los Angeles-Long Beach harbor model in Vicksburg, Mississippi, for the purpose of testing proposals for the improvement of navigation in, and the environmental quality of, the harbor waters of the ports of Los Angeles and Long Beach to determine optimum plans for future expansion of both ports. Such testing shall include, but not be limited to, investigation of oscillations, tidal flushing characteristics, water quality, improvements for navigation, dredging, harbor fills, and physical structures.

Los Angeles-Long
Beach harbor
model,
Vicksburg, Miss.,
maintenance.

Corpus Christi
Bay, Tex., project
modification.
82 Stat. 731.

SEC. 124. (a) The Corpus Christi ship canal project for navigation in Corpus Christi Bay, Texas, authorized by the Rivers and Harbor Act of 1968 (P.L. 90-483) is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, and embankments therefor. Credit shall be allowed in connection with the above project in an amount equal to the reasonable expenditures made by non-Federal interests in the acquisition of spoil areas and construction of necessary retaining dikes, bulkheads, and embankments prior to the effective date of the Water Resources Development Act of 1976.

Ante, p. 2917.
Waiver.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Texas, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

Louisiana,
highway
construction.

SEC. 125. For the purposes of section 9 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), the consent of Congress is hereby given to the State of Louisiana to construct such structures across any navigable water of the United States as may be necessary for the construction of the following highways:

(1) Ivanhoe-Jeanerette, State project numbered 431-01-01 and 431-01-02 in Iberia and Saint Mary Parishes, Louisiana;

(2) Larose-Lafitte Highway, State Route La 3134 in Jefferson and Lafourche Parishes, Louisiana, starting at Estelle in Jefferson Parish and proceeding southwesterly to Larose in Lafourche Parish; and

(3) United States 90 Relocated (La 3052), in Saint Mary, Assumption, Terrebonne, and Lafourche Parishes, Louisiana, starting at United States 90 west of Raceland and proceeding westerly to a connection with United States 90 at or near Morgan City, Louisiana.

SEC. 126. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of a project for flood prevention and development of incidental recreation, preservation of the natural floodways, and protection of the watershed's soil resources, at an estimated cost of \$370,000, substantially in accordance with the Floodwater Management Plan, North Branch of the Chicago River Watershed, Cook and Lake Counties, Illinois, dated October 1974, and also substantially in accordance with the watershed implementation program dated February 1974.

Wister Lake,
Okla., project
modification.

SEC. 127. The project for Wister Lake, Arkansas River Basin, Oklahoma, authorized by section 4 of the Act of June 28, 1938, entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" (52 Stat. 1218) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to recover and preserve important data from significant archeological sites located on project lands which will be adversely affected as a result of a change in seasonal pool operations. The costs of such work shall not exceed \$250,000.

SEC. 128. (a) The Secretary of the Army is authorized and directed to convey by quitclaim deed to C. B. Porter Scott and Dorothy Boren

Scott of the county of Randall, State of Texas, all rights, title, and interest of the United States in and to the following described tract of land acquired as part of the project for Belton Lake, Texas, authorized by the Flood Control Act of 1946:

60 Stat. 641.

A tract of land situated in the county of Bell, State of Texas, being part of the Stephen P. Terry Survey (A-812), and being part of a 271-acre tract of land acquired by the United States of America from Frank Morgan, and others, by Declaration of Taking filed September 11, 1952, in Condemnation Proceedings (civil numbered 1311) in the District Court of the United States for the Western District of Texas, Waco Division, and being designated as "Tract Numbered F-505 for Belton Lake", and being more particularly described as follows, all bearings being referred to the Texas Plane Coordinate System, Central Zone:

Beginning at Government marker numbered F-503-2, situated in a northeasterly boundary line for said tract numbered F-505 for the point of beginning, said point of beginning being the southeast corner for a 0.25 acre tract of land acquired by the United States of America from Edward Cameron, et ux, by deed dated January 13, 1953, and recorded in volume 679 at page 456 and by correction deed dated May 25, 1955, and recorded in volume 722 at page 559 of the deed records of Bell County, Texas, and being designated as "Tract Numbered F-503 for Belton Lake", said point of beginning also being located south 74 degrees 21 minutes east, 38.3 feet from a point on top of the bluff for a re-entrant corner for said tract numbered F-505;

thence along the boundary line for said tract numbered F-505 as follows: south 74 degrees and 21 minutes east, 271.70 feet to a point;

thence south 45 degrees 14 minutes west, 154.5 feet to a point;

thence south 28 degrees 09 minutes east, 185 feet to a point;

thence north 73 degrees 45 minutes west, 324.23 feet to Government marker numbered A-65-9 for a northeast corner for a 79.70-acre tract of land acquired by the United States of America from Eleanor M. Paulk, and others, by deed dated July 28, 1952, and recorded in volume 672 at page 233 of the deed records of Bell County, Texas, and being designated as "Tract Numbered A-65 for Belton Lake";

thence departing from the boundary line for said tract numbered F-505, north 27 degrees 53 minutes west, 169.85 feet to a point;

thence north 55 degrees 26 minutes east, 184 feet more or less, to the point of beginning, containing 1.87 acres, more or less.

(b) The grantees shall, as a condition to the conveyance authorized by subsection (a), pay to the United States an amount equal to the sum originally paid by the United States for the tract of land described in subsection (a) of this section.

Payment.

SEC. 129. (a) The project for Blue Marsh Lake, Berks County, Pennsylvania, a part of the plan for the comprehensive development of the Delaware River Basin, as authorized by section 201 of the Flood Control Act of 1962 (76 Stat. 1183), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to relocate and restore intact the historic structure and associated improvements known as the Gruber Wagon Works located on certain Federal lands to be inundated upon completion of the project, at an estimated cost of \$922,000.

Blue Marsh Lake,
Pa., project
modification.

Title transfer.

(b) Upon completion of the relocation and restoration of the Gruber Wagon Works at a site mutually agreeable to the Secretary of the Army and the County of Berks, title to the structure and associated improvements and equipment shall be transferred to the County of Berks upon condition that such county agree to maintain such historic property in perpetuity as a public museum at no cost to the Federal Government.

SEC. 130. The authorized McClellan-Kerr Arkansas River navigation system is hereby modified to provide a nine-foot deep navigation channel, one hundred feet in width, extending approximately ten miles from the McClellan-Kerr navigation sailing line upstream on the Big Sallisaw Creek and Little Sallisaw Creek to and including a turning basin, near United States Highway 59, in a location generally conforming to Site I, as described in the Tulsa District Engineer's Project Formulation Memorandum entitled "Big and Little Sallisaw Creeks, Oklahoma, Section 107 Navigation Project" dated August 1973, at an estimated cost of \$1,200,000.

42 USC
1962d-5.

SEC. 131. (a) The first sentence of section 201 (a) of the Flood Control Act of 1965 (Public Law 89-298) is amended by striking out "\$10,000,000." and inserting in lieu thereof "\$15,000,000."

(b) Section 201 (b) of such Act is amended by striking out "\$10,000,000" and inserting in lieu thereof "\$15,000,000".

Souris River,
N. Dak., project
modification.

42 USC
1962d-5.

SEC. 132. The project for flood protection on the Souris River at Minot, North Dakota, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives under authority of section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962-5), and modified by section 105 of the Water Resources Development Act of 1974 (88 Stat. 42), is hereby further modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to reimburse the designated non-Federal interest for the estimated additional expense (exceeding that set forth in such section 105) incurred by such non-Federal interest in undertaking its required cooperation for the proposed channel realignment in the downstream area of the project near Logan, North Dakota, except that such reimbursement shall not exceed \$250,000.

33 USC 577.

SEC. 133. (a) Subsection (b) of section 107 of the River and Harbor Act of 1960 (74 Stat. 480) is further amended by striking out "\$1,000,000" and inserting in lieu thereof "\$2,000,000".

33 USC 701s.

(b) Section 61 of the Water Resources Development Act of 1974 (88 Stat. 12) is amended as follows:

(1) By striking out "\$1,000,000" and inserting in lieu thereof "\$2,000,000".

(2) By striking out "\$2,000,000" and inserting in lieu thereof "\$3,000,000".

33 USC 577 note.

(c) The amendments made by this section shall not apply to any project under contract for construction on the date of enactment of the Water Resources Development Act of 1976.

Ante, p. 2917.
Certification
procedure.

SEC. 134. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed within ninety days after enactment of this Act to institute a procedure enabling the engineer officer in charge of each district under the direction of the Chief of Engineers to certify, at the request of local interests, that particular local improvements for flood control can reasonably be expected to be compatible with a specific, potential project then under study or other form of consideration. Such certification shall be interpreted to assure local interests that they may go forward to construct such compatible

improvements at local expense with the understanding that such improvements can be reasonably expected to be included within the scope of the Federal project, if later authorized, both for the purposes of analyzing the costs and benefits of the project and assessing the local participation in the costs of such project. This subsection shall cease to be in effect after December 31, 1977.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to include in the survey report on flood protection on Mingo Creek and its tributaries, Oklahoma, authorized by section 208 of the Flood Control Act of 1965, the costs and benefits of local improvements initiated by the city of Tulsa for such flood protection subsequent to January 1, 1975, which the Chief of Engineers determines are compatible with and constitute an integral part of his recommended plan. In determining the appropriate non-Federal share for such project the Chief of Engineers shall give recognition to costs incurred by non-Federal interest in carrying out such local improvements.

SEC. 135. The project for Port San Luis Obispo Harbor, California, authorized by section 301 of the River and Harbor Act of 1965, is hereby modified substantially in accordance with the plan described in the Los Angeles District Engineers report on "Port San Luis, California" dated April 1976, and the conditions of local cooperation specified in subparagraphs 1.a. through 1.o. of appendix 7 thereof, at an estimated cost of \$6,040,000.

SEC. 136. (a) The project for flood control on the Napa River, Napa County, California, authorized by section 204 of the Flood Control Act of 1965, is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to acquire approximately 577 acres of land for the purpose of mitigating adverse impacts on fish and wildlife occasioned by the project. The non-Federal share of the cost of such lands shall be the percentage as that required for the overall project.

(b) Such project is further modified to include construction by the Secretary of the Army acting through the Chief of Engineers, of the Napa Creek watershed project of the Soil Conservation Service approved June 25, 1962.

(c) No part of the cost of the modified project authorized by this section shall include the cost of the Secretary of the Army, acting through the Chief of Engineers, performing maintenance dredging for the navigation project for the Napa River.

SEC. 137. The project for flood control in East St. Louis and vicinity, Illinois, authorized by section 204 of the Flood Control Act approved October 27, 1965, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the Blue Waters Ditch segment of the overall project independently of the other project segments. Prior to initiation of construction of the Blue Waters Ditch segment, appropriate non-Federal interests shall agree, in accordance with the provisions of section 221 of the Flood Control Act of 1970, to furnish non-Federal cooperation for such segment.

SEC. 138. The Secretary of the Army, acting through the Chief of Engineers, shall continue studies and construction of bank protection works pursuant to the project for the Sacramento River, Chico Landing to Red Bluff, California, authorized by the Flood Control Act of 1958, notwithstanding the completion of the remaining ten sites proposed for construction at the time of enactment of this Act.

Termination date.

Mingo Creek,
Okla., report.

79 Stat. 1085.

Port San Luis
Obispo Harbor,
Calif., project
modification.
79 Stat. 1089.

Napa River,
Calif., project
modification.
79 USC 1074.

East St. Louis,
Ill., project
modification.

42 USC
1962d-5b.

Sacramento
River, Calif.,
project study.

Waurika Dam
and Reservoir,
Okla., project
modification.

SEC. 139. The project for Waurika Dam and Reservoir on Beaver Creek, Oklahoma, authorized by the Act of December 30, 1963 (P.L. 88-253), is hereby modified to provide that the interest rate applicable to the repayment by non-Federal interests of the cost of the water conveyance facilities shall be the same as the interest rate established for repayment of the cost of municipal and industrial water supply storage in the reservoir.

33 USC 547a.

SEC. 140. In the case of any authorized navigation project which has been partially constructed, or is to be constructed, which is located in one or more States, and which serves regional needs, the Secretary of the Army, acting through the Chief of Engineers, may include in any economic analysis which is under preparation at the time of enactment of this Act such regional economic development benefits as he determines to be appropriate for purposes of computing the economic justification of the project.

Susquehanna
River, Pa., flood
protection study;
report to
Congress.

SEC. 141. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make a study and report which shall include his conclusions and recommendations to the Congress on the advisability and feasibility of providing flood protection by dredging the Susquehanna River in the Wyoming Valley, Pennsylvania, and the surrounding region.

San Francisco
Bay,
investigation.

SEC. 142. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to investigate the flood and related problems to those lands lying below the plane of mean higher high water along the San Francisco Bay shoreline of San Mateo, Santa Clara, Alameda, Napa, Sonoma and Solano Counties to the confluence of the Sacramento and San Joaquin Rivers with a view toward determining the feasibility of and the Federal interest in providing protection against tidal and fluvial flooding. The investigation shall evaluate the effects of any proposed improvements on wildlife preservation, agriculture, municipal and urban interests in coordination with Federal, State, regional, and local agencies with particular reference to preservation of existing marshland in the San Francisco Bay region.

Study.

SEC. 143. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make a study in cooperation with the government of the Territory of American Samoa with particular reference to providing a plan for the development, utilization, and conservation of water and related land resources. Such study shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

Hilo Bay Area
and Kailua-Kona,
Hawaii, study.

SEC. 144. The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the State of Hawaii and appropriate units of local government, shall make a study of methods to develop, utilize, and conserve water and land resources in the Hilo Bay Area, Hawaii, and Kailua-Kona, Hawaii. Such study shall include, but not be limited to, consideration of the need for flood protection, appropriate use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water manage-

ment facilities systems, recreation facilities, enhancement and conservation of water quality, enhancement and conservation of fish and wildlife, other measures for environmental enhancement, and economic and human resources development. Based upon the findings of such study, the Secretary of the Army, acting through the Chief of Engineers, shall prepare a plan for the implementation of such findings which shall be compatible with other comprehensive development plans prepared by local planning agencies and other interested Federal agencies.

SEC. 145. The Secretary of the Army, acting through the Chief of Engineers, is authorized upon request of the State, to place on the beaches of such State beach-quality sand which has been dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches, if the Secretary deems such action to be in the public interest and upon payment of the increased cost thereof above the cost required for alternative methods of disposing of such sand.

Beaches.
33 USC 426j.

SEC. 146. The project for harbor improvement at Noyo, Mendocino County, California, authorized by the River and Harbor Act of 1962 (76 Stat. 1173), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct such breakwaters as may be needed to provide necessary protection, but not more than two, and to construct such additional channel improvements, including, but not limited to, deepening, widening, and extensions, as he deems necessary to meet applicable economic and environmental criteria.

Noyo, Calif.,
breakwaters.

SEC. 147. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to conduct hydrographic surveys of the Columbia River from Richland, Washington, to Grand Coulee Dam for the purpose of identifying navigational hazards and preparing maps of the river channel at an estimated cost of \$500,000, and providing information necessary for establishment of aids to navigation.

Columbia River,
Wash.,
hydrographic
surveys.

SEC. 148. The Secretary of the Army, acting through the Chief of Engineers, shall utilize and encourage the utilization of such management practices as he determines appropriate to extend the capacity and useful life of dredged material disposal areas such that the need for new dredged material disposal areas is kept to a minimum. Management practices authorized by this section shall include, but not be limited to, the construction of dikes, consolidation and dewatering of dredged material, and construction of drainage and outflow facilities.

33 USC 419a.

SEC. 149. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to remove Shooters' Island located north of Staten Island, New York, at the mouth of Arthur Kill and to utilize such removed material for fill and widening of Arthur Kill.

Shooters' Island,
N.Y., removal

SEC. 150. The Secretary of the Army, acting through the Chief of Engineers, is authorized to plan and establish wetland areas as part of an authorized water resources development project under his jurisdiction. Establishment of any wetland area in connection with the dredging required for such a water resources development project may be undertaken in any case where the Chief of Engineers in his judgment finds that—

Wetland areas.
42 USC
1962d-5e.

(1) environmental, economic, and social benefits of the wetland area justifies the increased cost thereof above the cost required for alternative methods of disposing of dredged material for such project; and

(2) the increased cost of such wetland area will not exceed \$400,000; and

(3) there is reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man-made causes.

Report to
Congress.

(b) Whenever the Secretary of the Army, acting through the Chief of Engineers, submits to Congress a report on a water resources development project after the date of enactment of this section, such report shall include, where appropriate, consideration of the establishment of wetland areas.

Costs.

(c) In the computation of benefits and cost of any water resources development project the benefits of establishing of any wetland area shall be deemed to be at least equal to the cost of establishing such area. All costs of establishing a wetland area shall be borne by the United States.

Chief Joseph
Dam, Wash.,
project
modification.
60 Stat. 634.

SEC. 151. The project for the Chief Joseph Dam authorized by the Act of July 2, 1946 (Public Law 525, 79th Congress) is modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide such temporary school facilities as he may deem necessary for the education of dependents of persons engaged in the construction of additional hydroelectric power facilities at Chief Joseph Dam and Reservoir, Washington. When he determines it to be in the public interest, the Secretary, acting through the Chief of Engineers, may enter into cooperative arrangements with local and Federal agencies for the operation of such Government facilities, for the expansion of local facilities at Federal expense, and for contributions by the Federal Government to cover the increased cost to local agencies of providing the educational services required by the Government.

Cooperative
arrangements.

Liberty Park,
N.J., levee and
seawall.

SEC. 152. The Secretary of the Army, acting through the Chief of Engineers, is authorized to participate in the construction of a levee and protective seawall at Liberty Park, New Jersey, at an estimated cost of \$12,600,000. Appropriate non-Federal interests shall furnish all necessary lands, easements and rights-of-way necessary for such project and shall contribute 30 per centum of the total cost exclusive of land costs.

42 USC
1962d-5.

SEC. 153. The last sentence under the center heading "ARKANSAS-RED RIVER BASIN" in section 201 of the Flood Control Act of 1970 (84 Stat. 1825) is amended to read as follows: "Construction shall not be initiated on any element of such project until such element has been approved by the Secretary of the Army."

33 USC 59f.

SEC. 154. The prohibitions and provisions for review and approval concerning wharves and piers in waters of the United States as set forth in section 10 of the Act of March 3, 1899 (30 Stat. 1151) and the first section of the Act of June 13, 1902 (32 Stat. 371) shall not apply to any body of water located entirely within one State which is, or could be, considered to be a navigable body of water of the United States solely on the basis of historical use in interstate commerce.

42 USC 1962d-5
note.

SEC. 155. (a) Subsection (c) of section 32 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and by adding at the end thereof the following:

"(5) the delta of the Eel River, California.

"(6) the lower Yellowstone River from Intake Montana, to the mouth of such river."

(b) Subsection (e) of such section 32 is amended to read as follows:

“(e) There is authorized to be appropriated not to exceed \$50,000,000 to carry out this section.”

SEC. 156. The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide periodic beach nourishment in the case of each water resources development project where such nourishment has been authorized for a limited period for such additional period as he determines necessary but in no event shall such additional period extend beyond the fifteenth year which begins after the date of initiation of construction of such project.

SEC. 157. (a) Section 12(b) of the Water Resources Development Act of 1974 (88 Stat. 17) is amended by striking out “one hundred and eighty” each time it appears and inserting in lieu thereof “ninety”.

(b) The amendment made by subsection (a) of this section shall take effect on January 1, 1977.

SEC. 158. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a comprehensive study and report on the system of waterway improvements under his jurisdiction. The study shall include a review of the existing system and its capability for meeting the national needs including emergency and defense requirements and an appraisal of additional improvements necessary to optimize the system and its intermodal characteristics. The Secretary of the Army, acting through the Chief of Engineers, shall submit a report to Congress on this study, within three years after funds are first appropriated and made available for the study, together with his recommendations. The Secretary of the Army, acting through the Chief of Engineers, shall, upon request, from time to time make available to the National Transportation Policy Study Commission established by section 154 of Public Law 94-280, the information and other data developed as a result of the study.

SEC. 159. The Marysville Lake project, California, authorized by the Flood Control Act of 1966 (80 Stat. 1405), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake the phase I design memorandum stage of advanced engineering and design for a multiple-purpose project located at the Parks Bar site, including power development with pumped storage, at an estimated cost of \$150,000.

SEC. 160. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for hydroelectric power on the Susitna River, Alaska, in accordance with the recommendations of the Board of Engineers for Rivers and Harbors in its report dated June 24, 1976, at an estimated cost \$25,000,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

SEC. 161. Section 32 of the Water Resources Development Act of 1974 (88 Stat. 12) is amended as follows:

(1) In subsection (c)(3) strike “; and” and add “, including areas on the right bank at river miles 1345; 1310; 1311; 1316.5; 1334.5; 1341; 1343.5; 1379.5; 1385; and on the left bank at river miles 1316.5; 1320.5; 1323; 1326.5; 1335.7; 1338.5; 1345.2; 1357.5; 1360; 1366.5; 1368; and 1374;”;

(2) A new subsection (f) is added as follows:

(f) The Secretary of the Army shall make an interim report to Congress on work undertaken pursuant to this section by September 30, 1978, and shall make a [final] report to the Congress no later than December 31, 1981.”

Appropriation
authorization.
Beach
nourishment.
42 USC
1962d-5f.

33 USC 579.

Effective date.
33 USC 579 note.

Study and report.
33 USC 540 note.

Review.

Report to
Congress.

Ante, p. 448.

Marysville Lake,
Calif., project
modification.

Susitna River,
Ala.

Notice to
Congress.

42 USC 1962d-5
note.

Reports to
Congress.

Nonnavigable
waters.
33 USC 59m.

SEC. 162. For the purposes of section 10 of the Act of March 3, 1899 (30 Stat. 1151) (33 U.S.C. 401) the following bodies of water are declared nonnavigable: Lake Oswego, Oregon; Lake Coeur d'Alene, Idaho; and Lake George, New York.

Study.

SEC. 163. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study water and surface transportation needs resulting from the expansion and further development of the San Pedro Bay ports. Such study shall include, but not be limited to, the feasibility and advisability of enlarging the Dominguez Channel for flood control purposes.

Snake River,
Oreg., Wash.,
Idaho, project
modification.

SEC. 164. The project for the Snake River, Oregon, Washington, and Idaho, authorized in section 2 of the River and Harbor Act of 1945 (59 Stat. 21) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct at full Federal expense a four-lane, high-level highway bridge and approaches thereto connecting the cities of Lewiston, Idaho, and Clarkston, Washington, at or near river mile 141.3 of the Snake River, approximately two miles upstream of the present United States Highway 12 bridge. Before construction may be initiated the non-Federal interests shall agree pursuant to section 221 of the Flood Control Act of 1970 (P.L. 91-611) to (1) hold and save the United States free from damages resulting from construction of the bridge and its approaches, (2) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the bridge and its approaches, and (3) own, maintain, and operate the bridge and its approaches after construction is completed, free to the public. There is authorized to carry out this section not to exceed \$21,000,000.

42 USC
1962d-5b.

SEC. 165. That portion of the first section of the Act of September 1, 1916 (39 Stat. 693) entitled "Washington Aqueduct" is hereby repealed.

Appropriation
authorization.

Repeal.
40 USC 53.

Demonstration
program.
33 USC 426k.

SEC. 166. (a) In order to alleviate water damage on the shoreline of Lake Michigan and others of the Great Lakes during periods of abnormally high water levels in the Great Lakes, and to improve the water quality of the Illinois Waterway, the Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a five-year demonstration program to temporarily increase the diversion of water from Lake Michigan at Chicago, Illinois, for the purpose of testing the practicability of increasing the average annual diversion from the present limit of three thousand two hundred cubic feet per second to ten thousand cubic feet per second. The demonstration program will increase the controllable diversion by various amounts calculated to raise the average annual diversion above three thousand two hundred cubic feet per second up to ten thousand cubic feet per second. The increase in diversion rate will be accomplished incrementally and will take into consideration the effects of such increase on the Illinois Waterway. The program will be developed by the Chief of Engineers in cooperation with the State of Illinois and the Metropolitan Sanitary District of Greater Chicago. The program will be implemented by the State of Illinois and the Metropolitan Sanitary District of Greater Chicago under the supervision of the Chief of Engineers.

Controllable
diversion rate.

(b) During the demonstration program a controllable diversion rate will be established for each month calculated to establish an annual average diversion from three thousand two hundred cubic feet per second to not more than ten thousand cubic feet per second. When the level of Lake Michigan is below its average level, the total

diversion for the succeeding accounting year shall not exceed three thousand two hundred cubic feet per second on an annual basis. The average level of Lake Michigan will be based upon the average monthly level for the period from 1900 to 1975.

(c) When river stages approach or are predicted to approach bank-full conditions at the established flood warning stations on the Illinois Waterway or the Mississippi River, or when further increased diversion of water from Lake Michigan would adversely affect water levels necessary for navigational requirements of the Saint Lawrence Seaway in its entirety throughout the Saint Lawrence River and Great Lakes-Saint Lawrence Seaway, water shall not be diverted directly from Lake Michigan at the Wilmette, O'Brien, or Chicago River control structures other than as necessary for navigational requirements.

Study and demonstration program.

(d) The Chief of Engineers shall conduct a study and a demonstration program to determine the effects of the increased diversion on the levels of the Great Lakes, on the water quality of the Illinois Waterway, and on the susceptibility of the Illinois Waterway to additional flooding. The study and demonstration program will also investigate any adverse or beneficial impacts which result from this section. The Chief of Engineers, at the end of five years after the enactment of this section, will submit to the Congress the results of this study and demonstration program including recommendations whether to continue this authority or to change the criteria stated in subsection (b) of this section.

Results, submittal to Congress.

(e) For purposes of this section, controllable diversion is defined as that diversion at Wilmette, O'Brien, and Chicago River control structures which is not attributable to leakage or which is not necessary for navigational requirements.

Controllable diversion.

SEC. 167. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to conduct a study of the most efficient methods of utilizing the hydroelectric power resources at water resource development projects under the jurisdiction of the Secretary of the Army and to prepare a plan based upon the findings of such study. Such study shall include, but not be limited to, an analysis of—

Hydroelectric power resources, study.
42 USC
1962d-5g.

(1) the physical potential for hydroelectric development, giving consideration to the economic, social, environmental and institutional factors which will affect the realization of physical potential;

(2) the magnitude and regional distribution of needs for hydroelectric power;

(3) the integration of hydroelectric power generation with generation from other types of generating facilities;

(4) measures necessary to assure that generation from hydroelectric projects will efficiently contribute to meeting the national electric energy demands;

(5) the timing of hydroelectric development to properly coincide with changes in the demand for electric energy;

(6) conventional hydroelectric potential, both high head and low head projects utilizing run-of-rivers and possible advances in mechanical technology, and pumped storage hydroelectric potential at sites which evidence such potential;

(7) the feasibility of adding or reallocating storage and modifying operation rules to increase power production at corps projects with existing hydroelectric installations;

(8) measures deemed necessary or desirable to insure that the potential contribution of hydroelectric resources to the overall electric energy supply are realized to the maximum extent possible; and

(9) any other pertinent factors necessary to evaluate the development and operation of hydroelectric projects of the Corps of Engineers.

Plan, transmittal
to congressional
committees.

(b) Within three years after the date of the first appropriation of funds for the purpose of carrying out this section, the Secretary of the Army, acting through the Chief of Engineers, shall transmit the plan prepared pursuant to subsection (a) with supporting studies and documentation, together with the recommendations of the Secretary and the Chief of Engineers on such plan, to the Committee on Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

Appropriation
authorization.
Feasibility
studies.

(c) There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed \$7,000,000.

(d) The Secretary of the Army, acting through the Chief of Engineers, is authorized with respect to previously authorized projects to undertake feasibility studies of specific hydroelectric power installations that are identified in the course of the study authorized by this section, as having high potential for contribution toward meeting regional power needs. There is authorized to be appropriated to carry out this subsection not to exceed \$5,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

Appropriation
authorization.

42 USC
1962d-16.

SEC. 168. Subsection 22(b) of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by striking out "\$2,000,000" and inserting in lieu thereof "\$4,000,000".

Pine Mountain
Lake on Lee
Creek, Ark.-
Okla., project
construction.
16 USC 460f-12
note.

SEC. 169. Notwithstanding any other provision of law, the project for Pine Mountain Lake on Lee Creek, Arkansas and Oklahoma, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1073), shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act (Public Law 89-72).

Little Dell
Project, Salt Lake
City Streams,
Utah,
modification.

SEC. 170. The Little Dell Project, Salt Lake City Streams, Utah, authorized in section 203 of the Flood Control Act of 1968 (P.L. 90-483; 82 Stat. 744) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to decrease the amount of storage capacity so as to more adequately reflect existing needs.

Sowashee Creek,
Meridian, Miss.,
project
modification.

SEC. 171. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project elements involving the lowermost 10.1 mile-long segment of channel modification of Sowashee Creek at Meridian, Mississippi, substantially in accordance with the plan of development approved by the Administrator, Soil Conservation Service, United States Department of Agriculture, on October 15, 1974, at an estimated cost of \$450,000.

Mermentau River
and the Gulf of
Mexico
Navigation
Channel, La.

SEC. 172. The project for assumption of maintenance of the Mermentau River and the Gulf of Mexico Navigation Channel, Louisiana, is hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions contained in the report of the Board of Engineers for Rivers and Harbors dated January 16, 1976, at an estimated annual cost of \$155,000. This shall take effect upon submittal to the Secretary of the Army by the Chief

Notice to
Congress.

of Engineers and notification to Congress of the approval of the Chief of Engineers.

SEC. 173. The project for flood protection in the Bassett Creek Watershed, Minnesota, is hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions contained in the report of the Board of Engineers for Rivers and Harbors dated July 26, 1976, at an estimated cost of \$7,593,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

Bassett Creek
Watershed,
Minn., project.

Notice to
Congress.

SEC. 174. The project of Caddo Dam and Reservoir, Louisiana, authorized by the Flood Control Act of 1965 (79 Stat. 1077, P.L. 89-298) is hereby modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

Caddo Dam and
Reservoir, La.,
project
modification.

SEC. 175. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for harbor modification at Cleveland Harbor, Ohio, in accordance with the report of the District Engineer, dated June 1976, at an estimated cost of \$500,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

Cleveland
Harbor, Ohio,
project.

Notice to
Congress.

SEC. 176. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to cause a survey to be made at the Navajo Indian Reservation, Arizona, New Mexico, and Utah for flood control and allied purposes, and subject to all applicable provisions of section 217 of the Flood Control Act of 1970 (Public Law 91-611), at an estimated cost of \$2,000,000; and to submit reports thereon to the Congress with the recommendations.

Navajo Indian
Reservation,
Ariz.-N. Mex.-
Utah, survey.
Reports to
Congress.
84 Stat. 1830.

SEC. 177. The authorization of the Gaysville Dam and Lake project, Stockbridge, Chittenden, and Rochester, Vermont, provided by section 5 of the Flood Control Act of 1936, as modified by the Acts of Congress approved May 25, 1937, June 28, 1938, and August 18, 1941, is terminated upon the enactment of this Act.

Gaysville Dam
and Lake project,
Vt., termination.

SEC. 178. (a) If the Secretary of the Army, acting through the Chief of Engineers, finds that the proposed project to be erected at the location to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structure, in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969, then that portion of the Hudson River in Hudson County, State of New Jersey, bounded and described as follows is hereby declared to be nonnavigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof and the erection of permanent pile-supported structures thereon:

Hudson River,
Hudson County,
N.J.
33 USC 59n.

42 USC 4321
note.

Such portion is in the township of North Bergen in the county of Hudson and State of New Jersey, and is more particularly described as follows: At a point in the easterly right-of-way of New Jersey Shore Line Railroad (formerly New Jersey Junction Railroad) said point being located northerly, measured along said easterly right-of-way, 81.93 feet from Station 54+42.4 as shown

on construction drawing dated May 23, 1931, of River Road, filed in the Office of the Hudson County Engineer, Jersey City, New Jersey:

thence (1) northerly and along said easterly right-of-way on a bearing of north 12 degrees 11 minutes 14 seconds east, a distance of 280 feet to a point;

thence (2) south 75 degrees 28 minutes 24 seconds east, a distance of 310 feet to a point;

thence (3) south 17 degrees 15 minutes 41 seconds east, a distance of 101.70 feet to a point;

thence (4) south 62 degrees 18 minutes 12 seconds east a distance of 355.64 feet to a point in the exterior solid fill line of April 7, 1903, and the bulkhead line of April 28, 1904, on the Hudson River;

thence (5) along said exterior solid fill and bulkhead lines south 28 degrees 55 minutes 51 seconds west, a distance of 523 feet to a point in the northerly line of lands now or formerly of New York State Realty and Terminal Company;

thence (6) north 61 degrees 34 minutes 29 seconds west, and along said northerly line of the New York State Realty and Terminal Company, a distance of 590.08 feet to a point in the aforementioned easterly right-of-way of the New Jersey Shore Line Railroad;

thence (7) northerly and along said easterly right-of-way of the New Jersey Shore Line Railroad on a curve to the left a radius of 995.09 feet, an arc length of 170.96 feet to a point therein;

thence (8) northerly, still along the same, on a bearing of north 12 degrees 11 minutes 14 seconds east, a distance of 81.93 feet to the point and place of beginning.

Said parcel containing 8 acres being the same more or less.

Plan approval.

Reimbursement.

Hackensack
River, Hudson
County, N.J.
33 USC 590.

42 USC 4321
note.

(b) The declaration in subsection (a) of this section shall apply only to portions of the above-described area which are either bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

SEC. 179. (a) If the Secretary of the Army, acting through the Chief of Engineers finds that the proposed project to be erected at the location to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structure, in order to preserve and maintain the remaining navigable waterway, and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969, then those portions of the Hackensack River in Hudson County, State of New Jersey, bounded and described as follows are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof and the erection of permanent pile-supported structures thereon:

Beginning at a point where the southeasterly shoreline (mean high water line) of the Hackensack River intersects the easterly line of the Erie Railroad said point property being 2,015.38 feet

northerly along said railroad property from where it intersects the northerly line of the Meadowlands Parkway (100 feet wide) and running from:

thence north 19 degrees 20 minutes 54 seconds west 50.00 feet;
 thence north 37 degrees 30 minutes 08 seconds east 615.38 feet;
 thence north 03 degrees 02 minutes 56 seconds east, 2,087 feet;
 thence north 31 degrees 11 minutes 06 seconds east 577 feet;
 thence north 74 degrees 29 minutes 18 seconds east 541.25 feet;
 thence south 62 degrees 01 minute 31 seconds east 400 feet;
 thence south 55 degrees 46 minutes 27 seconds east 612.52 feet;
 thence south 34 degrees 13 minutes 33 seconds west 517.79 feet;
 thence south 55 degrees 46 minutes 27 seconds east 158.81 feet;
 thence south 34 degrees 13 minutes 33 seconds west 310 feet;
 thence north 55 degrees 26 minutes 27 seconds north 15 feet;
 thence south 34 degrees 13 minutes 33 seconds west 592 feet;

thence running in a southwesterly direction along the shoreline (mean high water line) of the Hackensack River, a distance of 2,360 feet being the same more or less to the easterly property line of the Erie Railroad and the point or place of beginning.

Said parcel containing 67.6 acres being the same more or less.

(b) The declaration in subsection (a) of this section shall apply only to portions of the described area which are either bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

SEC. 180. (a) The Secretary of the Army, acting through the Chief of Engineers, is directed to develop a plan for shoreline protection and beach erosion control along Lake Ontario, and report on such plan to the Congress as soon as practicable. Such report shall include recommendations on measures of protection and proposals for equitable cost sharing, together with recommendations for regulating the level of Lake Ontario to assure maximum protection of the natural environment and to hold shoreline damage to a minimum.

Lake Ontario
Protection Act of
1976.
Plan, report to
Congress.
33 USC 426l.

(b) Until the Congress receives and acts upon the report required under subsection (a) of this section, all Federal agencies having responsibilities affecting the level of Lake Ontario shall, consistent with existing authority, make every effort to discharge such responsibilities in a manner so as to minimize damage and erosion to the shoreline of Lake Ontario.

(c) There is authorized to be appropriated to carry out this section \$2,000,000.

Appropriation
authorization.

(d) This section may be cited as the "Lake Ontario Protection Act of 1976".

Citation of
section.

SEC. 181. (a) (1) Subject to paragraph (2) of this subsection, the consent of Congress is granted under section 9 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), to the Washington Suburban Sanitary Commission to construct a water diversion structure, with an elevation not to exceed one hundred and fifty-nine feet above sea level, from the north shore of the Potomac River at the Washington Suburban Sanitary Commission water filtration plant to the north shore of Watkins Island.

42 USC
1962d-11a.

(2) The structure authorized by paragraph (1) of this subsection, may not be constructed (A) until the Secretary of the Army, acting through the Chief of Engineers, and the State of Maryland, the Com-

Written
agreement.

monwealth of Virginia, the Washington Suburban Sanitary Commission, and such other governmental authorities as the Secretary of the Army, the State of Maryland, and the Commonwealth of Virginia deem desirable signatories enter into a written agreement providing an enforceable schedule for allocation among the parties to such agreement for the withdrawal of the waters of that portion of the Potomac River located between Little Falls Dam and the farthest upstream limit of the pool of water behind the Chesapeake and Ohio Canal Company rubble dam at Seneca, Maryland, during periods of low flow of such portion of such river, and (B) unless such construction is not in conflict with the report of the Secretary of the Army, acting through the Chief of Engineers, submitted pursuant to section 85 of the Water Resources Development Act of 1974.

42 USC 1962d-7
note.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to enter into the agreement referred to in subsection (a) (2) of this section and any amendment to or revision of such agreement.

(c) Except as may be provided in the agreement referred to in subsection (a) (2) of this section, nothing in this section shall alter any riparian rights or other authority of the State of Maryland, or any political subdivision thereof, the Commonwealth of Virginia, or any political subdivision thereof, or the District of Columbia, or authority of the Corps of Engineers existing on the date of enactment of this section relative to the appropriation of water from, or the use of, the Potomac River.

SEC. 182. (a) The authorization for the Richard B. Russell Dam and Lake (formerly Trotters Shoals Reservoir), contained in section 203 of the Flood Control Act of 1966 (80 Stat. 1405) is hereby amended by deleting the following: "Nothing in this Act shall be construed to authorize inclusion of pumped storage power in this project."

58 Stat. 887.
64 Stat. 170.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to install a fifth hydropower unit at the Hartwell Reservoir on the Savannah River, South Carolina and Georgia, approved in the Flood Control Acts of December 22, 1944, and May 17, 1950, at an estimated increased cost of \$15,700,000.

62 Stat. 1175.
80 Stat. 1418.

SEC. 183. The West Tennessee tributaries feature Mississippi River and tributaries project (Obion and Forked Deer Rivers), Tennessee, authorized by the Flood Control Acts approved June 30, 1948, and November 7, 1966, as amended and modified, is hereby further amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct, to main-stem levee standards, a levee with appurtenant works for flood protection immediately east of the authorized diversion channel of the Obion River, authorized by the Flood Control Act of June 22, 1936, as amended by the Flood Control Act of July 24, 1946, and further amended by section 7 of the River Basin Monetary Authorization Act of 1971, from near the mouth of the diversion channel to the vicinity of Highway 88 and thence to high ground in the vicinity of Porter Gap, at an estimated cost of \$1,000,000.

49 Stat. 1572.
60 Stat. 641.
84 Stat. 312.

Ruby, Tenn., site
acquisition.
16 USC 460ee.

SEC. 184. Section 108 of Public Law 93-251 is amended as follows:

(a) At the end of subsection (a) add the following: "The Secretary may acquire sites at locations outside such boundaries, as he determines necessary, for administrative and visitor orientation facilities. The Secretary may also acquire a site outside such boundaries at or near the location of the historic Tabard Inn in Ruby, Tennessee, includ-

ing such lands as he deems necessary, for the establishment of a lodge with recreational facilities as provided in subsection (e)(3).”;

(b) In subsection (b), after the “(b)” insert “(1)” and at the end of such subsection insert the following:

Interim
management.

“(2) The Secretary may by agreement with the Secretary of the Interior provide for interim management by the Department of the Interior, in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535) (16 U.S.C. 1, 2-4) as amended and supplemented, of any portion or portions of the project which constitute a logically and efficiently administrable area. The Secretary is authorized to transfer funds to the Department of the Interior for the costs of such interim management out of funds appropriated for the project.”;

Transfer of funds.

(c) In subsection (c)(1), after the phrase “States of Kentucky and Tennessee or any political subdivisions thereof” insert the following: “which were in public ownership at the time of enactment of this section.”;

(d) At the end of subsection (e)(2)(A), strike the period and insert the following: “and except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devil’s Jumps; and except for the continued operation and maintenance of the rail line currently operated and known as the K & T Railroad. The Secretary shall acquire such interest in the K & T Railroad right-of-way by easement as he deems necessary to protect the scenic, esthetic, and recreational values of the gorge area and the adjacent areas.”;

(e) In subsection (e)(2)(C), strike the period at the end and insert the following: “, the road entering the gorge across from the mouth of Station Camp Creek.”; and

(f) In subsection (e)(2)(K), strike “\$32,850,000” and insert in lieu thereof “\$103,522,000”.

SEC. 185. The Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the States participating in the Tennessee-Tombigbee Waterway Development Authority, in the construction of the Tennessee-Tombigbee Waterway project, including actions to encourage the use, wherever possible, of minority owned firms. The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendation for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

Tennessee-
Tombigbee
Waterway project
construction,
minority groups
participation.
33 USC 544c.
Report to
Congress.

SEC. 186. The Act entitled “An Act to authorize construction of the Mississippi River-Gulf outlet”, approved March 29, 1956 (70 Stat. 65), is amended by inserting before the period at the end thereof a colon and the following: “*And provided further,* That such conditions of local cooperation shall not apply to the construction of bridges (at a cost not to exceed \$71,500,000) required as a result of the construction of the Mississippi River-Gulf outlet channel if the Secretary of the Army, after consultation with the Secretary of Transportation, determines prior to the construction of such bridges that the Federal Government will not assume the costs of such work in accordance with section 132(a) of the Federal-Aid Highway Act of 1976 (Public Law 94-280); and before construction of the bridges may be initiated the non-Federal public bodies involved shall agree pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91-611) to (a)

Ante, p. 441.

42 USC
1962d-5b.

hold and save the United States free from damages resulting from construction of the bridges and their approaches, (b) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the bridges and their approaches, and (c) maintain and operate the bridges and their approaches after construction is completed”.

Red River
Waterway, La.,
Tex., Ark., Okla.,
project
modification.

SEC. 187. The project for navigation and bank stabilization in the Red River Waterway, Louisiana, Texas, Arkansas, and Oklahoma, authorized by the Rivers and Harbors Act of 1968 (82 Stat. 731) is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the construction costs of retaining dikes, bulkheads, and embankments required for initial and subsequent disposal of dredged material, and the Federal cost shall be 75 per centum (currently estimated at \$3,700,000). The requirements for appropriate non-Federal interests to furnish an agreement to contribute 25 per centum of the construction cost set forth above shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, other appropriate political subdivisions of the State, and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

Appropriation
authorization.
Big Blue Lake,
Kans., project
modification.

SEC. 188. Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, at the request of the city of Williston, North Dakota, is authorized and directed to take such action as may be necessary to relocate certain water intakes, located on a pier of the Lewis and Clark Bridge on the Missouri River, threatened by siltation. There is authorized to be appropriated not to exceed \$1,000,000 to carry out the provisions of this section.

SEC. 189. (a) The project for Tuttle Creek Lake, Big Blue Lake, Kansas, authorized as a unit of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved June 28, 1938, as modified, is hereby further modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to (1) provide a residential access road near Waterville, Kansas, from a point of intersection with FAS Route 431, located approximately 0.2 miles south of the northeast corner of section 16, township 4 south, range 6 east, and extending in an east southeasterly direction to a point of intersection with the existing township road located near the center of section 14, township 4 south, range 6 east, and (2) to replace the existing Whiteside Bridge, located one mile northwest of Blue Rapids, Kansas, so as to obtain an elevation of 1128.0 mean sea level.

Appropriation
authorization.

(b) There is authorized to be appropriated not to exceed \$630,000 to carry out the purposes of this section.

SEC. 190. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design on the Days Creek unit of the project for flood control and other purposes on the Red River below Denison Dam, Texas, Arkansas, and Louisiana, substantially in accordance with the report of the Board of Engineers for Rivers and Harbors at an estimated cost of \$300,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of

Engineers and notification to Congress of the approval of the Chief of Engineers.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct the project for flood control and other purposes on the Red River below Denison Dam, Texas, Arkansas and Louisiana, in accordance with the report of the Chief of Engineers dated August 3, 1976, at an estimated cost of \$4,131,000.

SEC. 191. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the non-structural flood protection project on Galveston Bay at Baytown, Texas, in accordance with the final report of the Chief of Engineers, at an estimated Federal cost of \$15,680,000; and provided that non-Federal interests shall be required to pay 20 per centum of the project costs.

Galveston Bay,
Baytown, Tex.,
project.

SEC. 192. The project for flood protection and other purposes on the Deep Fork River in the vicinity of Arcadia, Oklahoma, authorized in section 201 of Public Law 91-611, is amended and reauthorized so as to delete the benefits for water quality and to include benefits for water supply.

Deep Fork River,
Arcadia, Okla.,
project.
84 Stat. 1824.

SEC. 193. In order to assure an adequate supply of food to the Nation and to promote the economic vitality of the High Plains Region, the Secretary of Commerce (hereinafter referred to in this section as the "Secretary"), acting through the Economic Development Administration, in cooperation with the Secretary of the Army, acting through the Chief of Engineers, and appropriate Federal, State, and local agencies, and the private sector, is authorized and directed to study the depletion of the natural resources of those regions of the States of Colorado, Kansas, New Mexico, Oklahoma, Texas, and Nebraska presently utilizing the declining water resources of the Ogallala aquifer, and to develop plans to increase water supplies in the area and report thereon to Congress, together with any recommendations for further congressional action. In formulating these plans, the Secretary is directed to consider all past and ongoing studies, plans, and work on depleted water resources in the region, and to examine the feasibility of various alternatives to provide adequate water supplies in the area including, but not limited to, the transfer of water from adjacent areas, such portion to be conducted by the Chief of Engineers to assure the continued economic growth and vitality of the region. The Secretary shall report on the costs of reasonably available options, the benefits of various options, and the costs of inaction. If water transfer is found to be a part of a reasonable solution, the Secretary, as part of his study, shall include a recommended plan for allocating and distributing water in an equitable fashion, taking into account existing water rights and the needs for future growth of all affected areas. An interim report, with recommendations, shall be transmitted to the Congress no later than October 1, 1978, and a final report, with recommendations, shall be transmitted to Congress not later than July 1, 1980. A sum of \$6,000,000 is authorized to be appropriated for the purposes of carrying out this section.

Study.
Plans, report to
Congress.
42 USC
1962d-18.

Report.

Reports to
Congress.

Appropriation
authorization.

SEC. 194. The project for the Cochiti Reservoir in New Mexico as part of the project for the improvement of the Rio Grande Basin, authorized in the Flood Control Act of 1960 (74 Stat. 488), is modified in order to direct the Secretary of the Army, acting through the Chief of Engineers, to construct, for public recreation purposes, an access road from United States highway numbered 85 to such reservoir. There is authorized to be appropriated not to exceed \$1,500,000 to carry out the purposes of this section.

Cochiti
Reservoir, N.
Mex., project
modification.

Appropriation
authorization.

Sante Fe, N. Mex., project construction.

SEC. 195. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a project for local flood protection on the Santa Fe River and Arroyo Mascaras at and in the vicinity of Santa Fe, New Mexico, pursuant to the report of the Chief of Engineers dated June 29, 1976, for flood control and allied purposes, at an estimated cost of \$8,200,000: *Provided*, That the project shall not include construction of any impoundments east of the existing Nichols Dam: *And provided further*, That in any earth-moving operations in connection with the construction of such project, the sources of material, and the routes for transporting such materials to the construction sites shall be selected in a way that minimizes any adverse effect on normal transportation movements within the city of Santa Fe, New Mexico.

(b) Notwithstanding any other provision of law, the project for Pine Mountain Lake on Lee Creek, Arkansas and Oklahoma, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1073), shall be constructed, operated, and maintained in accordance with the Federal Water Project Recreation Act, Public Law 89-72, as amended.

16 USC 4601-12 note.

Lucky Peak Lake, Idaho, project modification.
60 Stat. 641.

SEC. 196. The project for Lucky Peak Lake, Idaho, authorized by the Flood Control Act of 1946, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to modify the outlet works in the Lucky Peak Dam at a Federal cost not to exceed \$4,100,000, to assure maintenance of adequate flows along the Boise River: *Provided*, That provisions of section 102(b) of the Federal Water Pollution Control Amendments of 1972 (86 Stat. 816), shall apply to this modification.

33 USC 1252.

SEC. 197. Section 50 of the Water Resources Development Act of 1974 (88 Stat. 12), is amended by striking out "\$350,000" and inserting in lieu thereof "\$380,000".

Days Creek Dam, South Umpqua River, Oreg.

SEC. 198. The sum of \$250,000 is hereby authorized to complete the phase I design memorandum stage of advanced engineering and design of the Days Creek Dam, South Umpqua River, Oregon, authorized by section 1(a) of the Water Resources Development Act of 1974 (88 Stat. 12).

Cook Inlet, Alaska, project modification.
72 Stat. 297.

SEC. 199. The project for navigation improvements, Cook Inlet, Alaska (Anchorage Harbor, Alaska), authorized by the Rivers and Harbors Act of 1958, approved July 3, 1958, is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to maintain a harbor bottom depth of -35.0 feet MLLW, for a length of 3,000 feet at the existing Port of Anchorage Marine Facility, at an estimated annual cost of \$150,000.

SEC. 200. Section 35 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended as follows:

(a) Inserting "(a)" after "SEC. 35";

(b) Inserting new subsection "(b)", as follows:

Metlakatla and Annette Island, Alaska, study.
88 Stat. 22.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a detailed study of such plans as he may deem feasible and appropriate for the removal and disposal of debris and obsolete buildings remaining as a result of military construction during World War II, and subsequently, in the vicinity of Metlakatla and Annette Island in southeastern Alaska, at an estimated cost of \$100,000. Such study shall include an analysis of appropriate measures to restore the area to its natural condition."

SEC. 201. (a) Section 204(b) of the Act of October 23, 1962 (76 Stat. 1173, 1174), is amended by striking the period at the end of the second sentence and insert the following: ": *Provided*, That the Sec-

retary of the Interior in determining reimbursable costs, shall not include the costs of replacing and relocating the original Salisbury Ridge section of the 138-kilovolt transmission line: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall relocate such transmission lines, at an estimated cost of \$5,641,000.”

(b) The Crater-Long Lakes division of the Snettisham project near Juneau, Alaska, as authorized by section 204 of the Flood Control Act of 1962, is modified with respect to the reimbursement payments to the United States on such project in order to provide (1) that the repayment period shall be sixty years, (2) that the first annual payment shall be 0.1 per centum of the total principal amount to be repaid, (3) thereafter annual payments shall be increased by 0.1 per centum of such total each year until the tenth year at which time the payment shall be 1 per centum of such total, and (4) subsequent annual payments for the remaining fifty years of the sixty-year repayment period shall be one-fiftieth of the balance remaining after the tenth annual payment (including interest over such sixty-year period).

Snettisham
project, Juneau,
Alaska,
modification.
76 Stat. 1173.

SEC. 202. (a) The Congress finds that drift and debris on or in publicly maintained commercial boat harbors and the land and water areas immediately adjacent thereto threaten navigational safety, public health, recreation, and the harborfront environment.

33 USC 426m.

(b) (1) The Secretary of the Army, acting through the Chief of Engineers, shall be responsible for developing projects for the collection and removal of drift and debris from publicly maintained commercial boat harbors and from land and water areas immediately adjacent thereto.

(2) The Secretary of the Army, acting through the Chief of Engineers is authorized to undertake projects developed under paragraph (1) of this subsection without specific congressional approval when the total Federal cost for the project is less than \$400,000.

(c) The Federal share of the cost of any project developed pursuant to subsection (b) of this section shall be two-thirds of the cost of the project. The remainder of such costs shall be paid by the State, municipality, or other political subdivision in which the project is to be located, except that any costs associated with the collections and removal of drift and debris from federally owned lands shall be borne by the Federal Government. Non-Federal interests in future project development under subsection (b) of this section shall be required to recover the full cost of drift or debris removal from any identified owner of piers or other potential sources of drift or debris, or to repair such sources so that they no longer create a potential source of drift or debris.

(d) Any State, municipality, or other political subdivision where any project developed pursuant to subsection (b) of this section is located shall provide all lands, easements, and right-of-way necessary for the project, including suitable access and disposal areas, and shall agree to maintain such projects and hold and save the United States free from any damages which may result from the non-Federal sponsor's performance of, or failure to perform, any of its required responsibilities of cooperation for the project. Non-Federal interest shall agree to regulate any project area following project completion so that such area will not become a future source of drift and debris. The Chief of Engineers shall provide technical advice to non-Federal interests on the implementation of this subsection.

- (e) For the purposes of this section—
- “Drift.” (1) the term “drift” includes any buoyant material that, when floating in the navigable waters of the United States, may cause damage to a commercial or recreational vessel; and
- “Debris.” (2) the term “debris” includes any abandoned or dilapidated structure or any sunken vessel or other object that can reasonably be expected to collapse or otherwise enter the navigable waters of the United States as drift within a reasonable period.
- Appropriation authorization. (f) There is authorized to be appropriated to carry out this section not to exceed \$4,000,000 per fiscal year for fiscal years 1978 and 1979.
- Alaska SEC. 203. (a) (1) The Congress finds that the expeditious development of hydroelectric power generating facilities in Alaska that are environmentally sound to assist the Nation in meeting existing and future energy demands is in the national interest.
- Hydroelectric Power Development Act. 42 USC 1962d-14a. (2) The Congress therefore declares that the expertise of the Chief of Engineers can and should be utilized for the benefit of local public bodies in the development of projects which yield 90 per centum or more of the benefits of the project are attributable to hydroelectric power generation when the project is fully operational.
- Alaska (b) To meet the goals of this section, there is hereby established in the Treasury of the United States an Alaska Hydroelectric Power Development Fund (hereafter referred to as the “fund”) to be and remain available for use by the Secretary of the Army (hereinafter referred to as the “Secretary”) to make expenditures authorized by this section. The fund shall consist of (1) all receipts and collections by the Secretary of repayments in accordance with subsection (e) of this section and payments by non-Federal public authorities to the Secretary to finance the cost of construction of projects in accordance with subsection (f) of this section, and which the Secretary is hereby directed to deposit in the fund as they are received, and (2) any appropriations made by the Congress to the fund.
- Hydroelectric Power Development Fund. Establishment. (c) There is authorized to be appropriated to the Secretary for deposit in the fund established by subsection (b) of this section the sum of \$25,000,000.
- Appropriation authorization. (d) (1) If the Secretary determines that moneys in the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States.
- Investments. (2) With the approval of the Secretary of the Treasury, the Secretary may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States, or in such other banks and financial institutions and under such terms and conditions as the Secretary and the Secretary of the Treasury may mutually agree.
- (e) The Secretary is authorized to make expenditures from the fund for the phase I design memorandum stage of advanced engineering and design for any project in Alaska that meets the requirements of subsection (a) (2) of this section, if appropriate non-Federal public authorities, approved by the Secretary, agree with the Secretary, in writing, to repay the Secretary for all the separable and joint costs of preparing such design memorandum, if such report is favorable. Following the completion of the phase I design memorandum stage of advanced engineering and design under this subsection, the Secretary shall not transmit any favorable report to Congress prior to being repaid in full by the appropriate non-Federal public authorities for the costs incurred during such phase I. The Secretary is also author-

ized to make expenditures from non-Federal funds deposited in the fund as an advance against construction costs.

(f) In connection with water resources development projects which meet the criteria established by subsection (a) (2) of this section and which are to be constructed by the Secretary, acting through the Chief of Engineers, in accordance with an authorization by Congress and a contract between the non-Federal public authorities and the Secretary, pursuant to subsection (g) (1) of this section occurring on or subsequent to the date of enactment of this Act, the Secretary, acting through the Chief of Engineers, is authorized to construct such projects including activities for engineering and design land acquisition, site development, and off-site improvements necessary for the authorized construction by making expenditures from (1) the Fund established in subsection (b) of this section of funds deposited by non-Federal public authorities as payments for construction and (2) payments of non-Federal public authorities held by the Secretary as payment of construction costs for a project authorized by this section.

(g) (1) Prior to initiating any construction work under the authorities of this section, the Secretary and the appropriate non-Federal public authorities shall agree in writing, and submit such agreement to the Committees on Public Works and Appropriations of the Senate and House of Representatives for review and reporting to the Congress for its consideration and approval that the appropriate non-Federal public authorities will pay the full anticipated costs of constructing the project at the time such costs are incurred, together with normal contingencies and related administrative expenses of the Secretary, and such payments shall be deposited in the fund or held by the Secretary for payment of obligations incurred by the Secretary on an authorized project under this section. The agreement shall provide for an initial determination of feasibility and compliance by the project with law. The total non-Federal obligation shall be paid on or prior to the date the Chief of Engineers has estimated by agreement, that the project concerned will be available for actual generation of all or a substantial portion of the authorized hydroelectric power of the project.

Agreement,
submittal to
congressional
committees.

(2) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in reliance on the program established by this section, the United States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned by acts of God, failure on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design: *Provided*, That payments by the Secretary of such costs shall be subject to appropriations acts.

(h) The Secretary is authorized and directed, pursuant to the agreement, to convey all title, rights, and interests of the United States to any project, its lands and water areas, and appurtenant facilities to the non-Federal public authorities which have agreed to assume ownership of the project and responsibility for its performance, operation, and maintenance, as well as necessary replacements in accordance with this section upon full payment by such non-Federal public authorities as required under subsection (g) (1) of this section. Such conveyance shall, pursuant to the agreement

Conveyance.

required by subsection (g) of this section, to the maximum extent possible, occur immediately upon the project's availability for generation of all or a substantial portion of the authorized hydroelectric power of the project, and shall include such Federal requirements, reservations, and provisions for access rights to the project and its records as the Secretary finds advisable to complete any portion of project construction remaining at the time of conveyance and to assure that the project will be operated and maintained in a responsible and safe manner to accomplish, as nearly as may be possible, all of the authorized purposes of the project including, but not restricted to, hydroelectric power generation.

Citation of
section.

(i) This section shall be cited as the "Alaska Hydroelectric Power Development Act".

SEC. 204. No funds specifically authorized for any project in this Act will be available for expenditure prior to fiscal year 1978.

Short title.

SEC. 205. This Act may be cited as the "Water Resources Development Act of 1976".

Approved October 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1702 accompanying H.R. 15636 (Comm. on Public Works and Transportation) and No. 94-1755 (Comm. of Conference).

SENATE REPORT No. 94-1255 (Comm. on Public Works).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 28, considered and passed Senate.

Sept. 29, considered and passed House, amended, in lieu of H.R. 15636.

Oct. 1, House and Senate agreed to conference report.

Public Law 94-588
94th Congress

An Act

To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes.

Oct. 22, 1976
[S. 3091]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “National Forest Management Act of 1976”.

National Forest
Management Act
of 1976.
16 USC 1600
note.

FINDINGS

SEC. 2. The Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601-1610) is amended by redesignating sections 2 through 11 as sections 3 through 12, respectively; and by adding a new section 2 as follows:

“SEC. 2. FINDINGS.—The Congress finds that—

16 USC 1600.

“(1) the management of the Nation’s renewable resources is highly complex and the uses, demand for, and supply of the various resources are subject to change over time;

“(2) the public interest is served by the Forest Service, Department of Agriculture, in cooperation with other agencies, assessing the Nation’s renewable resources, and developing and preparing a national renewable resource program, which is periodically reviewed and updated;

“(3) to serve the national interest, the renewable resource program must be based on a comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from the Nation’s public and private forests and rangelands, through analysis of environmental and economic impacts, coordination of multiple use and sustained yield opportunities as provided in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528-531), and public participation in the development of the program;

“(4) the new knowledge derived from coordinated public and private research programs will promote a sound technical and ecological base for effective management, use, and protection of the Nation’s renewable resources;

“(5) inasmuch as the majority of the Nation’s forests and rangeland is under private, State, and local governmental management and the Nation’s major capacity to produce goods and services is based on these nonfederally managed renewable resources, the Federal Government should be a catalyst to encourage and assist these owners in the efficient long-term use and improvement of these lands and their renewable resources consistent with the principles of sustained yield and multiple use;

“(6) the Forest Service, by virtue of its statutory authority for management of the National Forest System, research and cooperative programs, and its role as an agency in the Department of Agriculture, has both a responsibility and an opportunity to be a leader in assuring that the Nation maintains a natural resource conservation posture that will meet the requirements of our people in perpetuity; and

“(7) recycled timber product materials are as much a part of our renewable forest resources as are the trees from which they originally came, and in order to extend our timber and timber fiber resources and reduce pressures for timber production from Federal lands, the Forest Service should expand its research in the use of recycled and waste timber product materials, develop techniques for the substitution of these secondary materials for primary materials, and promote and encourage the use of recycled timber product materials.”

REPORTS ON FIBER POTENTIAL, WOOD UTILIZATION BY MILLS, WOOD WASTES
AND WOOD PRODUCT RECYCLING

16 USC 1601.

SEC. 3. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof a new subsection (c) as follows:

“(c) The Secretary shall report in the 1979 and subsequent Assessments on:

“(1) the additional fiber potential in the National Forest System including, but not restricted to, forest mortality, growth, salvage potential, potential increased forest products sales, economic constraints, alternate markets, contract considerations, and other multiple use considerations;

“(2) the potential for increased utilization of forest and wood product wastes in the National Forest System and on other lands, and of urban wood wastes and wood product recycling, including recommendations to the Congress for actions which would lead to increased utilization of material now being wasted both in the forests and in manufactured products; and

“(3) the milling and other wood fiber product fabrication facilities and their location in the United States, noting the public and private forested areas that supply such facilities, assessing the degree of utilization into product form of harvested trees by such facilities, and setting forth the technology appropriate to the facilities to improve utilization either individually or in aggregate units of harvested trees and to reduce wasted wood fibers. The Secretary shall set forth a program to encourage the adoption by these facilities of these technologies for improving wood fiber utilization.

Program.

Public
involvement,
consultation.

“(d) In developing the reports required under subsection (c) of this section, the Secretary shall provide opportunity for public involvement and shall consult with other interested governmental departments and agencies.”

REFORESTATION

16 USC 1601.

SEC. 4. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof new subsections (d) and (e) as follows:

“(d) (1) It is the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans. Accordingly, the Secretary is directed to identify and report to the Congress annually at the time of submission of the President's budget together with the annual report provided for under section 8(c) of this Act, beginning with submission of the President's

Annual report to
Congress.

budget for fiscal year 1978, the amount and location by forests and States and by productivity class, where practicable, of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise denuded or deforested, and all lands with stands of trees that are not growing at their best potential rate of growth. All national forest lands treated from year to year shall be examined after the first and third growing seasons and certified by the Secretary in the report provided for under this subsection as to stocking rate, growth rate in relation to potential and other pertinent measures. Any lands not certified as satisfactory shall be returned to the backlog and scheduled for prompt treatment. The level and types of treatment shall be those which secure the most effective mix of multiple use benefits.

Treated lands.
Examination,
certification.

“(2) Notwithstanding the provisions of section 9 of this Act, the Secretary shall annually for eight years following the enactment of this subsection, transmit to the Congress in the manner provided in this subsection an estimate of the sums necessary to be appropriated, in addition to the funds available from other sources, to replant and otherwise treat an acreage equal to the acreage to be cut over that year, plus a sufficient portion of the backlog of lands found to be in need of treatment to eliminate the backlog within the eight-year period. After such eight-year period, the Secretary shall transmit annually to the Congress an estimate of the sums necessary to replant and otherwise treat all lands being cut over and maintain planned timber production on all other forested lands in the National Forest System so as to prevent the development of a backlog of needed work larger than the needed work at the beginning of the fiscal year. The Secretary’s estimate of sums necessary, in addition to the sums available under other authorities, for accomplishment of the reforestation and other treatment of National Forest System lands under this section shall be provided annually for inclusion in the President’s budget and shall also be transmitted to the Speaker of the House and the President of the Senate together with the annual report provided for under section 8(c) of this Act at the time of submission of the President’s budget to the Congress beginning with the budget for fiscal year 1978. The sums estimated as necessary for reforestation and other treatment shall include moneys needed to secure seed, grow seedlings, prepare sites, plant trees, thin, remove deleterious growth and underbrush, build fence to exclude livestock and adverse wildlife from regeneration areas and otherwise establish and improve growing forests to secure planned production of trees and other multiple use values.

Replanting and
treating acreage,
funds, estimates;
transmittal to
Congress.

Annual estimates,
transmittal to
Congress.

“(3) Effective for the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there is hereby authorized to be appropriated for the purpose of reforesting and treating lands in the National Forest System \$200,000,000 annually to meet requirements of this subsection (d). All sums appropriated for the purposes of this subsection shall be available until expended.

Appropriation
authorization.

“(e) The Secretary shall submit an annual report to the Congress on the amounts, types, and uses of herbicides and pesticides used in the National Forest System, including the beneficial or adverse effects of such uses.”

Annual report to
Congress.

RENEWABLE RESOURCE PROGRAM

SEC. 5. Section 4 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by striking out the word “and” at the end of paragraph (3); striking out the word “satisfy” and inserting in lieu thereof “implement and monitor” in paragraph (4); striking out the period at the

16 USC 1602.

end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and by adding a new paragraph (5) as follows:

"(5) Program recommendations which—

"(A) evaluate objectives for the major Forest Service programs in order that multiple-use and sustained-yield relationships among and within the renewable resources can be determined;

"(B) explain the opportunities for owners of forests and rangeland to participate in programs to improve and enhance the condition of the land and the renewable resource products therefrom;

"(C) recognize the fundamental need to protect and, where appropriate, improve the quality of soil, water, and air resources;

"(D) state national goals that recognize the interrelationships between and interdependence within the renewable resources; and

"(E) evaluate the impact of the export and import of raw logs upon domestic timber supplies and prices."

NATIONAL FOREST SYSTEM RESOURCE PLANNING

16 USC 1604. SEC. 6. Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof new subsections (c) through (m) as follows:

Standards and
guidelines,
incorporation.

Report to
Congress.
Management.
Post, p. 2956.

Public
participation,
meetings.

Plans.

"(c) The Secretary shall begin to incorporate the standards and guidelines required by this section in plans for units of the National Forest System as soon as practicable after enactment of this subsection and shall attempt to complete such incorporation for all such units by no later than September 30, 1985. The Secretary shall report to the Congress on the progress of such incorporation in the annual report required by section 8(c) of this Act. Until such time as a unit of the National Forest System is managed under plans developed in accordance with this Act, the management of such unit may continue under existing land and resource management plans.

"(d) The Secretary shall provide for public participation in the development, review, and revision of land management plans including, but not limited to, making the plans or revisions available to the public at convenient locations in the vicinity of the affected unit for a period of at least three months before final adoption, during which period the Secretary shall publicize and hold public meetings or comparable processes at locations that foster public participation in the review of such plans or revisions.

"(e) In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans—

"(1) provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960, and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness; and

"(2) determine forest management systems, harvesting levels, and procedures in the light of all of the uses set forth in subsection (c) (1), the definition of the terms 'multiple use' and 'sustained yield' as provided in the Multiple-Use Sustained-Yield Act of 1960, and the availability of lands and their suitability for resource management.

16 USC 528 note.

“(f) Plans developed in accordance with this section shall—

“(1) form one integrated plan for each unit of the National Forest System, incorporating in one document or one set of documents, available to the public at convenient locations, all of the features required by this section;

“(2) be embodied in appropriate written material, including maps and other descriptive documents, reflecting proposed and possible actions, including the planned timber sale program and the proportion of probable methods of timber harvest within the unit necessary to fulfill the plan;

“(3) be prepared by an interdisciplinary team. Each team shall prepare its plan based on inventories of the applicable resources of the forest;

“(4) be amended in any manner whatsoever after final adoption after public notice, and, if such amendment would result in a significant change in such plan, in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section; and

“(5) be revised (A) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (B) in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section.

“(g) As soon as practicable, but not later than two years after enactment of this subsection, the Secretary shall in accordance with the procedures set forth in section 553 of title 5, United States Code, promulgate regulations, under the principles of the Multiple-Use Sustained-Yield Act of 1960, that set out the process for the development and revision of the land management plans, and the guidelines and standards prescribed by this subsection. The regulations shall include, but not be limited to—

“(1) specifying procedures to insure that land management plans are prepared in accordance with the National Environmental Policy Act of 1969, including, but not limited to, direction on when and for what plans an environmental impact statement required under section 102(2)(C) of that Act shall be prepared;

“(2) specifying guidelines which—

“(A) require the identification of the suitability of lands for resource management;

“(B) provide for obtaining inventory data on the various renewable resources, and soil and water, including pertinent maps, graphic material, and explanatory aids; and

“(C) provide for methods to identify special conditions or situations involving hazards to the various resources and their relationship to alternative activities;

“(3) specifying guidelines for land management plans developed to achieve the goals of the Program which—

“(A) insure consideration of the economic and environmental aspects of various systems of renewable resource management, including the related systems of silviculture and protection of forest resources, to provide for outdoor recreation (including wilderness), range, timber, watershed, wildlife, and fish;

“(B) provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives, and within the multiple-use objectives of a land management plan adopted pursuant to this section, provide, where appropriate,

Public notice.

Revision.

Regulations.

16 USC 528 note.

42 USC 4321
note.

42 USC 4332.

to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan;

“(C) insure research on and (based on continuous monitoring and assessment in the field) evaluation of the effects of each management system to the end that it will not produce substantial and permanent impairment of the productivity of the land;

“(D) permit increases in harvest levels based on intensified management practices, such as reforestation, thinning, and tree improvement if (i) such practices justify increasing the harvests in accordance with the Multiple-Use Sustained-Yield Act of 1960, and (ii) such harvest levels are decreased at the end of each planning period if such practices cannot be successfully implemented or funds are not received to permit such practices to continue substantially as planned;

“(E) insure that timber will be harvested from National Forest System lands only where—

“(i) soil, slope, or other watershed conditions will not be irreversibly damaged;

“(ii) there is assurance that such lands can be adequately restocked within five years after harvest;

“(iii) protection is provided for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water from detrimental changes in water temperatures, blockages of water courses, and deposits of sediment, where harvests are likely to seriously and adversely affect water conditions or fish habitat; and

“(iv) the harvesting system to be used is not selected primarily because it will give the greatest dollar return or the greatest unit output of timber; and

“(F) insure that clearcutting, seed tree cutting, shelter-wood cutting, and other cuts designed to regenerate an even-aged stand of timber will be used as a cutting method on National Forest System lands only where—

“(i) for clearcutting, it is determined to be the optimum method, and for other such cuts it is determined to be appropriate, to meet the objectives and requirements of the relevant land management plan;

“(ii) the interdisciplinary review as determined by the Secretary has been completed and the potential environmental, biological, esthetic, engineering, and economic impacts on each advertised sale area have been assessed, as well as the consistency of the sale with the multiple use of the general area;

“(iii) cut blocks, patches, or strips are shaped and blended to the extent practicable with the natural terrain;

“(iv) there are established according to geographic areas, forest types, or other suitable classifications the maximum size limits for areas to be cut in one harvest operation, including provision to exceed the established limits after appropriate public notice and review by the responsible Forest Service officer one level above the Forest Service officer who normally would approve the harvest proposal: *Provided*, That such limits shall not apply to the size of areas harvested as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm; and

“(v) such cuts are carried out in a manner consistent with the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource.

“(h) (1) In carrying out the purposes of subsection (g) of this section, the Secretary of Agriculture shall appoint a committee of scientists who are not officers or employees of the Forest Service. The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures to assure that an effective interdisciplinary approach is proposed and adopted. The committee shall terminate upon promulgation of the regulations, but the Secretary may, from time to time, appoint similar committees when considering revisions of the regulations. The views of the committees shall be included in the public information supplied when the regulations are proposed for adoption.

Committee,
appointment.

Termination,

“(2) Clerical and technical assistance, as may be necessary to discharge the duties of the committee, shall be provided from the personnel of the Department of Agriculture.

“(3) While attending meetings of the committee, the members shall be entitled to receive compensation at a rate of \$100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

Compensation
and travel
expenses.

“(i) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those resource plans and permits, contracts, and other such instruments currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are revised, resource plans and permits, contracts, and other instruments, when necessary, shall be revised as soon as practicable. Any revision in present or future permits, contracts, and other instruments made pursuant to this section shall be subject to valid existing rights.

“(j) Land management plans and revisions shall become effective thirty days after completion of public participation and publication of notification by the Secretary as required under section 6(d) of this Act.

“(k) In developing land management plans pursuant to this Act, the Secretary shall identify lands within the management area which are not suited for timber production, considering physical, economic, and other pertinent factors to the extent feasible, as determined by the Secretary, and shall assure that, except for salvage sales or sales necessitated to protect other multiple-use values, no timber harvesting shall occur on such lands for a period of 10 years. Lands once identified as unsuitable for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of other multiple-use values. The Secretary shall review his decision to classify these lands as not suited for timber production at least every 10 years and shall return these lands to timber production whenever he determines that conditions have changed so that they have become suitable for timber production.

Review.

“(1) The Secretary shall—

“(1) formulate and implement, as soon as practicable, a process for estimating long-terms costs and benefits to support the program evaluation requirements of this Act. This process shall

include requirements to provide information on a representative sample basis of estimated expenditures associated with the reforestation, timber stand improvement, and sale of timber from the National Forest System, and shall provide a comparison of these expenditures to the return to the Government resulting from the sale of timber; and

“(2) include a summary of data and findings resulting from these estimates as a part of the annual report required pursuant to section 8(c) of this Act, including an identification on a representative sample basis of those advertised timber sales made below the estimated expenditures for such timber as determined by the above cost process; and

Standards,
establishment.

“(m) The Secretary shall establish—

“(1) standards to insure that, prior to harvest, stands of trees throughout the National Forest System shall generally have reached the culmination of mean annual increment of growth (calculated on the basis of cubic measurement or other methods of calculation at the discretion of the Secretary): *Provided*, That these standards shall not preclude the use of sound silvicultural practices, such as thinning or other stand improvement measures: *Provided further*, That these standards shall not preclude the Secretary from salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack; and

“(2) exceptions to these standards for the harvest of particular species of trees in management units after consideration has been given to the multiple uses of the forest including, but not limited to, recreation, wildlife habitat, and range and after completion of public participation processes utilizing the procedures of subsection (d) of this section.”.

NATIONAL PARTICIPATION

16 USC 1606. SEC. 7. Section 8 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended—

(a) by striking out “sixty” in the second sentence of subsection (a) and inserting in lieu thereof the word “ninety”; and by striking out “sixty-day period” in the third sentence of subsection (a) and inserting in lieu thereof “ninety-day period”; and

(b) by adding a new sentence at the end of subsection (c) as follows: “With regard to the research component of the program, the report shall include, but not be limited to, a description of the status of major research programs, significant findings, and how these findings will be applied in National Forest System management.”.

TRANSPORTATION SYSTEM

16 USC 1608. SEC. 8. Section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by inserting “(a)” immediately before the words “The Congress” and inserting at the end thereof new subsections (b) and (c) as follows:

Road design.

“(b) Unless the necessity for a permanent road is set forth in the forest development road system plan, any road constructed on land of the National Forest System in connection with a timber contract or other permit or lease shall be designed with the goal of reestablishing

vegetative cover on the roadway and areas where the vegetative cover has been disturbed by the construction of the road, within ten years after the termination of the contract, permit, or lease either through artificial or natural means. Such action shall be taken unless it is later determined that the road is needed for use as a part of the National Forest Transportation System.

“(c) Roads constructed on National Forest System lands shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources.”

Road
construction.

NATIONAL FOREST SYSTEM

SEC. 9. Section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof the following new sentence: “Notwithstanding the provisions of the Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473), no land now or hereafter reserved or withdrawn from the public domain as national forests pursuant to the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471), or any act supplementary to and amendatory thereof, shall be returned to the public domain except by an act of Congress.”

16 USC 1609.

RENEWABLE RESOURCES

SEC. 10. Section 12 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by striking out the period at the end of that section and inserting in lieu thereof the following: “and on the date of enactment of any legislation amendatory or supplementary thereto.”

16 USC 1610.

LIMITATIONS ON TIMBER REMOVAL; PUBLIC PARTICIPATION AND ADVISORY BOARDS; REGULATIONS; SEVERABILITY

SEC. 11. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding at the end thereof new sections 13 through 16 as follows:

“SEC. 13. LIMITATIONS ON TIMBER REMOVAL.—(a) The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis: *Provided*, That, in order to meet overall multiple-use objectives, the Secretary may establish an allowable sale quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established: *Provided further*, That any such planned departure must be consistent with the multiple-use management objectives of the land management plan. Plans for variations in the allowable sale quantity must be made with public participation as required by section 6(d) of this Act. In addition, within any decade, the Secretary may sell a quantity in excess of the annual allowable sale quantity established pursuant to this section in the case of any national forest so long as the average sale quantities of timber from such national forest over the decade covered by the plan do not exceed such quantity limitation. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forests for purposes of determining the sustained yield.

16 USC 1611.

Sales.

“(b) Nothing in subsection (a) of this section shall prohibit the Secretary from salvage or sanitation harvesting of timber stands

which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack. The Secretary may either substitute such timber for timber that would otherwise be sold under the plan or, if not feasible, sell such timber over and above the plan volume.

Hearings,
notice.
16 USC 1612.

"SEC. 14. PUBLIC PARTICIPATION AND ADVISORY BOARDS.—(a) In exercising his authorities under this Act and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

Advisory boards.
Establishment.
5 USC app. I.

"(b) In providing for public participation in the planning for and management of the National Forest System, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, shall establish and consult such advisory boards as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards shall be representative of a cross section of groups interested in the planning for and management of the National Forest System and the various types of use and enjoyment of the lands thereof."

Membership.

16 USC 1613.

"SEC. 15. REGULATIONS.—The Secretary of Agriculture shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this Act.

16 USC 1614.

"SEC. 16. SEVERABILITY.—If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby."

CONFORMING AMENDMENTS TO THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974

SEC. 12. The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended as follows:

16 USC 1604.

(a) Section 6(a), as redesignated by section 2 of this Act, is amended by striking out "section 3" and inserting in lieu thereof "section 4".

16 USC 1606.

(b) Section 8, as redesignated by section 2 of this Act, is amended—
(1) by striking out "section 2" and "section 3" in the first sentence of subsection (a) and inserting in lieu thereof "section 3" and "section 4", respectively;
(2) by striking out "section 3" in subsection (c) and inserting in lieu thereof "section 4"; and
(3) by striking out "section 3" in the first sentence of subsection (d) and inserting in lieu thereof "section 4".

AMENDMENT TO THE ORGANIC ACT

Repeal.

SEC. 13. The twelfth undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS" in the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), is hereby repealed.

TIMBER SALES ON NATIONAL FOREST SYSTEM LANDS

Rules and
regulations.
16 USC 472a.

SEC. 14. (a) For the purpose of achieving the policies set forth in the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C.

528-531) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601-1610), the Secretary of Agriculture, under such rules and regulations as he may prescribe, may sell, at not less than appraised value, trees, portions of trees, or forest products located on National Forest System lands.

(b) All advertised timber sales shall be designated on maps, and a prospectus shall be available to the public and interested potential bidders.

(c) The length and other terms of the contract shall be designed to promote orderly harvesting consistent with the principles set out in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960) will result, sales contracts shall be for a period not to exceed ten years: *Provided*, That such period may be adjusted at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser. The Secretary shall require the purchaser to file as soon as practicable after execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be subject to concurrence by the Secretary. The Secretary shall not extend any contract period with an original term of two years or more unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan of operation or (B) that the substantial overriding public interest justifies the extension.

(d) The Secretary of Agriculture shall advertise all sales unless he determines that extraordinary conditions exist, as defined by regulation, or that the appraised value of the sale is less than \$10,000. If, upon proper offering, no satisfactory bid is received for a sale, or the bidder fails to complete the purchase, the sale may be offered and sold without further advertisement.

(e) The Secretary of Agriculture shall take such action as he may deem appropriate to obviate collusive practices in bidding for trees, portions of trees, or forest products from National Forest System lands, including but not limited to—

- (1) establishing adequate monitoring systems to promptly identify patterns of noncompetitive bidding;
- (2) requiring sealed bidding on all sales except where the Secretary determines otherwise by regulation; and
- (3) requiring that a report of instances of such collusive practices or patterns of noncompetitive bidding be submitted to the Attorney General of the United States with any and all supporting data.

(f) The Secretary of Agriculture, under such rules and regulations as he may prescribe, is authorized to dispose of, by sale or otherwise, trees, portions of trees, or other forest products related to research and demonstration projects.

(g) Designation, marking when necessary, and supervision of harvesting of trees, portions of trees, or forest products shall be conducted by persons employed by the Secretary of Agriculture. Such persons shall have no personal interest in the purchase or harvest of such products and shall not be directly or indirectly in the employment of the purchaser thereof.

(h) The Secretary of Agriculture shall develop utilization standards, methods of measurement, and harvesting practices for the removal of trees, portions of trees, or forest products to provide for

Maps and
prospectus.

Contract.

Ante, p. 2952.

16 USC 528 note.

Filing.

Sales,
advertisement.

Collusive
practices,
obviation.

Report, submittal
to Attorney
General.

Rules and
regulations.

Standards,
methods, and
practices.

Monetary
deposits.

the optimum practical use of the wood material. Such standards, methods, and practices shall reflect consideration of opportunities to promote more effective wood utilization, regional conditions, and species characteristics and shall be compatible with multiple use resource management objectives in the affected area. To accomplish the purpose of this subsection in situations involving salvage of insect-infested, dead, damaged, or down timber, and to remove associated trees for stand improvement, the Secretary is authorized to require the purchasers of such timber to make monetary deposits, as a part of the payment for the timber, to be deposited in a designated fund from which sums are to be used, to cover the cost to the United States for design, engineering, and supervision of the construction of needed roads and the cost for Forest Service sale preparation and supervision of the harvesting of such timber. Deposits of money pursuant to this subsection are to be available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That such deposits shall not be considered as moneys received from the national forests within the meaning of sections 500 and 501 of title 16, United States Code: *And provided further*, That sums found to be in excess of the cost of accomplishing the purposes for which deposited on any national forest shall be transferred to miscellaneous receipts in the Treasury of the United States.

Road
construction,
regulations.

(1) (1) For sales of timber which include a provision for purchaser credit for construction of permanent roads with an estimated cost in excess of \$20,000, the Secretary of Agriculture shall promulgate regulations requiring that the notice of sale afford timber purchasers qualifying as "small business concerns" under the Small Business Act, as amended, and the regulations issued thereunder, an estimate of the cost and the right, when submitting a bid, to elect that the Secretary build the proposed road: *Provided*, That the provisions of this subsection shall not apply to sales of timber on National Forest System lands in the State of Alaska.

15 USC 631 note.

Alaskan lands,
exception.

Completion date.

(2) If the purchaser makes such an election, the price subsequently paid for the timber shall include all of the estimated cost of the road. In the notice of sale, the Secretary of Agriculture shall set a date when such road shall be completed which shall be applicable to either construction by the purchaser or the Secretary, depending on the election. To accomplish requested work, the Secretary is authorized to use from any receipts from the sale of timber a sum equal to the estimate for timber purchaser credits, and such additional sums as may be appropriated for the construction of roads, such funds to be available until expended, to construct a road that meets the standards specified in the notice of sale.

Effective date.

(3) The provisions of this subsection shall become effective on October 1, 1976.

VALIDATION OF TIMBER SALES CONTRACTS

16 USC 476 note.

SEC. 15. (a) Timber sales made pursuant to the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476), prior to the date of enactment of this section shall not be invalid if the timber was sold in accord with Forest Service silvicultural practices and sales procedures in effect at the time of the sale, subject to the provisions of subsection (b) of this section.

Revision.

(b) The Secretary of Agriculture is directed, in developing five-year operating plans under the provisions of existing fifty-year timber sales contracts in Alaska, to revise such contracts to make them consistent with the guidelines and standards provided for in the Forest

and Rangeland Renewable Resources Planning Act of 1974, as amended, and to reflect such revisions in the contract price of timber. Any such action shall not be inconsistent with valid contract rights approved by the final judgment of a court of competent jurisdiction.

16 USC 1601
note.

PAYMENTS TO STATES FOR SCHOOLS AND ROADS

SEC. 16. The sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908, as amended, and section 13 of the Act of March 1, 1911, as amended (35 Stat. 260, 36 Stat. 963, as amended; 16 U.S.C. 500), are each amended by adding at the end thereof, respectively, the following new sentence: "Beginning October 1, 1976, the term 'moneys received' shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes."

"Moneys
received."

Projections,
availability to
States.

ACQUISITION OF NATIONAL FOREST SYSTEM LANDS

SEC. 17. (a) The Act of March 1, 1911 (36 Stat. 961), as amended (16 U.S.C. 480, 500, 513-517, 517a, 518, 519, 521, 552, 563), is amended as follows:

(1) Section 4, as amended, is repealed, and all functions of the National Forest Reservation Commission are transferred to the Secretary of Agriculture.

(2) Section 5 is repealed.

(3) Section 6 is amended to read as follows: "The Secretary of Agriculture is hereby authorized and directed to examine, locate, and purchase such forested, cut-over, or denuded lands within the watersheds of navigable streams as in his judgment may be necessary to the regulation of the flow of navigable streams or for the production of timber. No deed or other instrument of conveyance of lands referred to herein shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams."

(4) Section 7, as amended, is amended to read as follows: "When the public interests will be benefited thereby, the Secretary of Agriculture is hereby authorized, in his discretion, to accept on behalf of the United States title to any lands within the exterior boundaries of national forests which, in his opinion, are chiefly valuable for the purposes of this Act, and in exchange therefor to convey by deed not to exceed an equal value of such national forest land in the same State, or he may authorize the grantor to cut and remove an equal value of timber within such national forests in the same State, the values in each case to be determined by him: *Provided*, That before any such exchange is effected notice of the contemplated exchange reciting the lands involved shall be published once each week for four successive

Repeal.
Transfer of
functions.
16 USC 513.
Repeal.
16 USC 513.
16 USC 515.

16 USC 516.
Land exchange.

Notice,
publication in
newspapers.

weeks in some newspaper of general circulation in the county or counties in which may be situated the lands to be accepted, and in some like newspaper published in any county in which may be situated any lands or timber to be given in such exchange. Timber given in such exchanges shall be cut and removed under the laws and regulations relating to such national forests, and under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands so accepted by the Secretary of Agriculture shall, upon acceptance, become parts of the national forests within whose exterior boundaries they are located, and be subjected to all provisions of this Act."

16 USC 518.

(5) Section 9, as amended, is amended by striking out the following language in the first sentence: "the National Forest Reservation Commission and".

Repeal.

16 USC 514.

Forest land acquisitions, report to congressional committees.

16 USC 521b.

(6) Section 14, as amended, is repealed.

(b) For purposes of providing information that will aid the Congress in its oversight responsibilities and improve the accountability of expenditures for the acquisition of forest land, the Secretary of Agriculture may not hereafter enter into any land purchase or exchange relating to the National Forest System of \$25,000 or more for the types of lands which have been heretofore approved by the National Forest Reservation Commission until after 30 days from the date upon which a detailed report of the facts concerning such proposed purchase or transfer is submitted to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate or such earlier time as may be approved by both such committees. Such report shall contain at least the following:

- (1) guidelines utilized by the Secretary in determining that the land should be acquired;
- (2) the location and size of the land;
- (3) the purchase price of the land and the criteria used by the Secretary in determining such price; and
- (4) the person from whom the land is being acquired.

AMENDMENT TO THE KNUTSON-VANDENBERG ACT

SEC. 18. Section 3 of the Act of June 9, 1930 (46 Stat. 527; 16 U.S.C. 576b), is amended—

(a) by striking out the word "or" immediately before "(3)" in the first sentence thereof; and

(b) by striking out in the first sentence thereof the colon preceding the proviso and all that follows down through "three years" and inserting in lieu thereof the following: ", or (4) protecting and improving the future productivity of the renewable resources of the forest land on such sale area, including sale area improvement operations, maintenance and construction, reforestation and wildlife habitat management".

AMENDMENT TO THE ACT OF JUNE 12, 1960

SEC. 19. The Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531), is amended by adding at the end thereof the following new section:

"SEC. 5. This Act may be cited as the 'Multiple-Use Sustained-Yield Act of 1960'."

Short title.

16 USC 528 note.

PLAN FOR CONTROL OF DUTCH ELM DISEASE

SEC. 20. The Secretary of Agriculture, in consultation with officials of both the States and political subdivisions thereof, shall conduct a study of the incidence of Dutch elm disease and evaluate methods for controlling the spread of such disease. The Secretary shall prepare and submit to the President and both Houses of the Congress on or before March 1, 1977, a report which includes—

- (1) the results of such study;
- (2) plans for further research into the control of Dutch elm disease; and
- (3) an action plan which includes a program of outreach and public information about the disease, and recommendations for controlling the spread of the disease.

Study,
evaluation.
16 USC 594-2
note.
Report, submittal
to President and
Congress.

SEVERABILITY

SEC. 21. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

16 USC 1600
note.

Approved October 22, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1478, pt. 1 accompanying H.R. 15069 (Comm. on Agriculture) and No. 94-1478, pt. 2 accompanying H.R. 15069 (Comm. on Interior and Insular Affairs) and No. 94-1735 (Comm. of Conference).

SENATE REPORTS: No. 94-893 (Comm. on Agriculture and Forestry) and No. 94-905 (Comm. on Interior and Insular Affairs) and No. 94-1335 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Aug. 25, considered and passed Senate.

Sept. 15, 17, considered and passed House, amended, in lieu of H.R. 15069.

Sept. 30, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 44:

Oct. 22, Presidential statement.